EUROPEAN COMMISSION

Brussels, 02.10.2009
C(2009)7590 final

Subject: State Aid N 409/2009 - The Netherlands
Short-term export-credit insurance

Sir,

1. PROCEDURE

(1) On 8 July 2009, the Dutch authorities notified to the Commission a measure to publicly support export credit insurance for countries where covers for marketable export credit risks are temporarily unavailable.

(2) The Dutch authorities intend to use the possibility offered by the Communication of the Commission pursuant to Article 93(1) of the EC Treaty applying Articles 92 and 93 of the Treaty to short-term export credit insurance[1] (hereinafter the "Communication") and the Communication on the Temporary framework for State aid measures to support access to finance in the current financial and economic crisis[2] (hereinafter the "Temporary Framework") to demonstrate temporary unavailability of insurance cover for export.

(3) The Dutch authorities provided additional information on the measure on 7 August 2009 and between 8 and 22 September 2009.

2. MARKET FOR SHORT-TERM EXPORT CREDIT INSURANCE IN THE NETHERLANDS

(4) The private insurance market in the Netherlands is dominated by three international credit insurance companies (Euler Hermes, Coface, Atradius) and one national credit insurer (Interpolis) (hereinafter: "the credit insurers"). These insurers have an approximate market share of 99%.

(5) The standard policy offered by the private credit insurers active in the Netherlands is a whole turnover product, which means that the policy covers all exports by the company up to an agreed turnover limit. There are, however, also single risk insurance policies on the open market.

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1 OJ C 281, 17.09.1997, pp. 4-10.
2 OJ C 16, 22.01.2009, in particular point 5.1.

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(6) According to Dutch authorities, the premium level charged by the private credit insurers in the Dutch market at the moment varies between [0.1 and 0.6][*]% of turnover per year.

(7) Since 2008 credit insurers have been reducing coverage for their whole turnover policies in response to the credit crisis. According to credit insurers it is the current market conditions and the high level of uncertainty about the future that caused them to reduce coverage […]. The Dutch authorities acknowledge that these reductions as well as the insurers' reluctance to accept new buyers and/or provide additional cover may affect the position of the policyholders and their buyers and thus the economic situation in the Netherlands in general.

(8) In order to mitigate such possible negative effects the Dutch authorities have decided to leverage the cover provided by private credit insurers on the basis of a reinsurance facility.

(9) The Dutch authorities have submitted to the Commission extensive evidence of the unavailability of insurance cover for short-term export credit risks. Various well-known exporters from different business sectors have provided letters from private insurers stating the cancellation or reduction of credit limits for export transactions to marketable countries due to the financial crisis and the economic uncertainty it entails.

3. DESCRIPTION OF THE MEASURE

3.1. Objective

(10) The purpose of the Dutch scheme is to provide short-term export-credit insurance coverage to Dutch exporters who are confronted with temporary unavailability of cover in the private market for financially sound transactions with certain countries as a result of the financial crisis.

3.2. Eligibility and scope

(11) The scheme is open to export companies that are established in the Netherlands and which have or take a turnover policy with any of the participating credit insurers. By now four credit insurers active in the Netherlands joined the scheme and signed the contracts with the State, however other credit insurers can apply to join the scheme if they choose to do so.

(12) The scheme covers all countries that fall under the limitations of the EC Communication on short term export credit insurance[3].

(13) The scheme intends to reinsure the topping up of credit limits[4] by credit insurers. This topping up will be available for
(i) existing credit limits when they are reduced by credit insurers; or
(ii) new credit limits given by credit insurers, but which are lower than the requested amount by the insured company.

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[*] Confidential information

[3] OJ C 281, 17.09.1997 as modified by communications from 02.08.2001 (OJ C 217) and 22.12.2005 (OJ C 325).

[4] The credit limit is one of the key elements in credit insurance policies and represents the maximum amount of outstanding receivables resulting from transactions with a certain buyer, which can be covered by the insurer at any given time.

The decision whether to provide exporters with top-up cover on an individual basis is left to the discretion of credit insurers.

(14) The maximum exposure of the State to the total risk of export transactions assumed under the scheme cannot exceed EUR 1.5 billion at any point in time. Top-up cover that expire can, however, be reused, which means that the total amount of trade that falls within the scheme could be higher than EUR 1.5 billion.

(15) When credit limits are reduced, exporters have the option to ask for their extension (top-up) under the scheme. Specific underwriters who are acquainted with the scheme operations will evaluate the requests by exporters and decide whether or not these are eligible for the scheme. It is therefore not the Dutch authorities conducting the risk assessment of the risk relating to the foreign buyer but the credit insurers themselves.

(16) Nevertheless, only specific export transactions are eligible under the scheme depending on their respective risk category. This safeguard aims at preventing the private credit insurers from transferring following two categories of risks to the State:

(i) risks, which are still good enough to be covered on the private market without any State support; or

(ii) bad risks, relating to unsound export transactions, which would not find coverage on the private market even in the normal market conditions.

Export risks, which do not fall into any of the groups mentioned above, can be covered under the scheme. They are determined by the probability of default as the only criterion.[5] Thus the Dutch measure covers only non-marketable risks, but at the same time contains a mechanism, which prevents financially unsound transactions from taking undue advantage of the scheme.

3.3. Implementing body

(17) The short-term export credit insurance is provided by the State of the Netherlands in the form of a reinsurance facility.

3.4. Legal basis

(18) The short-term export credit scheme is based on the *Kaderwet financiële verstrekkingen Financiën* (Framework law on financial advances of the Ministry of Finance).

3.5. Terms and conditions

(19) There is a Framework Agreement between the State of the Netherlands and all the participating credit insurers constituting the principles of the short-term export credit insurance scheme. In addition, each credit insurer enters a separate Reinsurance Agreement with the State in concordance with the Framework Agreement.

(20) The State makes available to the credit insurers a reinsurance facility providing for a maximum amount of EUR 1.5 billion as described above. Initially, EUR 800 million have been allotted to the participating credit insurers as per 1 July 2009:

[…]

[5] The Dutch authorities have defined a scope of risks, which they are willing to accept under the notified scheme, based on the probabilities of default and translated those criteria into the nearest equivalent in the internal rating system for each of the credit insurers individually. In result, every credit insurer has similar limitations concerning the risk of limits that can be insured under the scheme.

(21) The remaining EUR 700 million will be allotted to the credit insurers in blocks of EUR 50 million at justified demand. A subscription request will be handled on a first come first served basis. The request has to include written evidence that the relevant credit insurer has used at least 70% of the allotment in place at the time of the request. The State may at its sole discretion decide to deny such a request.

(22) The maximum possible top-up provided by the State is 100% of the cover offered by the credit insurer. Thus, the State facility will never take more than 50% of the total risk on any buyer. It may also take less risk than the insurer, if customers do not ask for a full top-up.

(23) With exception of the premium (see section 3.6) the conditions under the topping-up scheme are identical to those of the underlying insurance cover.

(24) The total amount of reinsured cover provided to a policyholder shall at no point in time exceed:
(i) EUR 1 million per policyholder or buyer; or
(ii) 50% per credit limit provided to the relevant policyholder by the credit insurer, i.e. the sum of limits under primary and top-up policy,
whichever of (i) and (ii) is the lowest.

(25) In addition to the limitations of individual transactions above there is an overall limitation of active limits per buyer of EUR 2.5 million.

(26) The issuance of the top-up policies, the collection of premiums and the claim administration and all associated activities (including the administration and handling of all claims made by the policyholder) shall be handled by and shall be the sole responsibility of the credit insurers, in accordance with the provision of the Framework Agreement and the relevant Reinsurance Agreement.

3.6. Level of remuneration

(27) The exporter shall pay a premium to the credit insurer for each limit provided under a top-up policy for each individual buyer and for each three months period. This premium shall equal 1.5% of limit provided during these three months. If a company exports with a payment period of more than 90 days, e.g. 180 days, it does not need to pay additionally for cover exceeding the first three months since the insurance is risk attached, which means that an export transaction is covered under a specific policy, if the beginning of the credit period falls into the cover period of the policy. Furthermore, the exporter has to pay an administration fee per top-up policy of EUR 250 and a handling fee of EUR 50 per three months for each individual credit limit request under the reinsured cover.

(28) The premium due by the credit insurers to the State in respect of the reinsurance provided in relation to a top-up policy shall be equal to the premium described in paragraph 27 above minus a discount of 35% (=management fee).

(29) The management fee of 35% of the premiums for topping-up limits represents the ceding fee due by the State in respect of the handling and administration of the top-up policy.

(30) The level of the ceding fee is based on the cost estimates available when the scheme was set up. The Dutch authorities committed to monitor the fees and costs incurred by the private insurers due to the execution of the public reinsurance scheme and to review and, if justified, to adapt downwards the level of the ceding fee in the new contracts to be concluded for 2010.

(31) There is no differentiation in the level of premiums as far as period of coverage, country risk or buyer risk is concerned.

(32) The exporter pays market premiums to the credit insurer for limits that are not part of the scheme.

3.7. Duration

(33) The scheme foresees an initial mandate until the end of 2009. The Dutch authorities committed to perform an evaluation of the Reinsurance Facility with a view to assessing its effectiveness and the necessity for the scheme to be extended until the end of 2010. The Dutch authorities also committed to sending a full report on such evaluation of the scheme to the Commission by the end of 2009.

3.8. Budget

(34) The total insurance limit at any point in time is EUR 1.5 billion. Based on a bad/worst case scenario, the Dutch authorities estimated that the maximum budgetary costs stemming from the operation of the scheme will amount to EUR 40 million.

4. ASSESSMENT

(35) The Commission examined the notified measure pursuant to the Temporary Framework and the Communication.

(36) Point 2.5 of the Communication defines 'marketable risks' as those on public and non-public debtors established in the countries listed in the Annex to the Communication[6]. Financial advantages in favour of exporters or export credit insurers, who respectively enter or cover a transaction qualified as marketable risk, are normally prohibited.

(37) The measure at hand provides public support with regard to insuring risks on a significant part of the market that faces unavailability of the insurance cover for certain countries. Insofar as countries not listed in the Annex to the Communication are concerned, such risks are 'non-marketable' within the meaning of the Communication and public support for insuring them is in compliance with the Communication.

(38) According to the Communication and in particular point 4.4, risks incurred on debtors established in countries listed in the Annex to the Communication are considered temporarily non-marketable only if it can be demonstrated that private insurance cover for the risks generally viewed as marketable is unavailable in certain Member State. In particular, Member States who wish to invoke this escape clause have to provide a market report and produce evidence thereof from two well-known, international export-credit insurers as well as a national credit insurer both demonstrating the unavailability of cover for the risks in the private insurance market. Moreover, the publicly supported export-credit insurer shall, as far as possible, align its premium rates for such nonmarketable risks with the rates charged elsewhere by export credit insurers for the type of risk in question and

[6] The list includes EU and OECD countries.

provide a description of the conditions which the public export-credit insurer intends to apply in respect of such risks.

(39) In order to speed up the procedure, the Temporary Framework simplifies, until 31 December 2010, the proof that Member States need to produce to demonstrate the unavailability of cover. To this end, Member States have to submit evidence provided by a large well-known international private export credits insurer and a national credit insurer or by at least four well-established exporters in the Member State.

4.1. Unavailability of cover in the private insurance market and the application of the escape clause

(40) According to the information provided by the Dutch authorities, the largest international export credit insurance companies (Atradius, Euler Hermes and Coface) as well as one national credit insurer (Interpolis), participating in the scheme, are active in the Netherlands and cover nearly 100% of the market.

(41) The unavailability of cover for the risk in question was demonstrated by means of the extensive evidence provided by numerous well-established Dutch exporters, who represent various industrial sectors and faced limit cancellations with the private credit insurers.

(42) The Commission considers the evidence as sufficient to demonstrate unavailability of private cover under the Temporary Framework for a significant part of the market.

(43) In addition, the construction of the scheme ensures that the state assisted scheme must only cover transactions for which private cover is not available in the market as a consequence of the financial crisis. On one hand, it is achieved thanks to the requirement that the State intervenes only in cases, where existing credit limits have been reduced by the private insurers. It is also left at the discretion of the private insurer to offer the top-up possibility to the policyholder, who faced credit limit reductions. On the other, the measure contains an additional safeguard described in paragraph 16, which will prevent private credit insurers administering the scheme from transferring the risks to the State, which can still be insured on the private market.

(44) Besides, the eligibility criterion mentioned in paragraph 16 provide safeguards, which will prevent the State from reinsuring financially unsound transactions, which have previously been unable to obtain credit insurance due to the negative credit assessment by the private credit insurance companies. Moreover, the terms and conditions of the scheme, mentioned in section 3.5, ensure that at least 50% of the risk remains with the insurer. This way the private insurers remain committed to prudent risk assessment and underwriting, even if significant part of cover granted to an exporter is reinsured by the State.

4.2. Alignment of premium rates with rates charged elsewhere by private credit insurers

(45) The premium is set at 1.5% of the topping up limit with duration of three months which is, according to the Dutch authorities, the most frequent trading period in the Netherlands. At the same time, premiums for market cover are generally between 0.2% and 0.4% per year. However, the market premiums and the ones under the public scheme are not directly comparable, since the private insurers usually base their tariffs on the yearly turnover and the public top-up will charge the premiums based on the extended credit limit. Nevertheless, under the

assumption that the requested top-up limits are fully used and applied for transactions with the most typical payment period of three months, the premiums for the credit limit top-up translate into premiums amounting to 1.5% of the annual turnover, which is significantly higher than the market levels.

(46) The premiums charged for the top-up cover are higher than the market, which is explained by the difference in the type of policy offered. The private insurers operate mainly on a whole turnover basis, which provides for the diversification of risk and therefore lead to average premiums for a portfolios of transactions, which are characterised by various levels of risk. At the same time, the premiums charged by the State reflect the higher risk associated with the individual transactions or smaller group of buyers, which otherwise would not be covered in the current market conditions.

(47) The Commission considers that the premium rates charged under the export credit insurance are, as far as possible, aligned with the rates, which would have been charged by private export-credit insurers for the same type of risk if those risks were to be priced individually, because the premium level corresponds to the level of losses expected from the export business covered under the scheme.

(48) Moreover, the level of the premiums charged by the public scheme limits to the minimum the crowding out of the private insurers as the exporters have an incentive to seek cover with private insurers who charge relatively lower premiums. Therefore the scheme contains an in-built mechanism that should lead to phasing out of the state intervention as soon as the private insurance market revives, since the level of premium charged would ensure that the exporters return to the private insurers as soon as the market conditions allow and the risk becomes marketable again.

(49) On the basis of the foregoing assessment, the Commission concludes that the scheme meets the requirements of the escape clause of the Communication (point 4.4) and the evidence is in line with the Commission's temporary framework for state aid measures, which gives Member States additional scope to facilitate access to financing in the present economic and financial crisis.

5. DECISION

The Commission has accordingly decided to consider the notified measure to be compatible with the common market until 31 December 2010.

The Commission notes, that for the reason of urgency the Netherlands exceptionally accepts the adoption of the decision in the English language.

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Directorate-General for Competition
Directorate for State Aid
State Aid Greffe
B – 1049 Brussels
Fax No: +32 2 296 12 42

We would ask you to state the case name and number in all correspondence.

Yours faithfully,

For the Commission

Neelie KROES
Member of the Commission