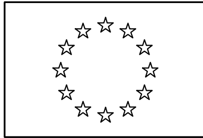

EUROPEAN COMMISSION

Brussels, 16.3.2010
C(2010)1690 final

Subject: **State Aid N 713/2009 – Slovenia**
Short-term export-credit insurance

Sir,

I. Procedure

1. On 21 December 2009, the Slovenian authorities notified to the Commission a measure to publicly support export credit insurers for countries where covers for marketable export credit risks are temporarily unavailable.

2. The Slovenian 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 cover for marketable risks as a consequence of the current financial crisis.

3. The Commission requested further information on 26 January 2010 and the Slovenian authorities replied on 5 February 2010. Following the Commission's requests, further information was provided on 22, 26 February and 5 March 2010.

II. Market for short -term export credit insurance in Slovenia

4. The following domestic insurers are active on the private export credit insurance market in Slovenia: PKZ (First Credit Insurance Company) and ZT (Triglav

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

Samuel Žbogar
Minister za zunanje zadeve Republike Slovenije
Prešernova cesta 25
SI-1001 Ljubljana

Insurance Company). Together they are holding approximately 95% market share while other foreign credit reinsurers[3] hold the remaining 5%.

5. The standard policy offered by the private credit insurers active in Slovenia is a whole-turnover product, which means that the policy covers all exports by the company up to an agreed turnover limit.

6. According to the Slovenian authorities, the recent actions by the private market reflect a general reluctance to cover risks relating to exports to a number of countries and sectors, resulting in a significant reduction of existing credit limits[4]. These reactions are motivated by the financial crisis and consequently, by changes in internal risk management. It effectively translates to rejection of the insurance and also reinsurance cover for certain export transactions. Moreover, the Slovenian authorities indicate that the degree of cancellation of credit limits experienced by exporters in short timeframe could not be explained by change in the creditworthiness of foreign buyers, and is therefore a clear indication of the insurers´ reduced willingness to provide cover.

7. Many of the exporters, who faced credit limit cancellation, have approached the Slovenska izvozna in razvojna banka, d.d., Ljubljana (hereinafter referred to as SID Bank), which is a state-owned Slovenian export credit agency.

8. Consequently, to mitigate possible negative effects for Slovenian exporters and to the economy as a whole, the Slovenian authorities have decided to extend the existing State export credit insurance framework, which under normal market conditions is available only for export transactions to the non-marketable countries, and to offer its insurance cover for short-term export to the countries for which risk cover has become temporarily unavailable due to the current crisis[5].

9. The Slovenian authorities submitted to the Commission evidence of insurance cover unavailability for short-term export credit from well-established exporters. Each piece of evidence demonstrated lack of cover for transactions relating to countries listed in the Annex of the Communication, except Japan. In this context, the Slovenian authorities intend to supplement for the lack of cover by providing short-term export credit reinsurance through SID Banka.

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3 […]*

* Confidential information

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. According to the evidence provided by the Slovenian Authorities the withdrawal of insurance coverage of private credit insurers was up to 50% in some cases.

5 The countries listed in the Annex of the Communication.

III. Description of the measure

3.1 OBJECTIVE

10. The purpose of the Slovenian scheme is to provide insurance coverage to Slovenian exporters who are confronted with temporary unavailability of cover in the private market for financially sound transactions with certain countries as result of the financial crisis.

3.2 LEGAL BASIS

11. The legal basis of the notified scheme is the Resolution by the Commission for the Promotion of International Trade pursuant to the fourth paragraph of Article 14 of the Insurance and Financing of International Financial Transactions Act (ZZFMGP), adopted on 15 December 2009.

3.3 IMPLEMENTING BODY

12. Export credit reinsurance is provided by the State through SID Banka, which is wholly owned by the Republic of Slovenia and authorized to act as an export credit agency. Since 1992 SID Banka insures non-marketable risks on behalf of the Republic of Slovenia.

3.4 SCOPE AND ELIGIBILITY

13. Reinsurance cover within the scheme will be available to all insurance companies that insure claims of insurance holders registered in Slovenia, provided that these companies have concluded a whole-turnover contract with insurers.

14. The subject of reinsurance will be in general claims with a maturity of up to one year, including the coverage of risks prior to delivery. The total maximum maturity of claims that may be insured under this scheme, including risks prior to delivery, shall be two years. The trade receivables/shipments/deliveries which are subject to insurance must date at latest 31 December 2010.

15. The State intervention will only take place in the areas where the market is not functioning properly, i.e. in cases where the private sector does not have the capacity to cover risks due to the financial crisis. Insurance companies will have to report in writing about the lack of reinsurance cover in order to proof the unavailability of cover[6]. Therefore, SID Banka will act as reinsurer of last resort.

16. A risk assessment of the parties involved will be conducted in order to ensure that only financially sound underlying export credit transactions are covered under the

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[6] This condition applies to cases where the risk participation of the State is higher than the participation of the insurer. However, if the risk participation of the State is lower than the participation of the insurer, no formal statement or other evidence is required up front, but only in case of loss/claim.

scheme (transactions which would have been covered under normal market conditions). For this reason, the insurer verifies key information regarding all applicants (such as financial statements, credit reports and payment discipline). Through this procedure transactions with firms in difficulty will be excluded.

17. In addition, SID Banka can reject the application for reinsurance if the risk is too high or there is not enough information concerning the transaction.

3.5 TERMS AND CONDITIONS

18. The notified scheme consists of a temporary provision of export credit reinsurance cover to marketable risks, defined in the Communication as commercial and political risks on public and non-public debtors established in countries listed in its Annex[7] and which cannot normally be covered with the support of Member States.

19. Administration and regular management of the insurance relationship with the policyholder such as customer service, credit assessment, claims etc. shall be handled by the private insurance companies. 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.

20. The scheme is based on traditional quota share reinsurance principles where both the exporter and the primary insurer hold an own risk in the transaction to be underwritten. The exporter is required to retain at least 15% of the total risk amount. The primary insurer retains at least 10%[8] of the requested limit. SID Banka commits to reinsure the remaining risk.

21. In the case of partial rejection of an insurance holder's request for approval of a limit for an individual buyer, SID Banka will approve a limit that does not exceed 100% of the limit previously approved by the insurer. Approval of the limit shall be automatic, in accordance with the reinsurance contract. The consent of SID Banka will be in this case not required. In the event that the insurer has itself only approved, for example, 30% of the requested limit, approval of more than 100% of the limit will be possible only with the prior consent of SID Banka.

22. In addition, any cancellation of the limit by the insurer would automatically lead to the cancellation of the partial cover.

3.6 LEVEL OF REMUNERATION

23. The premium to be paid by the exporter to the private export credit insurer and to SID Banka shall take into account all factors affecting the risk assessment.

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[7] The countries listed in the Annex of the Communication except Japan. The marketable risk countries are countries where political risk is considered to be negligible.

[8] According to Slovenia it is expected that in most cases the insurance companies will retain at least 50% of the risk, depending on the transaction and risk involved.

24. As typical for the quota share reinsurance agreement, the premium charged to the policy holder is shared between the ceding undertaking (insurance company) and the reinsurer (in this case SID Banka) proportionately to their respective risk retention.

25. Under the scheme the premium will be set at a higher level than the benchmark provided by private credit insurers. The premium shall be at least 10% higher than market level to ensure that exporters return to private insurers as soon as the market conditions allow and the risk becomes marketable again.

26. According to the information provided by the Slovenian authorities, the general base premium rate charged by private credit insurers for the export credit insurance is [0.3 – 1%] and oscillates between […] and […][9].

27. In addition, a reinsurance commission is paid by SID Banka to the credit insurer. The insurance commission represents up to 33% of SID Banka's part of the premium and is aimed at covering the cost of processing requests, acquiring a credit rating, the conduct of loss-settlement and recourse procedures, and other administrative costs.

3.7 Duration

28. The reinsurance agreement is valid until 31 December 2010. Should the cover be needed beyond this date, the scheme must be re-notified to the Commission.

3.8 Budget

29. The Slovenian authorities do not foresee any budgetary limitations for the scheme. However, according to the analysis of SID Banka, the expected exposure of the State arising from short-term export credit reinsurance would be approximately EUR 50 million.

IV. Assessment

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

31. 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[10]. Financial advantages in favour of exporters or export credit insurers, who respectively enter or cover a transaction qualified as marketable risk, are normally prohibited.

32. 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

[9] These premiums are applicable for buyers in country category one and in sectors which are not surcharged. The surcharge for second and third country category varies, but as a basis 30% and 70% is added.

[10] The list includes EU and OECD countries.

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

33. 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 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.

34. 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

35. According to the information provided by the Slovenian authorities, two domestic export credit insurance companies (PKZ, First Credit Insurance Company, and ZT, Triglav Insurance Company) are active in Slovenia and cover nearly 95% of the market. The international credit reinsurers[11] hold the remaining 5%. The role of the State-owned export credit insurer SID Banka is to complement the market by offering the cover for non-marketable risks.

36. The unavailability of cover for the risk in question was demonstrated by means of the evidence provided by numerous well-established Slovenian exporters, who represent various industrial sectors and faced cancellations with the credit insurers in Slovenia.

37. The Commission considers this evidence as sufficient to demonstrate unavailability of private cover at least for a significant part of the market. In addition, the construction of the insurance 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.

[11] […]

38. Firstly, SID Banka could start processing a reinsurance application on a case by case basis after lack of (partial) cover from the private reinsurers is demonstrated by the insurer by means of a formal statement as proof of refusal (see point 15 above).

39. Secondly, the eligibility criteria mentioned in paragraph 16 provide safeguards which will prevent SID Banka from re-insuring financially unsound transactions, which would be unable to obtain credit insurance under normal market conditions due to the negative credit assessment by private credit insurance companies. This effect is strengthened by the retention requirement: under the scheme, exporters must retain at least 15% of the risk; insurance companies will be required to take at least 10% of risks on their own account. This way the (re)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

40. The premium for the cover provided within the scheme is set after taking into consideration the information on the market pricing of certain risk types provided by the private market players.

41. In addition, in order not to incentivise the use of the public measure longer than necessary, public measures are to entail exit-strategies motivating to shift to services of the private sector. In this respect, the premiums of the public measure should in any case be higher than the corresponding ones in private markets. To comply with this requirement, Slovenia commits that premiums will be at least 10% higher than market rates.

42. The Commission also notes that the requirement that the exporter must face the withdrawal of the private cover first, before applying for the insurance within the State-supported scheme, should ensure that private insurers will not be crowded out of the short-term export credit insurance market. Based on the above, 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.

4.3 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 common market until 31/12/2010.

The Commission notes that Slovenia accepts that the decision be adopted 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

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

Yours faithfully,

Joaquín ALMUNIA
Vice-president of the Commission