EUROPEAN COMMISSION

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PUBLIC VERSION

WORKING LANGUAGE

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Subject: State Aid N 659/2009 – Lithuania
Short-term export credit insurance

Sir,

I. PROCEDURE

1. On 11 November 2009 private credit insurers submitted to the Commission information regarding the reduced availability of the private cover.

2. On 26 November 2009, the Lithuanian authorities notified to the Commission a public short-term export credit insurance scheme. Under the notified scheme, the public insurance will be provided to partially cover export transactions to the countries, in respect of which the private insurance cover as being temporarily reduced due to the current financial crisis. In the context of notification Lithuania informed the Commission that, for the reason of urgency, it exceptionally accepts an adoption of the decision in the English language.

3. The Lithuanian 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

[1] OJ C 281, 17.09.1997, pp. 4-10.

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"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 cover for marketable risks as a consequence of the current financial crisis.

II. MARKET FOR SHORT -TERM EXPORT CREDIT INSURANCE IN LITHUANIA

4. The private export credit insurers present in 2008 in the Lithuanian market are all international players – the three major monoline credit insurers: Euler Hermes (market share in credit insurance of 36.3%), COFACE (45.7%) and Atradius (18%). The former two have established subsidiaries in the country, whilst Atradius provides its services from Sweden. According to the information provided by the Lithuanian Authorities, a flat rate premium level charged by the private export credit insurers oscillates between 0.4% and 0.8% of annual turnover.

5. Since October 2008, there has been a considerable decline in the export growth rate and a drop in sales by Lithuanian industry as a result of the financial crisis. Disruption of inter-company payments has resulted in significant uncertainty in the export-credit insurance market, which has reduced the risk appetite of export credit insurers. This is reflected in reduced credit limits[3] even for creditworthy transactions, leading to a need for urgent State support to enterprises.

6. The Lithuanian authorities estimate that due to the financial crisis the total export credit insurance supply has decreased by around 20-40%. As a result, the Ministry of Economy of the Republic of Lithuania received over 40 complaints from exporters, for whom the insurance undertakings have reduced the credit limits.

7. The three largest credit insurers in Lithuania (COFACE, Atradius and Euler Hermes) have provided evidence of a significant reduction of cover to Lithuanian exporters.

8. Consequently, the Lithuanian government has decided to set up a top-up insurance framework agreement with the private credit insurers for short-term export credit insurance to be administered by UAB "Investiciju ir verslo garantijos" (Investment and Business Guarantees, hereinafter "INVEGA")[4].

III. DESCRIPTION OF THE MEASURE

3.1 Objective

9. The purpose of the Lithuanian scheme is to provide short-term export credit insurance coverage to exporters established in Lithuania who are temporarily confronted with unavailability of cover in the private market for financially sound transactions with buyers in countries listed in the Annex of the Communication as a result of the financial crisis.

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2 OJ C 16, 22.1.2009, in particular point 5.1.

3 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.

4 For the description of the entity see paragraph 12 below.

3.2 Legal basis

10. The legal basis for the measure is the Law on special State guarantees for export-credit insurance No. XI-367 of 17 July 2009 that came into force on 1 October. The Lithuanian authorities informed in the notification that the aid can only be granted after the Commission has cleared the aid (standstill clause).

11. In spite of the reference to as an export credit guarantee scheme, the state support granted to exporters within the notified measure is in fact insurance and not guarantee on first demand. Above all, the purpose of the scheme is to transfer part of the risk relating to a specific export transaction (namely the non-payment for the exported goods and/or services by the foreign buyer) from the exporter to the State. Further, the payment of the claims put forward by the exporters is conditional on the fulfilment of a number of requirements. Notably, the exporter becomes entitled to an indemnification only after having provided evidence that all conditions of the insurance policy were met. This conditionality gives the measure features of insurance.

3.3 Implementing body

12. The guarantee institution INVEGA was founded on 29 November 2001 by the Lithuanian Government as provided in Resolution No. 887 of 11 July 2001 on Small and Medium-sized Business Development. The purpose of INVEGA activities is to promote the development of small and medium-sized enterprises in Lithuania facilitating their access to the sources of financing[5].

3.4 Scope and eligibility

13. The scheme is based on a "top-up" mechanism. Therefore, if the credit limit is not provided in respect of certain buyers (in certain countries) by a private insurance undertaking, the respective export-credit transaction cannot benefit from INVEGA's export credit insurance either. Under the scheme, the insurance may cover a singular transaction or the whole export turnover of the buyer depending on the contract with the private insurer.

14. All exporting companies established in Lithuania are eligible to apply for short-term export credit insurance cover under the scheme. The scheme does not foresee any limitation with regard to groups of products or sectors, which can be covered by a policy within a scheme. Financial institutions are not eligible under the scheme. Insurance risk period cannot exceed two years.

15. Under the scheme the policyholder assumes at least 20% of the buyer's debt risk and satisfies at least one of the following conditions:

[5] INVEGA is providing the guarantees to credit institutions on SME loans since the end of 2001. INVEGA's guarantee issued for the credit institutions' loan to a micro, small or medium-sized enterprises is considered as the state aid to SMEs. Currently INVEGA operates under de minimis rule in accordance with Commission Regulation (EC) No 1998/2006. Since the middle of 2009 INVEGA provides guarantees on companies handling temporary financial difficulties (including big companies) loans as well. INVEGA also administers the providing of micro loans (under EUR 25 000) and small loans (under EUR 50 000 and EUR 100 000) for SMEs.

(a) The policyholder has a valid credit insurance contract with the insurance undertaking and duly executes it, however, the insurance undertaking makes a decision to lower the buyer’s credit limit;

(b) The policyholder has a valid credit insurance contract with the insurance undertaking and duly executes it, and seeks to get a new buyer’s credit limit. However, the insurance undertaking offers a significantly lower buyer’s credit limit than requested by the policyholder;

(c) The policyholder concludes a new credit insurance contract, however, the insurance undertaking offers a lower buyer’s credit limit than requested by the policyholder.

16. The insurance undertaking at issue must have an investment-grade credit rating and should have entered into the administration contract with INVEGA.

3.5 Terms and conditions

17. Administration and regular management of the insurance relationship with the policyholders such as customer service, credit assessment, claims, etc. shall be handled by the private insurance undertakings according to the normal service standards. In particular the private credit insurers are responsible for the credit assessment of the buyers and shall use their expertise and normal procedures in this respect.

18. To get an INVEGA export credit insurance the policyholder applies to the insurance undertaking he has signed a credit insurance contract with. In conformity with the terms and procedure stipulated under the administration contract, the insurance undertaking presents to INVEGA the application signed by the policyholder accompanied by:

(a) the credit insurance risk evaluation report (buyer’s credit solvency evaluation report);

(b) a duplicate of the credit insurance contract between the policyholder and the insurance undertaking, indicating the insurance premium level set by the private insurance undertaking;

(c) the decision by the insurance undertaking on initial buyer’s credit limit and the decision on the lowered buyer’s credit limit or the decision on a buyer’s credit limit when a new buyer’s credit limit is granted, accompanied by information on what buyer’s credit limit is requested by the policyholder.

19. The policyholder must retain at least 20% of the buyer's debt risk. With the initial buyer’s credit limit lowered by the insurance undertaking by 50% or less than 50%, INVEGA has the right to grant the INVEGA insurance for an amount not exceeding the difference between the initial buyer’s limit and the lowered buyer’s credit limit.

20. With the initial buyer’s credit limit lowered by the insurance undertaking by more than 50%, INVEGA has the right to grant the cover for the amount not exceeding the lowered buyer’s credit limit. At any time INVEGA's cover can be only up to the same amount as that of the private insurer.

21. With the initial buyer's credit limit lowered by the insurance undertaking by 100% (i.e. no private insurance is provided), INVEGA insurance would not be granted.

22. Accordingly, when the insurance undertaking grants a new buyer's credit limit which is lower than requested by the policyholder, INVEGA insurance may be granted for the amount not exceeding the credit limit granted by the private insurer to the buyer.

23. The amount of the INVEGA insurance shall be reduced if the insurance undertaking, after issuing the insurance, lowers the buyer's credit limit for more than 50% of the primary buyer's credit limit.

24. The INVEGA insurance may be revoked in the following cases:

(a) when the insurance undertaking adopts a decision to reduce the buyer's credit limit for the policyholder by 100%;

(b) when it turns out that the conditions stipulated in the INVEGA insurance policy are failed to be implemented;

(c) upon request by the policyholder.

3.6 Level of remuneration

25. The premium, which is independent of the risk of the country where the buyer is based, depends on the size and the period of the insurance, the risk rating of the policyholder and buyer and the insurance premium charged by the insurance undertaking. The premium is composed of the premium charged by the private insurer increased by the premium surcharge due to the State cover and by an administration fee. Given that the insurance may cover turnover and thus the insurance term may be longer that the credit term, the Lithuanian authorities may further increase the premium level in that respect.

26. The premium surcharge for the State insurance, which corresponds to an increase of the premium if compared to the premium charged by the private undertaking, is set on the basis of the buyer's risk level and the insurance term (see table below).

Table (1). **The premium surcharge for the State insurance**

Credit period, months	**Premium surcharge for the State insurance, %**		
	Low risk	**Average risk**	**High risk**
1	0.3	0.4	0.55
1 – 3	0.4	0.5	0.75
3 – 6	0.5	0.7	0.95
6 – 9	0.6	0.8	1.15
9 – 12	0.7	1	1.65
12 – 15	0.9	1.3	2.4
15 – 18	1.1	1.7	3.15
18 – 24	1.3	2.1	3.9

27. The administration fee is set in accordance with the State insured amount (see table below).

Table (2). **Administration fee**

State insured amount ('000 LTL)	Administration fee (LTL)
until 50	50
50-300	70
300-1000	100
1000-5000	200

28. The policyholder shall pay the credit insurance premium for all the cover to the insurance undertaking. The insurance undertaking shall transfer to INVEGA the part of the premium due under the State-supported credit insurance scheme after having deducted the administration fee. The latter fee aims to reimburse the private insurer for the acquisition and the extra costs incurred to administer the policies under the scheme due to processing.

3.7 Duration

29. Upon request by the policyholder the INVEGA insurance may be extended but for no longer than 31 December 2010. Should the cover be needed beyond this date, the scheme will be renotified to the Commission.

3.8 Budget

30. The Lithuanian authorities foresee a budget of LTL 100 million for the scheme. The total amount of the INVEGA guarantees granted to one policyholder and valid simultaneously cannot exceed LTL 5 million.

IV. ASSESSMENT

31. The Commission examined the notified measure pursuant to the Temporary Framework and the Communication.

32. 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.

33. 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. Insofar as countries not listed in the Annex to the Communication are concerned, such risks are

[6] The list includes EU and OECD countries.

'non-marketable' within the meaning of the Communication and public support for insuring them is in compliance with the Communication.

34. 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 a 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 non-marketable risks with the rates charged elsewhere by export credit insurers for the type of risk in question and provide a description of the conditions which the public export-credit insurer intends to apply in respect of such risks.

35. 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 credit 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

36. According to the information provided by the Lithuanian authorities, the largest international export credit insurance undertakings (Atradius, Euler Hermes and Coface) are active in Lithuania and cover virtually 100% of the market. The role of the state-owned export credit insurer INVEGA is to complement the market by offering the cover for non-marketable risks.

37. The unavailability of cover for the risk in question was demonstrated by declarations of all the three international export credit insurers.

38. The Commission considers the evidence as sufficient to demonstrate unavailability of private coverage at least for a significant part of the market. Indeed, a significant reduction of approval rate means that exporters representing a substantial part of the market face unavailability of the cover, because they are not in the position to bear the additional significant risk that the reduction in the cover would imply. The Lithuanian authorities estimate that due to the crisis the total export credit insurance supply has decreased by around 20-40%.

39. In addition, the mechanism of the top-up scheme ensures that the State supported insurance must only cover export credit risks for which private cover is unavailable, in the sense that is not sufficient to cover 80% of the risk as a consequence of the financial crisis. In any event, under the scheme INVEGA's share of the cover (for turnover or for single transaction) cannot be larger than the share covered by the private insurer in respect of a specific buyer.

40. The mechanism of the scheme also ensures that financially unsound transaction cannot be covered. As the scheme only supplements export credit insurance provided by private operators, it relies on a due credit risk assessment established by the private credit insurance undertaking. The credit risk is further minimized by the requirement for the policyholder to retain at least 20% of the risk. Thus, the insurance cover granted under the scheme will be based on both the risk assessment conducted by the credit insurer and the counterparty risk monitoring by the exporter.

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

41. Given that under the scheme the State only provides complementary insurance, the remuneration for the State cover is set taking into consideration the pricing of the private export credit insurer for the risk at stake. The premium rate to be charged by an insurance undertaking for the share of risk covered by the State will be increased by a premium surcharge for the State insurance (on an annual basis it varies from 0.7% to 1.65%, see paragraph 26 above), thus ensuring that the premium rates charged under the scheme are, as far as possible, aligned with rates which would have been charged by the private insurers for the same type of risk. Therefore, the remuneration mechanism provides a strong incentive for an exporter to seek full cover on the private market first.

42. The mechanism of the scheme whereby the policyholder has to enter into a contract with a private credit insurer prior to requiring the complementary State insurance and the State support is transferred through a private insurance undertaking should ensure that private insurers will not be crowded out of the short-term export credit insurance market. 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.

Conclusion

43. 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.

V. DECISION

The Commission has accordingly decided to consider the notified measure to be compatible with the internal market until 31/12/2010. The Commission notes that for the reason of urgency Lithuania exceptionally accepts the adoption of the decision in the English language.

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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