TRADE DIRECTORATE
TRADE COMMITTEE

NOTIFICATION OF CHANGES IN THE EXPORT CREDIT SYSTEMS

Note from Germany

This document reports changes notified by Germany to its Export Credits System.

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AGREEMENT REACHED BETWEEN MINISTRY OF FINANCE, KFW AND EU COMMISSION: KFW WILL ESTABLISH A SUBSIDIARY FOR PART OF ITS EXPORT AND PROJECT FINANCE BUSINESS

1. After six months of negotiation, the member of the European Commission in charge of competition, Mario Monti, and the State Secretary in the German Ministry of Finance, Caio Koch-Weser, have reached an agreement in Brussels on 1 March 2002 on the treatment, in terms of State Aid Law, of state liability obligations – in the form of Anstaltslast, Gewährträgerhaftung and refinancing guarantees – available to the German special credit institutions. In order to formalise the understanding in accordance with the rules of the EC-Treaty, the Commission has transformed the understanding into a decision of the Commission. The Federal Republic of Germany has formally accepted the decision with respect to the understanding.

2. In essence, KfW will enjoy the Anstaltslast (institutional liability) and the guarantee of the Federal Republic of Germany in the future for promotional activities only. This basically includes recognition of KfW’s domestic promotional business in areas such as small and medium-sized enterprises, housing, environmental and infrastructure projects as well as Development Co-operation.

3. However, the understanding with the Commission requires modifications in the area of export and project financing. KfW will have to outsource part of the export and project financing business to a subsidiary still to be established and not benefiting from any direct or indirect government guarantee. The subsidiary to be established will work under market conditions and will also be subject to taxation. KfW will transfer its export and project finance business to this subsidiary, except for cases that are recognised as promotional activities, i.e.:

   - The implementation of international promotional programmes in accordance with the OECD Consensus, such as the interest-related CIRR (Commercial Interest Reference Rate) and LASU (Large Aircraft Sector Understanding) Programmes.

   - Financing outside the EU, the European Economic Area (EEA) and the accession countries in a bank syndicate with KfW share no more than 50% or 25% respectively, in case KfW is the syndicate leader.

   - Financing provided by KfW on its own in countries where the financing offered by the private sector is insufficient (OECD risk category 7 or category 5 to 6 and DAC-List Part I) and if the volume is below EURO 50 million and the financing term is longer than 4 years.

   - KfW may also participate in projects implemented in the interest of the EU such as the Transeuropean Networks.

   - All other export and project finance transactions (“market window”) may only be carried out by the a.-m. market subsidiary.

4. KfW will now develop business models for the establishment of an independent subsidiary and prepare its foundation. A transitional period until March 31, 2004 has been set as the deadline for the binding definition of the legal framework and December 31, 2007 was agreed as deadline for the implementation of the understanding, incl. start up of the new subsidiary.