

Prop. 42 S

(2011–2012)

Proposition to the Storting (draft resolution)

Amendments to Proposition 34 S to the Storting (2011–2012) Export Financing

*Recommendation from the Ministry of Trade and Industry 2 December 2011,
approved in the Council of State on the same date.
(Stoltenberg II Government)*

1 Introduction

Following the submission of Proposition 34 S (2011–2012) *Export Financing*, further information has come to light indicating a need to submit certain new proposals for resolution and to amend some of the proposals outlined in Proposition 34 S (2011–2012). In the present Proposition, the Ministry of Trade and Industry submits draft amendments to Proposition 34 S (2011–2012).

2 Draft amendments

Until a permanent state export financing scheme is in place, an interim arrangement is proposed whereby Eksportfinans functions as a facilitator for loans provided by the state. The interim arrangement will not take effect until the Storting and the board of Eksportfinans have made the necessary decisions and an interim agreement between the state and Eksportfinans is in place. Until the interim arrangement is operational, the Government will not have the necessary mandates to disburse such loans.

In Proposition 34 S (2011–2012) to the Storting (see draft resolution V) it is proposed that the Ministry of Trade and Industry be empowered to acquire loans disbursed by Eksportfinans ASA from 18 November 2011 until an interim arrangement is in place. The purpose of this is to ensure that the business sector does not experience any interruption of financing. Following submission of the Proposition, a number of matters have arisen in the dialogue with Eksportfinans necessitating amendments to this Proposition. Insider issues made it difficult to involve Eksportfinans prior to the submission of Proposition 34 S (2011–2012).

In Proposition 34 S (2011–2012), the Government intends that the interim arrangement will ensure disbursement of loans to projects that qualify for CIRR where Eksportfinans has already provided a commitment but has not yet disbursed the loans. The scheme will also be responsible for providing commitments for new loans for projects that qualify for CIRR and for disbursement of these. Eksportfinans will continue to manage a considerable portfolio of previously granted loans for many years ahead, both loans granted to projects that qualify for CIRR and other forms of market loan. The amendments proposed by this proposition will not involve any change in this.

2.1 Acquisition of partially disbursed loans

Many of the loans to be disbursed during the interim period and subsequently are partial disbursements. This mainly applies to large loan facilities involving many lenders (syndicates), where Eksportfinans provides part of the loan. Eksportfinans may then divide its part of the loan into several partial disbursements. In Proposition 34 S (2011–2012), it is assumed that the state is to take over or acquire the part of the loan that is due for disbursement after 18 November 2011. Most of the loan agreements to which Eksportfinans is a party include the right to acquire the whole or parts of the loan on certain terms. The terms for acquisition of loans may vary between loan agreements and involve varying requirements regarding consent by other lenders and the borrower. A concrete assessment must therefore be made of each loan agreement in order to determine what terms apply to acquisition of the whole or parts of the loan in the case in question. In cases where partial disbursements have been made prior to 18 November 2011, Eksportfinans has requested that the state take over the whole commitment, both where loan agreements limit acquisition of parts of the loan and where there are no such limitations. In cases where two or more borrowers are involved in the loan facility, "the whole commitment" refers to Eksportfinans's part of the loan. Those parts of the loans that are already disbursed, and which Eksportfinans requests the state to take over in addition to new disbursements, amount to approximately NOK 7bn. New disbursements in respect of these loans amount to approximately NOK 5.4bn. The latter amount has been taken into consideration in the proposed allocation of NOK 30bn for the interim period in Proposition 34 S (2011–2012).

2.2 Refinancing of loans with margin constraints of shorter duration than the term to maturity

Eksportfinans offered loans for projects qualifying for CIRR at market-based commercial interest rates, and the Government proposes in Proposition 34 S (2011–2012) that the state scheme continue to do so. Eksportfinans has informed that, as a consequence of the financial crisis in 2008, the company began to provide loans with a fixed-rate period shorter than the term to maturity. The normal fixed-rate period has been from three to five years, while the term to maturity has normally been 10–12 years. This was because Eksportfinans, owing to the financial crisis, no longer had access to sufficient long-term funding. In such renegotiations, the parties are not obliged to continue the loan agreement, and Eksportfinans may therefore demand redemption of the loan. Eksportfinans has informed that, owing to the

lack of funding, the company may demand redemption of such loans. If the borrowers are unable to obtain alternative financing on the market, they may therefore find themselves without financing. In 2012, loans amounting to approximately NOK 6.2bn are to be renegotiated. Such loans total approximately NOK 20bn. Following attenuation of the effects of the financial crisis, Eksportfinans recently began in a number of cases to offer margin constraints as long as the term to maturity.

2.3 Commitments

In the text of Proposition 34 S (2011–2012) it is stated that the allocation of NOK 30bn applies to disbursements and acquisition of some loans, while a total framework of NOK 30bn is requested in resolution IV of the Proposition. It is necessary to distinguish between the authorisation to provide commitments and actual disbursements, since the volume of commitments are normally many times as great as the amount disbursed. In the agreement between the state and Eksportfinans on the 108 scheme, no upper limit was set for commitments. On the basis of the proposed allocation under budget chapter 934, item 90, there is no need for a separate authorisation for disbursement of loans.

3 The Ministry's assessments

In the view of external legal advisers, it is normally practically possible to divide loans for which partial disbursements have been made, so that the state only takes over the part that is due for disbursement after 18 November 2011. At the same time, the advisers point out that this may depend on the wording of the individual loan agreements, and may be time and resource consuming. Both the borrower and other creditors party to the loan agreement may find it more complicated to relate to an additional creditor. Moreover, additional costs will accrue owing to the fact that both Eksportfinans and the state will need to follow up each loan commitment. Splitting of loans between two creditors may also entail additional costs in connection with negotiations and documentation work associated with the preparation of supplementary or amendment agreements for loan agreements and documentation of securities. The Ministry therefore proposes that the state should be able to take over the whole loan commitment, i.e. including the parts of the loan for which Eksportfinans has made partial disbursements prior to 18 November. In cases where two or more borrowers are involved in the loan facility, "the whole commitment" refers to Eksportfinans's part of the loan.

In the case of a number of loans due to be disbursed after submission of Proposition 34 S (2011–2012), the Ministry of Trade and Industry has informed Eksportfinans that the state, subject to the consent of the Storting, is willing to take over the whole amount of the loan, including that disbursed prior to 18 November.

In a situation where borrowers who must renegotiate interest rates are unable to obtain alternative financing and Eksportfinans terminates the loan, the borrowers may face a possible default of the loan with the consequences that this entails. Default may result in claims against guarantors, including the Norwegian Guarantee Institute for Export Credits (GIEK). The

credit markets are likely to be in a difficult situation for some considerable time, and borrowers may therefore have difficulty in obtaining new loans on competitive terms. The Ministry therefore proposes that the state should be able to take over the whole of such loan commitments in a refinancing situation if the borrower is unable to find alternative financing. In cases where two or more borrowers are involved in the loan facility, "the whole commitment" refers to Eksportfinans's part of the loan. Renegotiation of interest rates where the state is the counterpart must be subject to a commercial assessment, and must as a minimum comply with the rules for state aid laid down in the EEA Agreement.

Financing commitments often play a major role for Norwegian suppliers when negotiating contracts. Disbursement of loan is not appropriate until a company has been awarded a contract. For this reason among others, including the need for companies to obtain alternative financing, the volume of commitments is many times as great as the amount finally disbursed. The agreement between the state and Eksportfinans on the 108 scheme sets no upper limit for commitments. Owing to considerable uncertainty regarding the amount of commitments that will be granted, the Ministry proposes that no upper limit for commitments be set in this case.

In addition to the above, Eksportfinans has presented certain other requirements associated, inter alia, with pricing of loans to be taken over and coverage of interruption costs. In the view of the Ministry, the state should be able to consent to covering these costs as part of the negotiations with Eksportfinans. As mentioned in Proposition 34 S (2011–2012), the state will bear the cost and the risk associated with the interim scheme. This also means that Eksportfinans will be indemnified for any claims by third parties associated with the loan agreements concerned. Moreover, in the interim agreement with Eksportfinans, the state will seek to implement the liability conditions that normally apply to this type of service provision.

4 Financial and administrative consequences

The proposal will not entail increased administrative costs to the Ministry of Trade and Industry beyond the costs referred to under *Financial and Administrative Consequences* in Proposition 34 S (2011–2012).

The proposals outlined in the present Proposition and in Proposition 34 S (2011–2012) render unnecessary commitment authorisation VI in Proposition 1 S (2011–2012) (3). As it now stands, this will therefore not be applied.

5 Budget proposal

The proposals in this Proposition entail an increase in the estimated need for disbursements. On the basis of summaries provided by Eksportfinans, NOK 18.2bn is expected to be disbursed in connection with projects that qualify for CIRR during the remainder of 2011 and in 2012. However, there is considerable uncertainty as to when these disbursements will be carried out. On the basis of the uncertainty in the capital markets and the fact that alternative sources of financing may dry up, it must be taken into

consideration that the loan amount expected to be disbursed may be greater than NOK 18.2bn. In addition, previously disbursed loans amount to NOK 7bn while loans due for refinancing on expiry of the margin constraint period in 2012 amount to approximately NOK 6.2bn. The Ministry therefore proposes increasing the proposed allocation for loans by NOK 10bn, from NOK 30bn to NOK 40bn.

It is proposed that disbursement in connection with acquisition of loans granted by Eksportfinans be covered under budget chapter 934, new item 90. It is proposed that other costs associated with acquisition of these loans be covered under budget chapter 934, new item 75. The size of the latter costs is not currently known. It is therefore proposed that the Ministry of Trade and Industry be authorised to record expenditure without an allocation. The Government will return to the Storting with the amounts in connection with the revision of the fiscal budget in spring 2012.

Depending on the actual utilisation of the scheme, there may be a need to adjust the Ministry of Finance's borrowing authority. The Government will, if appropriate, return to this in a later Proposition.

Chapter 934 Internationalisation measures

Item 90 Loans to an interim state export financing scheme for loans for projects that qualify for CIRR may be transferred

An allocation of NOK 40bn is proposed, as against the previously proposed NOK 30bn, which is to cover disbursement of loans with CIRR interest and loans for projects that qualify for CIRR at market-based commercial interest rates in 2011 and subsequently. An additional allocation is proposed to cover disbursements to Eksportfinans for acquisition of existing loans. The proposed allocation is subject to uncertainty, and the Government will if necessary propose a change in the allocation in connection with the amendments to the fiscal budget in spring 2012.

The Ministry of Trade and Industry

h e r e b y r e c o m m e n d s :

That Your Majesty approves and signs the proposal for a Proposition to the Storting on amendments to Proposition 34 S to the Storting (2011–2012) *Export Financing*.

We HARALD, King of Norway,

h e r e b y c o n f i r m :

that the Storting is requested to make a decision on amendments to Proposition 34 S to the Storting (2011–2012) *Export Financing* in 2011 and 2012 in accordance with the submitted proposal.

**Proposal
for a resolution on amendments to Proposition 34 S to the Storting (2011–
2012) *Export Financing***

I

The following amendments are made in the fiscal budget for 2011:

Expenditure:

Chap ter	Item	Purpose	NOK
934		Internationalisation measures	
	90 (new)	Loans to an interim state export financing scheme for Loans for projects that qualify for CIRR, <i>may be transferred</i> , and will be allocated in the amount of ... as against the previously proposed amount of NOK 30 000 000 000	40 000 000 000

II

Authorisation to record income and expenditure without an allocation

A new item is added to the proposal for resolution in Proposition 34 S (2011–2012) *Export Financing*, II:

6. The Storting consents to the proposal that the Ministry of Trade and Industry in 2011 and 2012 without an allocation may debit the costs in connection with acquisition of loans already granted by Eksportfinans under budget chapter 934, new item 75 *Costs relating to acquisition of loans*.

III

Authorisation to provide commitments

The proposal for resolution in Proposition 34 S (2011–2012) *Export Financing*, IV, is amended as follows:

The Storting consents to the proposal that the Ministry of Trade and Industry in 2011 and 2012 may provide commitments concerning new loans for projects that qualify for CIRR with no upper limit.

IV

Authorisation to acquire loans

The proposal for resolution in Proposition 34 S (2011– 2012) *Export Financing, V*, is amended as follows:

The Storting consents to the proposal that the Ministry of Trade and Industry may:

1. acquire in their entirety loans for projects that qualify for CIRR disbursed by Eksportfinans ASA from 18 November 2011 until an interim arrangement is operational.
2. acquire in their entirety loans for projects that qualify for CIRR disbursed by Eksportfinans ASA where partial disbursements have been made prior to 18 November 2011.
3. acquire in their entirety loans for projects that qualify for CIRR due for refinancing on expiry of the margin constraint period.