EUROPEAN COMMISSION

Brussels, 21.12.2010
C(2010) 9477 final

Subject: State Aid SA 32047 (2010/N) – Denmark
Prolongation of the short-term export-credit insurance scheme

Sir,

I. PROCEDURE

1. On 8 December 2010, the Danish authorities notified to the Commission their intention to extend beyond 31 December 2010 the measures to publicly support export credit transactions for countries where covers for marketable export credit risks are temporarily unavailable. Further information was provided to the Commission on 9 and 14 December 2010. The original measure was approved by the Commission on 6 May 2009 under case number N198/2009[1] and modified on 29 October 2009 under case number N554/2009[2].

2. The Danish authorities intend to use the possibility offered by the Communication of the Commission to Member States pursuant to Article 93(1) of the EC Treaty applying Articles 92 and 93 of the Treaty to short-term export credit insurance[3], which was prolonged by the Commission until 31 December 2012[4] (hereinafter "the Communication") and the procedural simplification introduced by the Temporary Community framework for State aid measures to support access to finance in the current

[1] OJ C 179 of 1.8.2009, p. 2-3

[2] OJ C 299 of 9.12.2009, p. 3-4

[3] OJ C 281 of 17.09.1997, p.4-10, prolonged on 1 December 2010 until 31 December 2012 (decision not yet published).

[4] Commission decision of 1 December 2010, not yet published.

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financial and economic crisis[5], which was extended until 31 December 2011[6] (hereinafter the "Temporary Framework").

3. The Danish authorities exceptionally accept that the decision on the notified scheme be adopted in the English language.

II. DESCRIPTION OF THE MEASURES

2.1 Overview of the measures

4. The purpose of the Danish scheme is to provide insurance coverage to Danish exporters who are confronted with unavailability of cover in the private market for financially sound transactions with certain countries as a result of the economic and financial crisis.

5. The scheme consists of a quota share reinsurance scheme and the top-up scheme as described in the Commission decisions of 6 May 2009 and 29 October 2009.

6. The measure will be extended until 31 December 2011 without any modification.

2.2 Use of the scheme

7. The scheme has been actively used by the exporters in Denmark. From June 2009 until September 2010, the number of exporters having signed up the reinsurance and top-up agreements under the scheme has increased from 145 to 457. In the same period, the number of buyer limits increased from 240 to 2,855 and the total amount covered increased from DKK 203 million to DKK 1,580 million. Claims paid as of 30 June 2010 amounted to DKK 1 million.

8. According to the information submitted by Denmark, there has been demand for almost all the marketable risk countries covered by the decisions of 6 May 2009 and 29 October 2009. The breakdown per sector and country of the limits granted under the scheme are representative of the structure of Danish exports.

9. According to the Danish authorities, the scheme will continue to be used in 2011, especially by small and medium-sized enterprises, as the market for private short-term export credit insurance is still highly disrupted. Many exporters in Denmark are still confronted with refusals from credit insurers to cover export credit for the amounts required. Denmark confirms that the premiums charged under the scheme continue being higher than the current market prices.

10. The Danish authorities committed to provide the Commission with a report on the functioning of the scheme by the end of year 2011.

2.3 Legal basis

11. The measure is based on section 6(2) and (3) of the act on a Danish export credit fund.

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5 OJ C 83 of 7.4.2009, p. 1-15

6 Commission Communication of 1 December 2010 on "*Temporary Union framework for State aid measures to support access to finance in the current financial and economic crisis* ", not yet published.

2.4 Duration

12. Both the quota share reinsurance scheme and the top-up scheme will be in place until 31 December 2011.

2.5 Budget

13. The Danish authorities do not foresee any budgetary limitations for the scheme. The only form of budgetary restriction is the limited equity of Eksport Kredit Funden (EKF), the State-owned company in charge of managing the scheme. Should EKF's capital increase be needed, it will be notified to the Commission.

III. ASSESSMENT

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

15. 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[7]. Financial advantages in favour of exporters or export credit insurers, who respectively enter or cover a transaction qualified as marketable risk, are normally prohibited.

16. 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

17. 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 States. The Temporary Framework simplifies, until 31 December 2011, 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.

18. Therefore, the Commission needs to assess if, in the sense of points 4.4 of the Communication and 3.1 of the Temporary Framework, (i) cover for the risks in the private insurance market is unavailable and (ii) the premium paid to the publicly supported export-credit insurer for such non-marketable risks is aligned with the rates charged elsewhere by export credit insurers for the type of risk in question.

19. The Danish authorities provided updated evidence in the form of letters from various well-established Danish exporters covering the countries listed in Annex I of the Communication (except for Australia, Austria, Luxembourg, Iceland, Japan, Malta, New Zealand, Portugal, and Romania) stating that private insurance covers have been refused

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[7] The list includes EU and OECD countries.

for crisis-related reasons. In that respect, the Commission notes that private credit insurers reject insurance for new transactions entered into by exporters and for risks that they had previously insured.

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

21. In addition, the construction of both the reinsurance scheme and the top up facility ensure 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, insofar as the exporter must face either a refusal from the private market (quota share system) or an approval with reduced limit, before applying for the scheme. Furthermore, as a result of the eligibility conditions and the minimum risk retention for insurers, the scheme includes safeguards so that financially unsound transactions that would not obtain cover even under normal market conditions do not unduly benefit from the measure.

22. The premium rates for the cover provided within the scheme will not change after 31 December 2010. Therefore, the assessment provided by the Commission in its decisions of 6 May 2009 and 29 October 2009 on the alignment of premium rates with the market remains applicable.

23. The Commission notes in particular that the level of remuneration proposed for both reinsurance and top-up schemes remains higher than the market-rate premiums charged before the crisis for equivalent levels of risk. The level of remuneration for the guarantees provided under the scheme therefore constitutes an incentive to withdraw from the mechanism when the crisis starts to recede.

24. The Commission considers that the premiums required in the scheme are, as far as possible, aligned on the rates of premiums demanded by private insurance companies for similar risks. The high level of premiums under the scheme by comparison with market premiums is justified by the fact that the premiums charged by private insurance companies relate to an overall turnover figure for a particular exporter, which allows the risks insured to be diversified. The scheme mechanism focuses more on the risks on transactions which, in the current market conditions, would not have been covered.

25. On the basis of the above, the notified prolongation of the scheme does not alter the Commission's previous assessment in the decisions of 6 May 2009 under case number N198/2009 and of 29 October 2009 under case number N554/2009. The Commission therefore concludes that the scheme continues to meet 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 order to assure a gradual recovery from the present economic and financial crisis.

DECISION

The Commission has accordingly decided to consider the notified measure to be compatible with the internal market for export contracts concluded until 31 December 2011.

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

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

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President