Political risks: How to effectively mitigate political risks, deal structure, financing and political risk insurance

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Abstract

Political risk has become an increasingly critical topic for many airport projects, predominantly, but not limited to, projects in emerging economies. There are a considerable number of airport projects that have been subjected to cancellations of concessions or outright expropriation, or where a political impasse has resulted in renegotiations or a sale to a new concessionaire. What are the types of political risks that may threaten the stability of a project, and how can these be mitigated? This paper looks at selected aspects of the deal structure and of the finance structure as potential mitigants to political risk. It finally discusses key features of political risk insurance as a tool to find protection against risks an investor cannot avoid by proper structuring alone.

Keywords

airports, concessions, political risk, political risk insurance, PRI, financing, PPP, bankability, investment protection

INTRODUCTION

Over the last decades the market has witnessed an increasing number of airport privatisations in different parts of the world, with a wide array of privatisation concepts ranging from short-term concessions of seven years up to 99-year concessions, and from mere operation agreements or leases to the sale of complete airports or the construction and operation of new airports or airport facilities. While many of the resulting public private partnerships (PPPs) have been sustainable even in difficult environments (with some even becoming real success stories), there are also a number of airport PPPs that have failed. The reasons for such failures can broadly be classified as economic or political risks, or a combination of both. This has led in a number of cases to the unilateral cancellation of agreements by the government of the host state of the investment (eg Budapest, Manila, Male), and in other cases to a negotiated sale or sale back of the airport projects (eg Toronto, Steward, Costa Rica) or to the renegotiation of existing agreements (eg Sucre).

Airport projects are more vulnerable to political risks than many other types of project. This is because airports are public utilities that involve large amounts of upfront investments (including, quite commonly, large upfront concession payments) with typically a long concession period to generate the revenue for the amortisation of the investment which will likely span over the tenure of many administrations. Airports also involve a high level of regulation and

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therefore such projects are placed in the spotlight of public attention of host governments, airlines, passengers, neighbourhoods and other stakeholder groups.

Investors are well aware of these political risks. According to a recent study conducted by the Multilateral Investment Guarantee Agency (MIGA), political risk ranks second among the most important constraints to foreign direct investment (FDI) in developing countries,[1] whereas the most feared types of political risk for FDI in developing countries were further categorised as follows:

Adverse regulatory changes	58%
Breach of contract	45%
Transfer and convertibility (T&C) restrictions	43%
Civil disturbance	33%
Non-honouring of financial obligations (NHFO)	31%
Expropriation	24%
Terrorism	13%
War	7%[2]

What can investors do to mitigate political risks? And which political risks are insurable?

DUE DILIGENCE AND RISK ALLOCATION

Proper risk mitigation starts with due diligence. Only risks that have been identified can be fully addressed in advance. Thus comprehensive due diligence covering legal, economic, technical and environmental/social risks is indispensable. For this reason, in addition to law firms that undertake in-depth legal due diligence, auditing firms, financial advisers, technical advisers and other highly specialised professionals also assist foreign investors and/or their lenders in cross-border FDI transactions.

The golden rule of risk allocation is that the party who is in the best position to control a risk should be tasked to bear such risk. In real life, however, this rule is often compromised. New investments and projects may be coerced to fit into existing structures that cannot be negotiated because of the high political or economic cost of altering these structures. Or bid documents may anticipate certain contract structures or risk allocations which, in accordance with the public procurement laws of the host state, may not be negotiable without putting the propriety of the bidding procedure into question. Negotiating power is another issue. Where incumbent powerful interests dictate contract structures and risk allocations, an investor may find itself in a situation where it either accepts or walks away. The aforementioned are, however, extreme scenarios. Although most projects may have some features that are difficult to negotiate, there are plenty of other aspects of a project where a prudent investor will have the opportunity to influence the structure, and at that point already it is time to identify and address risks in order to create a sustainable project structure.

PROJECT AND CONTRACT STRUCTURE

Balanced arrangements

In addition to the principles of prudent risk allocation it should be recalled that the contractual arrangements in the context of an airport PPP should be, all in all, balanced. An unfair risk allocation to the detriment of the investor has the potential to impair the bankability of a transaction. The same may also be said for the opposite extreme, however. What appears too good to be true may, indeed, turn out to be non-sustainable because it has the potential to be questioned time and time again over the lifetime of a concession.

Public relations and communication

What exactly is fair? Contract negotiations are a mutual give and take and they take place in a particular environment at a particular time under the then prevailing market conditions and industry standards. It is therefore not justified to look only at isolated features of a concession without putting them into the context of the overall contractual arrangements and the circumstances under which these arrangements were concluded. Proper communication may therefore be vital to supporting the sustainability of a contractual arrangement that is generally perceived as fair. This is because adverse stakeholders that are determined to challenge a concession are likely to do so not only before the courts of law, but also in the media and political arena. The adverse stakeholders will attempt to set the scene in public view so that the public will render their judgment, setting the backdrop against which the stakeholders can also commence their legal battle.

Prudent communication therefore includes the maintenance of a dialogue with the relevant political forces, the establishment of a relationship of transparency and trust with the relevant government agencies and the development of a positive relationship with all key stakeholders that will safeguard the project against unfair assaults.

One particular challenge in this context may be the inexperience on the part of the government agencies involved with complex contractual arrangements of this nature, in particular in, but not limited to, emerging economies. It is therefore a good investment to maintain positive public relations with all stakeholders including the government and to keep the public informed about the benefits the host country derives and will derive from the PPP.

The investors' consortium

The composition of investors' consortia can be as diverse as the type of airport PPPs. It largely depends on the size of the project, the relevant PPP model (eg partial privatisation or full privatisation) and the types of investors involved. In addition thereto, quite a number of jurisdictions impose regulatory requirements on the ownership of and/or control over airport PPPs that may be based on the constitution, laws and regulations, government policies or conditions set out in bid documents. Other important structural elements that have an impact on the investors' consortium include investment requirements, debt-to-equity ratios, eligibility criteria, transfer restrictions and minimum holding periods for all or some of the consortium members.

Against this background, the presence of a strong local partner with an impeccable standing and reputation in the relevant market may serve as a stabilising factor, in particular in times of crisis where access to local decision makers and a full understanding of the requirements and the culture of the host state becomes even more important. Depending on the circumstances and on the relevant host state, this role may be assumed by, inter alia, a state bank of the host state as a financial investor.

It is also important to ensure that the rights of the shareholders are balanced in order to procure a sound basis for a long-term cooperation. Having said this, transfer restrictions should be flexible enough to allow the members of the investors group to respond flexibly to a changing economic environment with reasonable exit options where warranted.

The key finance parties

Depending on the size of the airport project, the investment requirements and the structure of the concession fees, external debt via a group of lenders is a common source of financing. Well-established project companies may also have access to the bond market, while project companies with only one key shareholder may rely on corporate finance structures. For joint venture style newcos, however, without a track record and an adequate rating, a limited recourse project finance structure tends to be the most viable option.

As regards the composition of the lenders' consortium there is generally more flexibility than with the investors' consortium as the eligibility for lenders is generally less restricted. In terms of mitigation of political risk it appears generally advantageous to include multilaterals as well as strong local banks into the arranger group, and to obtain long-term finance commitments from multilaterals as well as strong local banks alongside other commercial banks.

The presence of strong local banks in a lenders' consortium strengthens the economic interest of the host state in the commercial success of the project. In particular, in the case of a crisis a host state government may not worry about losses that will be borne by foreign banks alone. It can, however, be expected to act with greater caution if its actions are likely to have an impact on significant local economic interests. Furthermore, local banks are expected to have a deeper understanding of local requirements and local culture than a group of lenders that consists only of foreign financial institutions.

In addition thereto, the political risk for a concession can be mitigated where the host state government is prepared to support the project via enhancements to the bankability of the project, including direct or indirect government guarantees or other lenders' protection devices. These include allowing access to security, guaranteed minimum buy-out prices, direct agreements, or other risk-mitigating commitments to the extent allowed by host state law.

Multilaterals

The presence of multilaterals is generally seen as an advantage for various reasons. Multilateral finance institutions not only have the required experience in project finance and airport PPPs, but also tend to maintain strong relations with the host state government in view of their role as partners of the local governments in many development projects. This may help facilitate mutually acceptable solutions in case of problems with the project, bearing further in mind that the host state may also be a shareholder of the relevant multilateral.

The role of multilaterals is not necessarily restricted to the role of a lender. Multilaterals may also act as co-investors and equity providers, as guarantors, as providers of political risk insurance (PRI) or in an advisory capacity. This further increases the level of comfort to commercial lenders and thereby enhances the bankability of airport finance.

While there are projects with more than one multilateral involved for the reasons stated above, it is not the rule that one single multilateral takes on more than one significant role in the same project, as different roles of the same entity at the same time require thorough consideration to avoid conflicts of interest.

Specific contractual features

In an earlier edition of the *Journal of Airport Management*, we elaborated on specific contractual features that are intertwined with the finance function and the bankability of a concession, including:

- the price structure of a concession;
- mitigants to protect the concessionaire against extraordinary project risks;
- the management of financial shortfall events;
- direct agreements; and
- early termination payments.[3]

These features are not only suitable to enhance the economic sustainability of an airport PPP, but they also safeguard the political stability of a concession as they provide solutions, or at least procedures that facilitate solutions, for basic project risks that are difficult to negotiate if addressed for the first time only after the relevant risk has materialised.

POLITICAL RISK INSURANCE

Alongside a proper structuring of the transaction in terms of due diligence, the composition of the investors' group, the arrangement of a strong lenders' group and contractual mitigants, PRI constitutes an important pillar for the control of risks. PRI may be taken out by foreign investors and/or by finance parties, and if taken out by the investor it may constitute a key component of the security package offered to the lenders of the project.

Providers of PRI

There are a large number of official export credit agencies (ECAs) or other official PRI providers that operate under the umbrella of national governments and offer PRI for the FDI of nationals (individuals or corporations) of that country in foreign jurisdictions. The organisation of these ECAs varies from country to country.[4] The list of ECAs includes branches of national governments (eg in the UK, the Export Credits Guarantee Department [ECGD], operating under the name 'UK Export Finance' [UKEF], a ministerial department of the Department for Business, Innovation and Skills[5]), private entities acting as mandataries in the name and on behalf of national governments (eg in The Netherlands, Atradius Dutch State Business NV,[6] and in Germany a mandataries consortium consisting of Euler Hermes and PricewaterhouseCoopers[7]) or state-owned private corporations acting with a mandate from their respective government (eg in Poland, Korporacja Ubezpieczeń Kredytów Eksportowych Spółka Akcyjna [KUKE][8]). Where PRI cover serves as security for lenders, lenders may further distinguish from a risk perspective between PRI policies that enjoy the full faith and credit of the relevant government and PRI policies issued by ECAs where such full faith and credit is not procured.

Another important group of PRI providers consists of multilateral agencies including, among others, the African Trade Insurance Agency, Asia Development Bank, Inter-American Development Bank, Inter-Arab Investment Guarantee Corporation and MIGA.

In addition to the official national and multilateral PRI providers, there are a significant group of private PRI providers which are mostly based in London, the Bermudas or New York City. As the private PRI providers do not operate under the umbrella of national governments, they are also not restricted by national interest considerations and budgetary constraints and are hence more flexible in their business decisions.

Finally it is worth noting that a number of official ECAs as well as multilaterals and private PRI providers also participate in the PRI reinsurance market.

PRI for FDI and for export finance

There are two basic prototypes of PRI that are important in the context of airport projects. These are PRI for FDI and PRI for export finance. While the former is for the protection of equity investments and certain loans which by their nature are treated like equity investments, the latter is for the protection of export loans, and thus is predominantly relevant for the financing of capital investments where the relevant goods and services, eg a baggage handling system, constitute an export from the perspective of the ECA involved, or otherwise for the protection of exporters.

The following analysis shall focus on the former type of PRI, ie PRI for FDIs. The PRI products for FDIs are less standardised and harmonised than those for export finance as these are not subject to the OECD Consensus. Nevertheless, some common features can be identified that apply to the PRI products of many ECAs.

While PRI in the case of export finance constitutes only one element of the protection, as export finance products of official ECAs cover a mix of specified commercial and political risks, protection in the case of FDIs tends to focus on political risks only without commercial risks being included in the cover.

Eligibility for PRI for FDI in the case of official ECAs

Unlike private PRI providers, official ECAs are bound by national interest considerations, which are reflected in eligibility criteria that must be fulfilled by the investor and the investment. Quite naturally, there are further differences between ECAs; however, the eligibility criteria typically include, inter alia, the following:

- nationality requirements regarding the investor;
- worthiness of support; and
- reasonableness of risk.

The relevant nationality requirements typically include a substantial business activity of the investor in the home jurisdiction of the relevant ECA. By way of example, the eligibility criteria of ECGD include that 'the investor must carry on business in the United Kingdom and not simply acting as a conduit for investment from outside the United Kingdom'.[5] While eligibility criteria that relate to nationality requirements appear straightforward in the case of direct investments of one single foreign investor in another country, these become more complex where holdings are involved,[9] and can offer even more challenges in the case of multinational investor groups that act through a joint holding company in a country other than the host state of the investment. Furthermore, nationality requirements typically exclude investments through tax havens or other third countries.

Worthiness of support, or eligibility for promotion, includes another subset of requirements that address compliance with the laws and regulations of the country of the ECA as well as of the host state of the investment, or with recognised international minimum standards and guidelines for foreign investment as well as public interest concerns with respect to foreign relations. For example, the guidelines issued by the German ECA stipulate: 'The policyholder has to comply with the regulations issued by the Federal Government and the host country regarding capital investments abroad, he has to apply for the authorisations required for capital investments and he has to fulfil the conditions, requirements and obligations stipulated in the authorisations of the host country and in the agreements with the host country' and 'Direct investments abroad […] preferably are to contribute to intensifying the relations between the Federal Republic of Germany […] and the host countries'.[10] Compliance with the host state's law is one key requirement for worthiness of support, but it will not necessarily be sufficient under all circumstances. In particular, in relation to the social and environmental impact of FDIs, the standard of social and environmental protection provided by host state law is supplemented by a number of binding or non-binding international guidelines as well as by the public policy considerations of the ECA.[11] In a similar way, Atradius declares: 'In accordance with Dutch government policy to promote corporate social responsibility (CSR), Atradius will take specific CSR aspects into account when assessing an application for investment insurance. Particular attention will be paid to the environmental and social impacts of the investment, abidance by fundamental labour standards and anti-corruption measures.'[12]

Furthermore, the risk against which protection is sought must appear reasonable. This requirement does not only include a project-specific risk analysis, but also country risk. One important factor of such risk analysis is the availability of legal protection for investments in the host country. A sufficient level of legal protection is generally deemed to be procured if the national legal system of the host country of the direct foreign investment grants a reasonable level of legal protection, and/or if the country of the relevant official ECA has entered into an investment protection agreement with the relevant host state.[12,13] In the event of a loss that is attributable to a breach of the international obligations of the host state government and has not been properly compensated by the host state of the investment, such an unsettled event of loss may lead to a blacklisting of the relevant host state as an eligible jurisdiction for investment guarantees until the relevant event of loss has been settled in a satisfactory manner.

Object of cover for FDI in case of official ECAs

The object of cover of PRI protection for FDIs in the case of official ECAs also varies among the different PRI providers, especially when it comes down to the details. The following types of investments would typically be covered, however:

- shares, partnership/membership interests, endowment capital and other types of assets of value;
- certain participatory loans and similar instruments that contain features typical for the assumption of equity project risks which make these loans, albeit debt investments, similar to an equity investment;
- returns on covered investments such as dividends, interest on loans tantamount to an equity investment and equivalent returns.

Official ECAs tend only to offer PRI cover for new investments, therefore excluding existing investments that were already made at the time of the application, with limited exceptions for investments made during the evaluation and pre-clearance phase of the ECA before an official application has been filed. Reinvestments of returns from a covered investment and additional investments (eg for the extension of an existing covered airport investment) would typically be the subject of additional cover, subject to the terms and conditions and the policies of the individual official ECAs.

Equity interests that have been converted into claims, eg liquidation proceeds, normally share the same protection as the underlying equity investment.[14,15]

Types of political risks covered for FDI in the case of official ECAs

The types of political risks for which investment insurance is available from official ECAs is largely similar and usually covers the following:

- expropriation (including sovereign acts that are tantamount to an expropriation);

- war, other armed conflicts, revolution, civil commotion or acts of terrorism;
- payment embargoes, moratoriums, convertibility and transfer restrictions.

In addition to these standard risks PRI is also being offered for:

- breach of contract by a public entity or an entity controlled by the host country.

As this latter type of risk, however, demands a very specific assessment in view of the underlying contract(s) it is normally only included on request and is not automatically covered by standard policies.[15,16] Furthermore, cover for breach of contract risks normally requires some gravity of such breach. By way of example, the German government recognises an event of loss based on a breach of contract risk only if, due to the realisation of such risk, 'the operation of the project company […] cannot be continued without losses in the long run, and consequently the equity participation, the endowment capital or the right qualifying as asset must be considered as lost (total loss), or the claim converted from the equity participation […] cannot be satisfied or collected in any form, in whole or in part.'[17] In the case of airport projects, a cover for breach of contract may be particularly relevant for concession agreements, investment agreements with the host state government or its relevant airport authority or similar arrangements.

In practice, there may only be a fine line between breach of contract risks and acts tantamount to an expropriation. Furthermore, it should be noted that a breach of contract will only be present if the relevant contract was legal, valid and binding in the first place. At the same time it should be noted that a host government that wishes to find an exit from a burdensome contractual obligation will normally first explore contractual exit scenarios, and/or renegotiate and/or question the validity of the relevant contractual arrangements rather than commit a blatant breach of contract.

In case of a forced renegotiation, it may be quite difficult to determine the exact limits of a covered event of loss. While the result of the renegotiation may have a clearly adverse impact on the profitability of an investment, and thus on its value, a renegotiation may at the same time constitute a key mitigant to avoid even more severe political risks materialising. An investor is therefore well advised if such renegotiation is undertaken in close coordination with its relevant ECA, where the contract subject to renegotiation is covered by PRI, as PRI cover for an existing contract may not automatically extend to the renegotiated contract.

Advocacy and support in pre-claim situations

On the other hand, the role of official ECAs as providers of PRI for FDIs is not necessarily limited to that of a mere insurer of risks, as the governments standing behind the official ECAs maintain close relations with the governments of many host countries of the covered investments. This relationship, together with the policy not to provide further PRI cover for FDIs in host countries with unsettled covered investment claims, gives events of loss a political dimension. The government of the investor's home country may therefore be in a position to open additional discussion channels that assist the investor in finding a commercially viable solution for such political risks that are under the host state government's control, such as expropriation (including creeping expropriation) or breach of contract risks.

While the value and efficiency of such advocacy and support in pre-claim situations will largely depend on the quality of the relations between the two governments involved, and the significance of such relations for the political decision process in the host country in relation to the airport project involved, experience shows that government support in pre-claim situations can play an indispensable role for an amicable settlement of disputes that otherwise would develop into a severe loss of an investment.

Mitigation of damages and prosecution of claims

As is common for insurance in general, the beneficiary of PRI cover provided by official ECAs is subject to an obligation to mitigate any damage. In case of the German PRI scheme for FDIs, this obligation is reflected, inter alia, in the duty:

- to comply with laws and regulations of Germany and the host state of the investment, to apply for the relevant authorisations and to fulfil the requirements imposed by the same[18];
- if an event of loss is threatening or has occurred, to proceed with the due care and diligence of a prudent businessman, to do everything to avert or minimise the loss and to observe any instructions given by the Federal Government[19]; and
- to undertake all adequate measures to collect or realise the protected rights, including collateral securing such rights, in accordance with any instructions given by the Federal Government.[20]

The terms and conditions of the different official ECAs, and/or their administrative policies, widely vary with respect to the prosecution of claims. While it appears to be a common pattern that official ECAs at least reserve the right to be subrogated to the beneficiary's rights in case they indemnify the investor for covered losses, the actual prosecution of claims is frequently left to the beneficiary, who then acts in its own name but in the economic interest of the PRI provider (to the extent that it has been indemnified) and/or itself (to the extent that it has not yet been indemnified, or will not be indemnified due to an uninsured portion).

There are also quite different approaches of the official ECAs with respect to the transfer of rights, claims and related security onto the relevant ECA in an event of loss.[21] The investor is well advised to take the relevant requirements into due consideration when structuring the transaction, so that compliance with the requirements of the ECA is not jeopardised by contractual transfer restrictions or conflicting security arrangements.

Recoveries, whether through the enforcement of claims or otherwise, are generally shared by the investor and the ECA pro rata in the ratio of the insured/indemnified and uninsured/not indemnified portion.

INVESTMENT PROTECTION AGREEMENTS

As previously mentioned, the availability of legal protection for FDIs in the host country of the investment is an important eligibility requirement for official ECAs. As further discussed, a sufficient level of legal protection is generally deemed to be procured if the national legal system of the host country grants a reasonable level of legal protection, and/or if the country of the relevant official ECA has entered into an investment protection agreement with the relevant host state.

While there is a long history of treaties that grant certain protections to private investments of nationals (individuals or legal entities) of one state in another state, modern-style bilateral investment treaties (BITs) have been emerging since 1959.

The number of BITs presently in force exceeds 3,000 treaties. This has naturally led to the emergence of common standards and common patterns of protection, albeit there are still considerable differences with respect to details. This huge number of BITs is supplemented by a small number of multilateral treaties. The latter group includes the NAFTA, the Energy Charter Treaty and the ASEAN–Australia–New Zealand Free Trade Agreement, and it can be expected that in future years the EU shall also enter into such treaties for its member states after the Lisbon Treaty of 2009 led to the inclusion of matters relating to FDI in the scope of Article 207 of the Treaty on the Functioning of the European Union (TFEU). Among the investment guarantees common to most bi- or multilateral investment treaties are protections against expropriation without full compensation, fair and equitable treatment, full protection and security, transfer guarantees and national treatment, the latter frequently being subject to reservations based on constitutional or other requirements. In addition, most modern bi- or multilateral investment treaties provide for a dispute resolution mechanism before independent international arbitration courts.

References

(1) See MIGA (2013) 'World Investment and Political Risk', Multilateral Investment Guarantee Agency, Washington, DC, p. 18. The relevant survey analysed the ranking of the most important constraints to foreign direct investment in developing economies over the then next three years. The top five 5 constraints were:

Macroeconomic instability	21%
Political risk	19%
Access to qualified staff	18%
Access to financing	16%
Corruption	10%

(2) See MIGA (2013) 'World Investment and Political Risk', Multilateral Investment Guarantee Agency, Washington, DC, p. 21. The relevant survey looked, here again, at a reference period over the then next three years.

(3) Stiller, D. F. R. (2010) 'Assessing the development of airport concession models and financing in times of a financial crisis', *Journal of Airport Management*, Vol. 4, No. 3, pp. 226, 228, *et seq*.

(4) For a comprehensive overview, cf. Matsukawa, T. and Habeck, O. (2007) 'Review of risk mitigation instruments for infrastructure financing and recent trends and developments'. In: Trends and Policy Options, No. 4. World Bank/PPIAF, Washington, DC, available at: https://www.ppiaf.org/sites/ppiaf.org/files/publication/Trends%20Policy%20Options-4-Review%20of%20Risk%20Mitigation%20Instrument%20-%20TMatsukawa%20OHabeck.pdf (accessed 29th December, 2014).

(5) For details of the Overseas Investment Insurance provided by UKEF, cf. the homepage of the UK Government, available at: https://www.gov.uk/overseas-investment-insurance (accessed 29th December, 2014).

(6) Cf. homepage of Atradius Dutch State Business, available at: http://www.atradiusdutchstatebusiness.nl/dsben/about/index.html (accessed 29th December, 2014).

(7) For details of the consortium's mandate, cf. the joint homepage of the German Federal Ministry for Economic Affairs and Energy, Euler Hermes and PwC, available at: http://www.agaportal.de/en/portal/mandatarauftrag.html (accessed 29th December, 2014).

(8) For details of the Insurance of Direct Investments Abroad offered by KUKE, cf. KUKE's homepage, available at: http://www.kuke.com.pl/insurance_of_direct_investments_abroad.php (accessed 29th December, 2014).

(9) For Germany, cf. 'Holding Merkblatt' (Guide on holdings), available on the joint homepage of the German Federal Ministry for Economic Affairs and Energy, Euler Hermes and PwC at: http://www.agaportal.de/pages/portal/themen_von_a-z.html#3e (accessed 29th December, 2014).

(10) Cf. paras 2 and 3 of Section I (Purpose and preconditions of guarantees) of 'Guidelines, Amended Version 2004: Investment Guarantees of the Federal Republic of Germany (Direct Investments Abroad)', available on the joint homepage of the German Federal Ministry for Economic Affairs and Energy, Euler Hermes and PwC at: http://www.agaportal.de/en/dia/service/informationen.html (accessed 29th December, 2014).

(11) For details of the German eligibility criteria in the area of environment, cf. 'Environment, June 2001: Investment Guarantees of the Federal Republic of Germany (Direct Investments

Abroad)', available on the joint homepage of the German Federal Ministry for Economic Affairs and Energy, Euler Hermes and PwC at: http://www.agaportal.de/en/dia/service/informationen.html (accessed 29th December, 2014).

(12) Cf. 'Investment insurance facility', on the homepage of Atradius Dutch State Business, available at: http://www.atradiusdutchstatebusiness.nl/dsben/overheidsregelingen/regeling_herverzekering_investeringen/index.html (accessed 29th December, 2014).

(13) Cf. for Germany: 'Preconditions for granting cover'. In: Granting of Federal Guarantees for Direct Investments Abroad, available on the joint homepage of the German Federal Ministry for Economic Affairs and Energy, Euler Hermes and PwC at: http://www.agaportal.de/en/dia/service/informationen.html (accessed 29th December, 2014).

(14) For details of the scope of covered investments under the German PRI scheme, cf. paras 1 and 2 of Section II (Objects of guarantees) of 'Guidelines, Amended Version 2004: Investment Guarantees of the Federal Republic of Germany (Direct Investments Abroad)'; and Section 3 (Objects of guarantees) of 'General Terms and Conditions, September 2004: Investment Guarantees of the Federal Republic of Germany (Direct Investments Abroad)', both available on the joint homepage of the German Federal Ministry for Economic Affairs and Energy, Euler Hermes and PwC at: http://www.agaportal.de/en/dia/service/informationen.html (both accessed 29th December, 2014).

(15) For details of the scope of covered investments in The Netherlands, cf. '08. Investment Insurance', on the homepage of Atradius Dutch State Business NV, available at: http://www.atradiusdutchstatebusiness.nl/dsben/products/investment-insurance/index.html (accessed 29th December, 2014).

(16) For details on events of loss and scope of cover under the German PRI scheme, cf. paras 1 and 2 of Section III (Events of loss, scope of cover) of 'Guidelines, Amended Version 2004: Investment Guarantees of the Federal Republic of Germany (Direct Investments Abroad)'; and Section 4 (Risks covered) and Section 5 (Event of loss) of 'General Terms and Conditions, September 2004: Investment Guarantees of the Federal Republic of Germany (Direct Investments Abroad)', both available on the joint homepage of the German Federal Ministry for Economic Affairs and Energy, Euler Hermes and PwC at: http://www.agaportal.de/en/dia/service/informationen.html (accessed 29th December, 2014).

(17) For details, cf. para. 2(c) of Section III (Events of loss, scope of cover) of 'Guidelines, Amended Version 2004: Investment Guarantees of the Federal Republic of Germany (Direct Investments Abroad)'; and Section 4 (Risks covered) and para. 3 of Section 5 (Event of loss) of 'General Terms and Conditions, September 2004: Investment Guarantees of the Federal Republic of Germany (Direct Investments Abroad)', both available on the joint homepage of the German Federal Ministry for Economic Affairs and Energy, Euler Hermes and PwC at: http://www.agaportal.de/en/dia/service/informationen.html (accessed 29th December, 2014).

(18) Cf. para. 1 of Section 13 (General obligations of the policyholder) of 'General Terms and Conditions, September 2004: Investment Guarantees of the Federal Republic of Germany (Direct Investments Abroad)', available on the joint homepage of the German Federal Ministry for Economic Affairs and Energy, Euler Hermes and PwC at: http://www.agaportal.de/en/dia/service/informationen.html (accessed 29th December, 2014).

(19) Cf. para. 1 of Section 14 (Special obligations of the policyholder) of 'General Terms and Conditions, September 2004: Investment Guarantees of the Federal Republic of Germany (Direct Investments Abroad)', available on the joint homepage of the German Federal Ministry for Economic Affairs and Energy, Euler Hermes and PwC at: http://www.agaportal.de/en/dia/service/informationen.html (accessed 29th December, 2014).

(20) Cf. para. 1 of Section 20 (Prosecution of rights and claims) of 'General Terms and Conditions, September 2004: Investment Guarantees of the Federal Republic of Germany (Direct Investments Abroad)', available on the joint homepage of the German Federal Ministry for Economic Affairs and Energy, Euler Hermes and PwC at: http://www.agaportal.de/en/dia/service/informationen.html (accessed 29th December, 2014).

(21) Cf. for different options under the German PRI scheme for foreign direct investments, where a transfer of rights is formulated as the rule, but where also a prosecution of claims in a trustee capacity is provided for as a fallback option: Section 19 (Assignment of rights) of 'General Terms and Conditions, September 2004: Investment Guarantees of the Federal Republic of Germany (Direct Investments Abroad)', available on the joint homepage of the German Federal Ministry for Economic Affairs and Energy, Euler Hermes and PwC at: http://www.agaportal.de/en/dia/service/informationen.html (accessed 29th December, 2014).