EUROPEAN COMMISSION

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SENSITIVE (*): *COMP Operations*

Subject: **State Aid SA.116082 – Croatia**
Continuation of the exception clause for HBOR's short-term export credit insurance and reinsurance scheme

Excellency,

1. PROCEDURE:

(1) Croatia notified on 2 October 2024 the continuation of the exception clause for the Croatian Bank for Reconstruction and Development ('HBOR') short-term export credit insurance and reinsurance scheme ('the Scheme') aimed at publicly providing short-term export credit insurance in cases where cover for marketable export credit risks is temporarily unavailable. The Commission sent a request for information on 15 November 2024 to which Croatia replied on 20 November 2024.

(2) The Scheme falls under the scope of the Communication from the Commission on the application of Article 107 and 108 of the Treaty on the Functioning of the European Union to short-term export credit insurance 2021/C497/02 ([1]) ('the 2021 Export credit Communication').

(3) On 17 December 2018 the Commission concluded that the relevant requirements laid down in the Communication from the Commission on the application of Article 107 and 108 of the Treaty on the Functioning of the European Union to

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([1]) OJ C 497, 10.12.2021, p. 5.

dr. sc. Gordan Grlić Radman
Ministar vanjskih i europskih poslova
Trg N.Š. Zrinskog 7-8,
HR-10000 Zagreb
HRVATSKA

short-term export credit insurance 2012/C 392/01([2]) are met and decided ([3]) not to raise objections on the grounds that HBOR's Short-term export credit insurance (and reinsurance) scheme is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union. That scheme was found compatible with the internal market until 31 December 2024. Therefore, Croatia notified the Scheme with the intention to continue providing short-term export credit insurance (and reinsurance) in line with the 2021 Export credit Communication ([4]).

(4) Croatia exceptionally agrees, by its letter of 19 November 2024, to waive its rights deriving from Article 342 TFEU, in conjunction with Article 3 of Regulation 1/1958 ([5]) and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE:

2.1. Current market for short-term export credit insurance in Croatia

(5) From a study commissioned by the Croatian authorities ([6]) it can be concluded that the private market for export credit insurance in Croatia has a limited capacity ([7]). Based on the study, it is evident that only 7 insurance companies are registered in the Republic of Croatia to provide credit insurance in the territory of the Republic of Croatia, and that only 3 companies out of that number offer export credit insurance.

(6) All 3 insurance companies providing export credit insurance in Croatia were contacted by HBOR and given the opportunity to submit evidence that they could offer the cover for the short-term export credit risks insured by HBOR. From the replies sent by these 3 companies providing export credit insurance in Croatia, it is evident that HBOR offers short-term export credit insurance for temporarily non-marketable risks which is not provided by any of the companies providing export credit insurance in Croatia.

([2]) OJ C 392, 19.12.2012, p. 1.

([3]) Commission Decision of 17 December 2018, SA.51270 (2018/N) – Croatia – Short-term export-credit insurance scheme (OJ C 137, 12.4.2019, p.1).

([4]) The Scheme is considered to regulate continuation of provision of short-term export credit insurance (and reinsurance) with the amended category of the temporarily non-marketable risks incurred by small and medium-sized enterprises with a total annual export turnover not exceeding EUR 2.5 million. HBOR's Short-term export credit insurance (and reinsurance) scheme which is implemented until 31 December 2024 foresees coverage for temporarily non-marketable risks incurred by small and medium-sized enterprises with a total annual export turnover not exceeding EUR 2 million.

([5]) Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

([6]) Study on the export credit insurance market in the Republic of Croatia for the period 2019-2024, September 2024, Euro project scriptum.

([7]) The study shows that the export credit insurance policies in the Republic of Croatia comprise only 0.001% of total number of non-life insurance policies in the period 2019-2022. The study also provides data that the share of export credit insurance gross written premiums represents around 0.15% of total non-life insurance gross written premiums in the period 2019-2022 in the Republic of Croatia. Moreover, the share of export credit insurance claims paid makes up to 0.06%-0.2% of total non-life insurance claims paid in the period 2019-2022 in the Republic of Croatia.

2.2. Description of the Scheme

(7) The purpose of the Scheme is to provide short-term export credit insurance to exporters established in Croatia who are facing unavailability of cover in the private market for the risks specified in the point 19(b), (c) and (d) of the 2021 Export credit Communication, namely coverage for:

a) risks incurred by small and medium-sized enterprises (‘SMEs’) as defined by the Commission Recommendation 2003/361/EC ([8]), with a total annual export turnover not exceeding EUR 2.5 million;

b) single-risks with a risk period (manufacturing period plus credit period) of at least 181 days and less than two years; and

c) temporarily non-marketable risks due to a shortage of export credit insurance.

(8) In addition, the purpose of the Scheme is to provide quota share reinsurance regarding the risks specified in the point 19(b), (c) and (d) of the 2021 Export credit Communication.

(9) Export credit insurance and reinsurance under the Scheme is provided by HBOR, a development and export bank of the Republic of Croatia, established with the objective of promoting the development of the Croatian economy.

(10) The Croatian authorities confirmed that the export credit insurance market in the Republic of Croatia is underdeveloped, which can be concluded from the previous applications of exporters as well as from the data submitted to HBOR as part of the Study on the export credit insurance market in the Republic of Croatia of September 2024, carried out by an independent external consultant.

(11) The Croatian authorities therefore invoke the presumption applicable under point 19(b), (c) and (d) of the 2021 Export credit Communication and notify the three categories of risk coverage mentioned in recital (7) to be currently inadequately covered by private insurers (and reinsurers) and request that they be considered temporarily non-marketable for exporters in Croatia.

(12) The national legal basis for the Scheme consists of (i) the Act on the Croatian Bank for Reconstruction and Development ([9]) and (ii) the Regulation on Export Credit Insurance ([10]).

(13) In particular, Croatia notified four measures within the Scheme:

a) Programme for the Insurance of Short-Term Export Receivables;

b) Programme for the Insurance of Short-Term Export Receivables for Small and Medium-Sized Entrepreneurs with Annual Turnover from Exports of up to EUR 2.5 million;

([8]) Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

([9]) OG 138/06, 25/13.

([10]) OG 53/20.

c) Supplier credit insurance programme;

d) Programme for Quota Share Reinsurance of Short-Term Export Receivables.

(14) The planned duration of the Scheme is from 1 January 2025 until 31 December 2030. By letter dated 20 November 2024, HBOR confirmed that the standstill clause will be respected, i.e. the notified aid shall not be put into effect before the Commission has taken a decision authorising such aid.

(15) Croatia has committed to publish information on the Scheme, specifying all applicable conditions, on the official website of HBOR. It will provide an annual report on the use of the Scheme in accordance with Section 4.3.4. of the 2021 Export credit Communication.

2.2.1. Programme for the Insurance of Short-Term Export Receivables

(16) HBOR will cover the receivables resulting from the export transactions of goods and services against non-marketable and temporarily non-marketable risks, over a risk period of less than two years.

(17) The insurance covers a maximum of 90% of losses occurred due to political and/or commercial risks.

(18) The claims waiting period is three months from the maturity date of the exporter’s receivables from the foreign buyer in accordance with the usual payment period (which is the payment period under the export contract that is equal to or longer than the agreed payment period under the export contract, that is acceptable for the exporter and the insurer (HBOR) and that is stated in the insurance policy), during which the insured, in agreement with HBOR, takes the agreed measures to mitigate the loss and collect payment from the foreign buyer.

(19) HBOR's 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 offer the cover. HBOR will only provide cover for exporters who have been refused cover with a private insurer. Each exporter applying for cover has to provide a statement, signed by an authorised representative of the exporting company, confirming that it is unable to insure its export receivables with the private insurer.

(20) Insurance beneficiaries can be exporters of consumer goods and services established in Croatia, regardless of the sector, that are not able to insure their export receivables with private insurers. Exporter’s monetary receivables based on executed and invoiced deliveries of goods and/or services to foreign buyer can be insured under the Scheme. Cover can be provided for export transactions with one buyer as well as continuous deliveries to several foreign buyers.

(21) The remuneration of the risks assumed by the Croatian State under the Scheme will be ensured through premium rates established that meet the requirements laid down under Section 4.3.3. of the 2021 Export credit Communication.

(22) The cost of insurance will be composed of the insurance premium and administration fee charged by HBOR, as described in recitals (23) – (25), and a

separate fee charged by the rating agency for the assessment of the risk relating to the foreign buyer.

(23) The remuneration to be paid by the exporter to HBOR is a premium, covering both political and commercial risks. The pricing of HBOR's cover will be based on the ‘safe-harbour premiums’ laid down in point 24 of the 2021 Export credit Communication.

(24) HBOR distinguishes between four risk categories/premium classes as follows:

Risk category	**Premium rate (% of insured volume)**
Excellent	0.20 – 0.50
Good	0.41 – 0.69
Satisfactory	0.91 – 1.17
Weak	2.31 – 2.61

(25) In addition to the risk premium, HBOR will charge a separate administration fee for all insurance policies. The insurance application processing fee amounts to 0.10% of the insured sum (single-buyer insurance policy) or of the total of insured sums (multi-buyer insurance policy), however not less than EUR 26.54 and not more than EUR 926.06.

(26) There is no annual budget for the notified measure. Nevertheless, HBOR notified an annual projection of insured amounts for the period from 2025 to 2030 for the insurance of temporarily non-marketable risks, with the maximum annual amount being around EUR 19 million. HBOR estimates a maximum of around EUR 51 000 annually to be paid out for the claims for the period from 2025 to 2030 for the insurance of temporarily non-marketable risks.

2.2.2. Programme for the Insurance of Short-Term Export Receivables for Small and Medium-Sized Entrepreneurs with Annual Turnover from Exports of up to EUR 2.5 million

(27) HBOR will insure against non-marketable and temporarily non-marketable risks the receivables resulting from the export transactions of goods and services that have short payment periods up to a maximum of 180 days.

(28) The insurance covers a maximum of 95% of losses occurred due to political and/or commercial risks.

(29) The claims waiting period is three months from the expiry of the usual payment period (which is the payment period under the export contract that is equal to or longer than the agreed payment period under the export contract, that is acceptable for the exporter and the insurer (HBOR) and that is stated in the insurance policy), during which the exporter, in agreement with HBOR, undertakes the agreed measures to mitigate the loss and collect payment from the foreign buyer.

(30) Insurance beneficiaries can be SME exporters established in Croatia with an annual export turnover that does not exceed EUR 2.5 million or SME exporters who intend to engage in the foreign export market for the first time under the condition the annual export turnover does not exceed EUR 2.5 million.

(31) Exporter's monetary receivables based on executed and invoiced deliveries of goods and/or services to foreign buyer can be insured under the Scheme. Cover can be provided for export transactions with one buyer. Beneficiaries can also contract several insurance policies for each individual buyer they want insurance for. HBOR can approve the insured amount per single buyer up to a maximum of EUR 150 000. Depending on the needs of the beneficiary, insurance period can be contracted for three, six or twelve months.

(32) The remuneration of the risks assumed by the Croatian State under the Scheme will be ensured through premium rates established that meet the requirements laid down under Section 4.3.3. of the 2021 Export credit Communication.

(33) The cost of insurance will be composed of the insurance premium and administration fee charged by HBOR, as described in recitals (34) – (37), and a separate fee charged by the rating agency for the assessment of the risk relating to the foreign buyer.

(34) The remuneration to be paid by the exporter to HBOR is a one-off premium covering political and commercial risks. The pricing of HBOR's cover will be based on the 'safe-harbour premiums' laid down in point 24 of the 2021 Export credit Communication.

(35) The amount of the premium depends on the amount of the insured sum and the duration of insurance. HBOR does not insure under the Programme only those foreign buyers whose creditworthiness is rated as 'weak' since these are considered too risky. The annual insurance premium is defined by a premium rate of 1.72% (for 'excellent', 'good' and 'satisfactory' buyers).

(36) Below is the list of established amounts of insurance premium, which depend on the range of insured sums and insurance periods of three, six or twelve months:

Insured sum (EUR)	Annual insurance premium (EUR)	Semi-annual insurance premium (EUR)	Three-month insurance premium (EUR)
1 000 – 5 000	86	47	25
5 001 – 10 000	172	95	49
10 001 – 15 000	258	142	74
15 001 – 20 000	344	189	99
20 001 – 25 000	430	237	124
25 001 – 30 000	516	284	148
30 001 – 35 000	602	331	173

35 001 – 40 000	688	378	198
40 001 – 45 000	774	426	223
45 001 – 50 000	860	473	247
50 001 – 55 000	946	520	272
55 001 – 60 000	1 032	568	297
60 001 – 65 000	1 118	615	321
65 001 – 70 000	1 204	662	346
70 001 – 75 000	1 290	710	371
75 001 – 80 000	1 376	757	396
80 001 – 85 000	1 462	804	420
85 001 – 90 000	1 548	851	445
90 001 – 95 000	1 634	899	470
95 001 – 100 000	1 720	946	495
100 001 – 105 000	1 806	993	519
105 001 – 110 000	1 892	1 041	544
110 001 – 115 000	1 978	1 088	569
115 001 – 120 000	2 064	1 135	593
120 001 – 125 000	2 150	1 183	618
125 001 – 130 000	2 236	1 230	643
130 001 – 135 000	2 322	1 277	668
135 001 – 140 000	2 408	1 324	692
140 001 – 145 000	2 494	1 372	717
145 001 – 150 000	2 580	1 419	742

(37) In addition to the risk premium, HBOR will charge a separate administration fee for all insurance policies. The insurance application processing fee is EUR 13.27.

(38) There is no annual budget set specifically for the notified measure. Nevertheless, HBOR notified an annual projection of insured amounts for the period from 2025 to 2030 for the insurance of temporarily non-marketable risks, with the maximum annual amount being around EUR 1 million. HBOR estimates a maximum of

around EUR 400 annually to be paid out for the claims for the period from 2025 to 2030 for the insurance of temporarily non-marketable risks ([11]).

2.2.3. Supplier credit insurance programme

(39) HBOR will cover the receivables resulting from the export transactions of a single contract towards one foreign buyer of capital goods and services, high-value equipment and construction works against non-marketable and temporarily non-marketable risks, over a risk period of less than two years or longer ([12]).

(40) The insurance covers a maximum of 90% of losses occurred due to political and/or commercial risks.

(41) The claims waiting period for credit risk ([13]) insurance is 3 months from the maturity of monetary receivables under the export contract that the exporter has not collected from the foreign buyer due to occurrence of insured commercial or political risk. The claims waiting period for manufacturing risk ([14]) insurance is 6 months from the date of delivery of written statement to the insurer about the impossibility to fulfil and reason of non-fulfilment of the contractual obligations under the export contract by the exporter due to occurrence of the insured risk.

(42) HBOR's 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 offer the cover. HBOR will only provide cover for exporters who have been refused cover with a private insurer. Each exporter applying for cover has to provide a statement, signed by an authorised representative of the exporting company, confirming that it is unable to insure its export receivables with the private insurer.

(43) Insurance beneficiaries can be exporters established in Croatia, regardless of the sector, that are exporting capital goods and services, high-value equipment, construction works and other similar works. Monetary receivables with or without interests based on individual or continuous deliveries of goods and/or services to foreign buyer can be insured under the Scheme. Export transactions with one buyer (single-buyer insurance policy) can be insured since the programme concerns export transactions based on a single contract.

([11]) By letter dated 20 November 2024, HBOR stated that in the last 5 years (2019-2023) EUR 1532 in indemnities was paid for temporarily non-marketable risks insured under the corresponding programme. The average amount of indemnities (EUR 306) in the aforementioned five-year period was taken as the basis for planning the amount of indemnities in the period from 2025 to 2030, which was then increased by 3% in each year in accordance with the S&P forecast of Croatian GDP growth in long term period.

([12]) The Commission notes that this decision concerns only short-term export credit insurance, i.e. export credit insurance with a risk period (manufacturing period plus credit period) of less than two years.

([13]) In line with the General terms and conditions of this programme, the credit risk is the event that occurs then the exporter is not able to collect the amount owed to it under the export contract, provided that the non-payment is a direct and exclusive consequence of the occurrence of the insured risk.

([14]) In line with the General terms and conditions of this programme, the manufacturing risk is the event that occurs when the exporter is not able to fulfil the obligations under the export contract provided that the non-fulfilment of the export contract is a direct and exclusive consequence of the occurrence of the insured risk.

(44) The remuneration of the risks assumed by the Croatian State under the Scheme will be ensured through premium rates established so as to meet the requirements laid down under Section 4.3.3. of the 2021 Export credit Communication.

(45) The cost of insurance will be composed of the insurance premium and administration fee charged by HBOR, as described in recitals (46) – (48), and a separate fee charged by the rating agency for the assessment of the risk relating to the foreign buyer.

(46) The remuneration to be paid by the exporter to HBOR is a premium, covering both political and commercial risks. The pricing of HBOR's cover will be based on the ‘safe-harbour premiums’ laid down in point 24 of the 2021 Export credit Communication.

(47) HBOR distinguishes between four risk categories/premium classes as follows:

Risk category	**Premium rate (% of insured volume)**
Excellent	0.20 – 0.50
Good	0.41 – 0.69
Satisfactory	0.91 – 1.17
Weak	2.31 – 2.61

(48) In addition to the risk premium, HBOR will charge a separate administration fee for all insurance policies. The insurance application processing fee amounts to 0.10% of the insured sum, however not less than EUR 66.36 and not more than EUR 1 990.84.

(49) There is no annual budget for the notified measure. Nevertheless, HBOR notified an annual projection of insured amounts for the period from 2025 to 2030 for the insurance of temporarily non-marketable risks, with the maximum annual amount being around EUR 4 million. HBOR estimates a maximum of around EUR 71 000 annually to be paid out for the claims for the period from 2025 to 2030 for the insurance of temporarily non-marketable risks.

2.2.4. Programme for Quota Share Reinsurance of Short-Term Export Receivables

(50) HBOR will offer quota share reinsurance of short-term receivables against non-marketable and temporarily non-marketable risks, namely of a proportional part of export receivables insured by a private insurer in accordance with individual concluded insurance contracts.

(51) Reinsurance beneficiaries are private insurance companies that cannot contract reinsurance for insured risks in the private reinsurance market. Each insurance company applying for cover has to provide a statement, signed by an authorised representative of the insurance company, confirming that it is unable to contract reinsurance with the private reinsurer.

(52) The maximum level of coverage by HBOR as the reinsurer can be up to 90%, whereas the level of coverage by the insurance company amounts to at least 10%. In accordance with the reinsurance quota, HBOR will participate in: insurance premium, write-off, cancellation, bonus and refund of insurance premiums, indemnities, additional costs and recoveries.

(53) The insurer pays the reinsurance premium to HBOR. The premium represents a percentage of the original insurance premium increased by 30%.

(54) Indemnity under the reinsurance represents the cash amount paid to the insurance company by HBOR as the reinsurer, related to the occurrence of reinsured risks pursuant to the concluded reinsurance contract, due to which risks the insurance company paid indemnity to the insured upon the claim submitted to the insurer after the expiry of the waiting period of at least 3 months.

(55) In the period from 2025 to 2030, HBOR projects to annually reinsure a maximum amount of around EUR 400 000. HBOR estimates a maximum of around EUR 800 annually to be paid out for the claims under the reinsurance in the same period ([15]).

3. ASSESSMENT OF THE MEASURE:

3.1. Existence of State Aid

(56) According to Article 107(1) of the Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.

(57) The short-term export credit insurance is provided by a State insurer, and therefore involves State resources. The involvement of the State can give the insurers and/or the exporters a selective advantage and could thereby distort or threaten to distort competition and affect trade between Member States.

(58) As regards the aid to the insurer, Section 3.2., point 13, of the 2021 Export credit Communication states that if State insurers have certain advantages compared to the private credit insurers, State aid can be involved. In this context HBOR has an advantage, due to the fact that unlike private insurers, the State guarantees HBOR's borrowing and losses. The advantage for HBOR with regard to marketable risks affects intra-Union trade in credit insurance services. This leads to variations in the insurance cover available for marketable risks in different Member States. This distorts competition among insurers in different Member

([15]) By letter dated 20 November 2024, HBOR stated that in the last 5 years (2019 - 2023) there had not been any indemnities paid for temporarily non-marketable risks under the corresponding programme. For this reason, the amount of provisions for unidentified risks as of 31 December 2023, for this programme and this group of risks (EUR 641) was taken as the basis for planning the amount of indemnities in the period from 2025 to 2030, since there were no identified risks reported on the same date. The basis thus obtained, for the purposes of indemnities planning, was increased by 3% in each year in accordance with the S&P forecast of Croatian GDP growth in long term period.'

States and has secondary effects on intra-Union trade regardless of whether intra-Union exports or exports outside the Union are concerned ([16]).

(59) As regards the aid to the exporters, Section 3.3., point 15, of the 2021 Export credit Communication states that advantages for State insurers are also sometimes passed on to exporters, at least in part. Such advantages can distort competition and trade and constitute State aid within the meaning of Article 107(1) of the Treaty. However, if the conditions for the provision of export credit insurance for marketable risks, as set out in Section 4.3. of the 2021 Export credit Communication are fulfilled, the Commission will consider that no undue advantage has been passed on to exporters.

3.2. Compliance with the 2021 Export credit Communication

(60) The Commission examined whether the notified Scheme complies with the conditions laid down by the 2021 Export credit Communication. The Commission applies the principles set out in the 2021 Export credit Communication to export credit insurance with a risk period of less than two years.

3.2.1. Separation of accounts between marketable and non-marketable risks

(61) According to Section 4.1., point 16 of the 2021 Export credit Communication, if State insurers have any advantages compared to private credit insurers, as described in point 13 of the Communication, they must not insure marketable risks. If State insurers or their subsidiaries wish to insure marketable risks, it must be ensured that in so doing, they do not directly or indirectly benefit from State aid. To this end, they must have a certain amount of own funds (a solvency margin, including a guarantee fund) and technical provisions (an equalisation reserve) and must have obtained the required authorisation in accordance with Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ([17]), as amended. They must also at least keep a separate administration account and separate accounts for their insurance of marketable risks and non-marketable risks with the support of, or on behalf of, the State, to show that they do not receive State aid for their insurance of marketable risks. The accounts for businesses insured on the insurer’s own account should comply with Council Directive 91/674/EC of 19 December 1991 on the annual accounts and consolidated accounts of insurance undertakings ([18]), as amended.

(62) In the case at hand, HBOR is only covering non-marketable and temporarily non-marketable risks while all insurance of marketable risks is left to the private market.

([16]) In its judgment in Case C-142/87 Belgium v Commission, ECLI:EU:C:1990:125, see point (35), the Court held that not only aid for intra-Union exports, but also aid for exports outside the Union, can influence intra Union competition and trade. Both types of operation are insured by export credit insurers and aid for both can therefore affect intra-Union competition and trade.

([17]) OJ L 335, 17.12.2009, p. 1-155.

([18]) OJ L 374, 31.12.1991, p. 7.

(63) Since HBOR does not insure marketable risks, it does not need to keep a separate administration account for the Scheme or separate accounts for its insurance of non-marketable risks for the account of or guaranteed by the State.

3.2.2. Unavailability of cover

(64) Point 19 of the 2021 Export credit Communication states that notwithstanding the definition of marketable risks, certain commercial or political risks, or both, on buyers established in the countries listed in the Annex are considered temporarily non-marketable in the following cases: (a) where the Commission decides to temporarily remove one or more countries from the list of marketable risk countries in the Annex, by means of the mechanism described in Section 5.2., because the capacity of the private insurance market is insufficient to cover all economically justifiable risks in the country or countries concerned; (b) where the Commission, after having received a notification from a Member State, decides that the risks incurred by small and medium-sized enterprises as defined by the Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises ([19]), with a total annual export turnover not exceeding EUR 2.5 million, are temporarily non-marketable for exporters in the notifying Member State; (c) where the Commission, after having received a notification from a Member State, decides that single-risk cover with a risk period of at least 181 days and less than two years is temporarily non-marketable for exporters in the notifying Member State; and (d) where the Commission, after having received a notification from a Member State, decides that due to a shortage of export credit insurance, certain risks are temporarily non-marketable for exporters in the notifying Member State.

(65) The Commission considered that the various aspects of the Scheme fall under point 19 of the 2021 Export credit Communication, namely: the Programme for the Insurance of Short-Term Export Receivables falls under point 19 (c) and (d); the Programme for the Insurance of Short-Term Export Receivables for Small and Medium-Sized Entrepreneurs with Annual Turnover from Exports of up to EUR 2.5 million falls under point 19 (b); and the Supplier credit insurance programme falls under point 19 (b), (c) and (d) of the 2021 Export credit Communication. In addition, Programme for Quota Share Reinsurance of Short-Term Export Receivables relates to reinsurance of short-term receivables against temporarily non-marketable risks.

(66) According to point 39 of the 2021 Export credit Communication '[t]he evidence currently available to the Commission suggests that there is a market gap as regards the risks specified in points 19 (b) and (c) [namely short-term risks incurred by SME with a total annual export turnover not exceeding EUR 2.5 million and single-risk cover with a risk period of at least 181 days and less than two years, on buyers established in the countries listed in the Annex to the 2021 Export credit Communication] and that those risks are therefore non-marketable'. However, according to point 40 of the 2021 Export credit Communication, if a Member State wants to cover those risks it will still have to make a notification to the Commission pursuant to Article 108 (3) of the Treaty and demonstrate that it contacted the main credit insurers and brokers in that Member State giving them

([19]) OJ L 124, 20.5.2003, p. 36.

the opportunity to provide evidence that cover for the risks concerned is available in that country.

(67) For the countries listed in the Annex to the 2021 Export credit Communication, the Member State can demonstrate the non-marketability of the risks specified in point 19 (b) and (c) of the 2021 Export credit Communication by providing sufficient evidence of the unavailability of cover for the risk in the private insurance market.

(68) As for the risks in point 19 (d) of the 2021 Export credit Communication, according to point 41 of the 2021 Export credit Communication, 'the Member State concerned must, in its notification to the Commission pursuant to Article 108(3) of the Treaty, demonstrate that cover is unavailable for exporters in that particular Member State due to a supply shock in the private insurance market, in particular the withdrawal of a major credit insurer from the Member State concerned, reduced capacity or a limited range of products compared with other Member States'.

(69) The Scheme provides short-term export credit insurance to Croatian exporters regarding buyers established in all countries. Insofar as countries not listed in the Annex to the 2021 Export credit Communication are concerned, such risks are 'non-marketable' within the meaning of the said Communication and public support for insuring them is in compliance with the 2021 Export credit Communication.

(70) With regard to the countries listed in the Annex to the 2021 Export credit Communication and as referred to in recitals above, the Croatian authorities gave the main credit insurers an opportunity to provide evidence that cover for the risks concerned is available in Croatia. However, the credit insurers concerned did not provide information demonstrating that they cover the types of risks that HBOR wishes to cover ([20]).

(71) All 3 insurance companies providing export credit insurance in Croatia were contacted by HBOR and given the opportunity to submit evidence that they could offer the cover for the short-term export credit risks insured by HBOR. From the replies sent by these 3 companies providing export credit insurance in Croatia ([21]), it is evident that HBOR offers short-term export credit insurance for temporarily non-marketable risks which is not provided by any of the competitors. As regards risks under the point 19 (d) of the 2021 Export credit Communication, the unavailability of cover should be demonstrated for each individual insurance request. For that purpose, HBOR undertakes to demand from each applicant for cover the proof of impossibility of contracting the insurance with a private insurer.

([20]) According to point 40 of the 2021 Export credit Communication, 'If the credit insurers and brokers concerned do not provide the Member State or the Commission with information concerning the conditions of cover and insured volumes for the type of risks the Member State wants to cover within 30 days following receipt of a request from the Member State to do so, or if the information provided does not demonstrate that cover for the risks concerned is available in that Member State, the Commission will consider the risks temporarily non-marketable.'

([21]) Letter from Allianz Hrvatska d.d. (dated 17 July 2024); letter from Croatia osiguranje d.d. (dated 17 July 2024); letter from Hrvatsko kreditno osiguranje d.d. (dated 8 July 2024).

(72) In accordance with points 39 and 40 of the 2021 Export credit Communication, the Commission considers that the risks specified in point 19 (b) and (c) of the 2021 Export credit Communication are temporarily non-marketable in Croatia. Furthermore, the Commission considers that the continuing limited capacity of the short-term export credit insurance market in Croatia has been sufficiently demonstrated and supported by the submitted evidence and justifies the continuation of provision of insurance of certain risks by HBOR under the point 19 (d) of the 2021 Export credit Communication as temporarily non-marketable in Croatia.

3.2.3. Adequate pricing

(73) In order to minimise the crowding out of private credit insurers, risk-carrying in the export credit insurance contract must be remunerated by an adequate premium. Pricing is considered adequate if the minimum premium (‘safe-harbour’ premium) as set out in table in point 24 of the 2021 Export credit Communication is charged. To this end, average premiums under publicly supported schemes must be higher than the average premiums charged by private credit insurers for similar risks. This requirement ensures the phasing out of State intervention, because the higher premium will ensure that exporters return to private credit insurers as soon as market conditions allow them to do so and the risk becomes marketable again.

(74) Under the notified measure, HBOR will apply pricing principles, as described in recitals (21) – (25), (32) – (37) and (44) – (48), in line with Section 4.3.3. of the 2021 Export credit Communication. The premium to be paid by the exporter to HBOR is a premium covering both political and commercial risks.

(75) The Commission finds the premiums level applied by HBOR, which depend on the overall creditworthiness of the buyer to be adequate and in line with the 2021 Export credit Communication. The minimum premium charged by HBOR corresponds to the ‘safe-harbour premium’ required by point 24 of the 2021 Export credit Communication. In fact, as regards all risk categories, the level of the premium to be paid according to the notified Scheme is higher than ‘safe-harbour premium’.

(76) In addition to the risk premium, HBOR will charge an administration fee.

(77) In line with the point 25 of the 2021 Export credit Communication, for quota share cover, pricing is considered adequate only if the premium charged is at least 30 % higher than the premium for the (original) cover provided by a private credit insurer. As stipulated in the Programme for Quota Share Reinsurance of Short-Term Export Receivables, the insurer pays the reinsurance premium to HBOR, while the premium represents a percentage of the original insurance premium increased by 30%.

(78) Consequently, the Commission considers the pricing of HBOR to be in line with the conditions set out in Section 4.3.3 of the 2021 Export credit Communication for the temporarily non-marketable risks.

3.2.4. Quality of cover, underwriting principles, transparency and reporting

(79) The 2021 Export credit Communication further indicates in its Sections 4.3.1., 4.3.2. and 4.3.4. the conditions and principles to fulfil regarding quality of cover, underwriting, transparency and reporting.

(80) Croatia undertakes to follow the principles set out in point 21 of the 2021 Export credit Communication. This means that quality of cover offered by the State insurer HBOR must be consistent with market standards. In particular, only economically justified risks will be covered.

(81) The maximum percentage of cover offered by HBOR will be 95% for commercial risks and political risks and the claims waiting period will be at least 3 months, which is in line with the conditions laid down in point 21 of the 2021 Export credit Communication.

(82) In order to ensure that no financially unsound transactions are covered under the Scheme, as set out in point 21 of the 2021 Export credit Communication, HBOR will require a risk assessment of the risk relating to the foreign buyer. On the basis of this assessment, only risk relating to sound buyers will be covered. Therefore, credit information is a prerequisite for the underwriting of short-term risks under the Scheme.

(83) In addition, the Commission notes that HBOR will publish on its website information on the Scheme put in place for the risks specified in point 19 (b), (c) and (d) of the 2021 Export-credit Communication, specifying all applicable conditions, thereby allowing private credit insurers and any other market player wishing to enter the market to view market activity in these particular segments.

(84) Finally, Croatia will provide annual reports, as stated in recital (15), on risks which are considered temporarily non-marketable in accordance with point 19 (b), (c) and (d) of the 2021 Export credit Communication and are covered under the Scheme, as well as on the use of the Scheme.

(85) The conditions of Sections 4.3.1., 4.3.2. and 4.3.4. of the 2021 Export credit Communication on quality of cover, underwriting principles, transparency and reporting are therefore fulfilled for the temporarily non-marketable risks.

3.2.5. Coverage of temporarily non-marketable risks through reinsurance

(86) In the case where HBOR would offer short-term export credit insurance products not only directly to exporters but also by reinsuring such risks that are underwritten by a commercial insurer, it needs to ensure that access to such reinsurance is offered to all commercial insurers in an open, transparent and non-discriminatory way. In addition, in respect of reinsurance of temporarily non-marketable risks, HBOR will ensure compliance with the conditions under the 2021 Export credit Communication, including the unavailability of cover, minimum premium requirements and sound underwriting principles respectively discussed under sections 3.2.2., 3.2.3. and 3.2.4. of this decision. Given those safeguards, Commission raises no objection to the short-term export credit quota share reinsurance of temporarily non-marketable risks operated by HBOR throughout the duration of the Scheme.

3.2.6. Compatibility with the 2021 Export credit Communication

(87) On the basis of the above, the Commission concludes that the Scheme meets all the relevant requirements laid down in the 2021 Export credit Communication.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union. The Scheme is compatible with the internal market until 31 December 2030.

The Commission reminds the Croatian authorities that, in accordance with Article 108(3) of the Treaty, all plans to alter or change the Scheme have to be notified to it.

Croatia will submit at the end of each year a report on risks which are considered temporarily non-marketable in accordance with point 19 (b), (c) and (d) of the 2021 Export credit Communication and are covered under the Scheme, as well as on the use of the Scheme.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: https://competition-cases.ec.europa.eu/search?caseInstrument=SA.

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Teresa RIBERA
Executive Vice-President

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION