Sweden’s comments to the draft Communication from the Commission to the Member States on the application of articles 107 and 108 TFEU to short-term export-credit insurance

Please find below the Swedish comments which were presented orally at the meeting in Brussels on July 24th.

General

The draft communication is a major improvement from the previous version in the way it reforms the escape clause to take into account experiences during the financial crisis since 2008.

The use of state supported export credits is governed by EU state aid rules but should also be seen in the context of the EU’s efforts to increase its global competitiveness, in accordance with i.a. the EU 2020 program.

The communication gives priority to addressing the potential problem of unfair competition between public and private export insurers, which is in line with the Commission’s duty under the EU’s state aid rules and regulations. This is done by maintaining the 2-year level for when export credits to clients in EU and several OECD countries become non-marketable (p. 8), while acknowledging that market gaps exist in some countries and cases (p. 38) and allowing Member States to notify schemes to address these market gaps based on evidence presented to the Commission (p. 39 and 18). While solving one problem this approach creates another, by opening for an unfair competitive situation between exporters in different Member States. This could have been avoided by instead lowering the general threshold from 2 years to 180 days. Information from our exporters
indicate that private cover for such transactions remains very difficult to get.

Specific

Definitions (p. 9)
- The definition of co-insurance should be re-phrased as it now seems to concern excess risk. Our proposal would be: “Co-insurance: splitting of risk, normally between two parties, where the co-insurer takes as equal risk as the main insurer.”
- The definition of “export-credit insurance” should include cover for letters of credit and bills of exchange.
- Re-insurance should also be defined. Our proposal would be: “Reinsurance: insurance that is purchased by an insurance company from another insurer as a means of risk management with the aim of lowering its own risk.”

Conditions for cover of exempted marketable risks
- Risks which private insurers have decided not to cover under their whole turnover policies because they are not economically justified may not be covered by ECAs (p. 20). This provision contradicts other clauses (pp. 38, 39, 18) since it questions the basis for exemptions. The reasons why private insurers decline a particular transfer or client will likely not be known, but supposedly follows from their risk assessment in relation to their own policies, economic standing and goals, which may be different from ECAs which presumably can allow themselves a more long-term perspective. ECAs will have no interest or reason to cover a bad risk, but must be able to make their own assessment of what that means. Private insurers generally focus on risk assessment of the buyers in a whole portfolio. As ECAs often cover single risks they need to make a thorough assessment of the individual export transactions. Specific conditions in an export transaction could thus justify the risk acceptance for ECAs even if private insurers would have declined it. Against this background we propose that the sentence in p. 20 “The risks specified in point 18 (b) and (c) ....cannot be covered.” be deleted.
- The maximum percentage of cover of 90 % (p. 20) seems uncalled for. We see no need for such a limit, but otherwise
would propose 95% as maximum, after normal and prudent risk assessment.

- As regards adequate pricing we think the table of minimum premium in p. 23 could be made simpler by reducing the risk categories to three: good, satisfactory and weak. The administration fee should preferably be included in the minimum annual risk premium (p. 25).

Procedural issues, general principles (p. 29)

- We see no need to imply the conditions specified in section 4.3 in cases where the Commission decides to remove a country or countries from the list of marketable risk countries in accordance with p. 18 (a). As currently is the situation with Greece ECAs should be able to treat these countries in the same way as other non-marketable countries.

Modification of the list of marketable countries (p. 33)

- While welcoming the Commission’s indications on which criteria will be applied when assessing the availability of private capacity we are concerned that the information required may be too difficult to find (p. 33 (a), and that retrospective references may be less relevant than absolute indicators (p. 33 (b) and certainly a 12-month perspective seems too long when determining if a market gap has recently occurred (p 33 (c)).

Other

We would appreciate clarification in the communication on how “EU grey areas” such as overseas departments and territories in the Caribbean, Pacific and Atlantic (Faroe Islands et al) are to be considered.