Banque de France and Licensing

Acceptance of credit by Banque de France is label of quality, lowers cost of obtaining money

BY PIERRE CAMUS*

Banque de France, as an Issuing Institute, has no direct clients for the financing of license and know-how agreements with foreign firms. It merely is a way for private banks to find the necessary money when these banks have themselves supplied amounts of money to exporters.

According to the soundness of the contract and of the enterprise, it is the responsibility of Banque de France to accept or to reject the application for a credit, the acceptance being somewhat like the quality label enabling one to obtain money as cheap as possible in France. In investigating the terms and conditions of the contract and its consequences on the final outcome of the deal, Banque de France also acts as commissioner of the Treasury, which allows certain financing operations. Banque de France is commissioned for approving financial plans in order to allow the exporter to obtain credit from its bank at stabilized rates and avoid risks on the final outcome, more specially in case of long-life contracts. The above responsibilities of Banque de France (guardian of the money) binds it to make certain the allowance of privileged credits is assigned to perfectly sound deals.

In this respect what are the prevailing conditions to be taken into account? In the first place, the buyer's payments should be irrevocable. This implies that the wording of the agreement shows without any doubt that the buyer admits to be bound to pay certain sums upon delivery of well-defined supplies.

The amounts to be paid by the foreign buyer should be precisely determined. In the event a license agreement provides for (a) a lump sum paid in one or more installments, and (b) a percentage royalty on the quantities of products produced by licensee, the allowance for the credit should be based only on the lump sum, which sum is the only one to be certainly paid and is irrevocable. Furthermore, the due date should be indicated precisely to avoid any possibility of discussion when the sum becomes payable.

One more condition: in case of credits pertaining to the grant of a license or for any other purpose, when such credits are allowed for a period of time exceeding 18 months, it should be accompanied with a guarantee of Compagnie Francaise d'Assurance pour le Commerce Exterieur (COFACE). This condition is dictated by the concern of providing that, in any circumstances, the loan be reimbursed, either by the foreign buyer or by COFACE. This guarantee is also a sign of the soundness of the contract after its approval by qualified specialists within the "Commission des Garanties".

Whether a license is granted separately or is the auxiliary of a contract for export of equipment does not make much difference for Banque de France. However, it seem reasonable that licenses incorporated in a contract for the

From LES France Annual Meeting

supply of a plant be granted with relatively long-term payment; on the contrary, it would appear inconvenient to sell licenses separately with long-term payment.

Another aspect of the matter concerns the so-called credit-buyer — the credit directly granted by French banks to the foreign buyers in order to enable them to pay the French exporter in due time in case the contract provides for successive payments. It frequently happens that French banks have to pay to an exporter on behalf of a foreign buyer important amounts provided for in the contract, which amounts may or may not be connected with the actual supplies. Those lump payments are allowed in order to cover the expenses of the French exporter. This procedure, however, raises an important problem, since those payments can give rise to "over-financing" and consequently increase the internal flow of French currency. In such case, Banque de France has to instruct the bankers to defer part of the settlements until the French exporter justifies his expenses.

Speaking about license agreements, we often must solve the following problem: when a French exporter has to acquire the license for a process from another French enterprise, the latter often requires a down payment upon supply of the technical documents, i.e. soon after execution of the license agreement. Since, in most cases such licenses are not specifically connected with the main technology transfer contract, Banque de France will call the interested parties — licensor, exporter, and banker — and explain its own limitations. It will request the licensor to accept a payment in delayed installments. This is the reason why exporters are often bound to request the licensor of the process to accept delayed payments spread over the whole life of the main contract.

My last word will be to recommend you not to forget that the guarantee granted by COFACE is not only a safety but a requirement for obtaining financing with privileged rates. Neither COFACE nor Banque de France will make any financial commitment without knowing the provisions of the contract. It is necessary to inform COFACE, your bank and also, as the case may be, Banque de France, before contracting in any manner with the foreign buyer. A previous contact with the above qualified specialists will avoid running risks of many difficulties and is of prior importance.

**Banque de France*