



EUROPEAN COMMISSION

Brussels,
C(2011)

Subject: State Aid/Slovakia - Aid No SA.33228 (2011-N)
Restoring forestry potential and introducing prevention actions in the military areas

Sir,

The Commission wishes to inform the Slovak authorities that, after examining the information supplied by your authorities on the aid referred to above, it has decided not to raise any objections to the aid in question, since it is compatible with the Treaty on Functioning of the EU ('TFEU')¹.

The Commission has based its decision on the following considerations:

1. PROCEDURE

- (1) In accordance with Article 108(3) TFEU, by letter of 23 June 2011, registered as received on the same date, the Permanent Representation of the Slovak Republic to the European Union notified the Commission of this measure. Additional information was submitted by letter of 22 September 2011, registered as received on the same date.

2. DESCRIPTION OF THE AID SCHEME

2.1. Title

- (2) Restoring forestry potential and introducing prevention actions in the military areas

2.2. Budget

- (3) Total budget of € 900 000; annual budget: € 450 000.

Mikuláš Dzurinda
Minister zahraničných vecí Slovenskej republiky
Hlboká cesta 2
833 36 Bratislava 37
Slovenská republika

¹ With effect from 1 December 2009, Articles 87 and 88 of the EC Treaty have become Articles 107 and 108, respectively, of the TFEU. The two sets of provisions are, in substance, identical. For the purposes of this Decision, references to Articles 107 and 108 of the TFEU should be understood as references to Articles 87 and 88, respectively, of the EC Treaty where appropriate:

2.3. Duration

- (4) From the date of the Commission decision until 31.12.2013.

2.4. Beneficiary

- (5) Military Forests and Estates of the SR (*Vojenské lesy a majetky SR, štátny podnik, "VLM, š.p."*) is a state-owned legal entity established by Ministry of Defence of the Slovak Republic for the administration of forest properties in military districts or on territories where tasks of state defence are being performed. It exercises an economic activity by producing and trading in timber.

2.5. Cumulation

- (6) The Slovak authorities gave commitments that the aid granted under this notified measure will not be cumulated with aid received from other local, regional, national or EU schemes to cover the same eligible costs.

2.6. Legal basis

- (7) - Act No. 435/2010 Col., on provision of subsidies and grants within the competence of Ministry of Defence of the Slovak Republic (*Zákon č.435/2010 Z. z. o poskytovaní dotácií v pôsobnosti Ministerstva obrany Slovenskej republiky*)
- Act No. 231/1999 Col. on state aid, as amended (*Zákon č. 231/1999 Z. z. o štátnej pomoci v znení neskorších predpisov*)
- Act No. 523/2004 Col., on budgetary rules in public administration and on changes and amendments to the selected acts, as amended (*Zákon č. 523/2004 Z. z. o rozpočtových pravidlách verejnej správy a zmene a doplnení niektorých zákonov*)
- Act No. 326/2005 on forests as amended (*Zákon č. 326/2005 Z. z. o lesoch v znení neskorších predpisov*)

2.7. Aid measure

- (8) Under the notified measure the Slovak authorities intend to grant support for restoring forests potential in the forests in the military districts of the Slovak Republic substantially damaged by natural disaster, pest, diseases and forest fires and introducing prevention actions.
- (9) According to the information provided the measures and sub-measures included in the present State aid scheme are similar in content to the respective measures and sub-measures approved in the Rural Development Programme of Slovakia 2007-2013 (RDP). However, the notified measure is to be implemented and financed aside from the RDP.
- (10) Given this situation, the Slovak authorities explained that the operations carried out under the notified scheme will have primarily for objective to contribute to maintaining and restoring the ecological and protective functions of forests, biodiversity and healthy forest ecosystem by:
- restoring damaged forests: afforestation measures including planning costs, (where the primary objective is to promote biodiversity, to combat erosion and

to promote a protective function of the forest), felling, pruning, removal of fallen trees, removal and disposal of bark or residues after felling of trees and other vegetation;

- maintaining and improving soil quality: including reduction of excessive vegetation density and ensuring sufficient water retention and proper drainage with the aim to ensure the hydrological cycle and a run-off in extreme events such as floods;
- introducing preventative actions: installation and treatment (*asanacia*) of regular traps (*lapaky*) and pheromone products in forests attacked by biotic pests, treatment of trees attacked by pest and removal of the infested trees, disposal of residue after extraction to prevent the spread of pests and bark beetles, mechanical protection against game;
- introducing targeted measures to prevent forest fires: construction, reconstruction and maintenance of forest roads and other infrastructure (i.e. establishment of water basins), establishment and maintenance of firebreaks (*protipoziarne pasy* and *priešky*);
- aid for the costs of training, consultancy services, such as, establishment of plans or forestry management plans, feasibility studies, as well as participation in competitions, exhibitions and fairs.

(11) The Slovak authorities have given assurances that the measures under the present scheme exclude aid to the forest based industries or for commercially viable extraction of timber, transportation of timber or for the processing of wood or other forestry resources into products or for energy generation. Moreover, no aid will be granted for restocking where the felled trees are replaced by equivalent ones.

(12) According to the Slovak authorities the forests and infrastructures in the military areas will not be used for recreation open to the public at no cost for recreational purposes.

(13) The Slovak authorities explained that the maximum aid intensity will not exceed 100% of eligible expenses which will be financed in whole from State resources. The Slovak authorities assured also that any overcompensation will be excluded.

(14) In addition, Slovak authorities gave their commitment that aid for the costs of training, consultancy services, such as, establishment of plans or forestry management plans, feasibility studies, as well as participation in competitions, exhibitions and fairs will fulfil the conditions laid down in Article 15 of Commission Regulation (EC) 1857/2006².

(15) Furthermore, the Slovak authorities confirmed that the aid under the present scheme will only be granted in respect of activities undertaken or services received after the aid scheme has been set up and declared compatible with the TFEU by the Commission. If the aid scheme creates an automatic right to receive the aid, requiring

² Commission Regulation (EC) 1857/2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) 70/2001, OJ L 358, 16.12.2006.

no further administrative action at administrative level, the aid itself will only be granted for activities undertaken or services received after the aid scheme has been set up and declared compatible with the TFEU by the Commission.

2.8. Presence of aid within the meaning of Article 107(1) TFEU

- (16) Under Article 107(1) TFEU, 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, insofar as it affects trade between Member States, is incompatible with the internal market.
- (17) The aid at issue is financed out of State resources (see point 13 above) and benefits certain undertakings (see point 5 above). Pursuant to the case law of the Court of Justice, aid to an undertaking is deemed to affect trade between Member States if that undertaking operates in a market open to intra-EU trade.³ The mere fact that the competitive position of an undertaking is strengthened compared with other competing undertakings, by giving it an economic benefit which it would not otherwise have received in the normal course of its business, points to a possible distortion of competition.⁴ The beneficiaries of the aid at issue operate on a market where intra-EU trade takes place.⁵ The aid measure could therefore distort competition and affect trade between Member States and consequently constitutes aid pursuant to Article 107(1) TFEU.

2.9. Compatibility of aid pursuant to Article 107(3) TFEU

- (18) However, the prohibition of State aid in Article 107(1) TFEU is subject to certain exceptions.
- (19) Pursuant to Article 107(3)(c) TFEU, aid may be considered compatible with the internal market if it aims to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.
- (20) Aid to the forestry sector has to be examined against the background of the Community Guidelines for State Aid in the Agriculture and Forestry Sector 2007 to 2013⁶ (hereinafter: the Guidelines), in particular Chapter VII thereof.
- (21) In line with point 174 of the Guidelines the aid measures should contribute to maintaining, restoring or improving ecological and protective functions of forests, biodiversity and a healthy forest ecosystem (see point 10 above). As shown further in point 10 of the description, the actions foreseen by the Slovak authorities correspond to the eligible costs foreseen in point 175 and 179 of the Guidelines. Moreover they should exclude aid to forest based industries or for commercially viable extraction of timber, transportation of timber or for the

³ See, in particular, judgment of the Court of 13 July 1988, Case 102/87, French Republic v Commission of the European Communities, ECR 1988, p. 4067.

⁴ Judgment of the Court of 17 September 1980, Case 730/79, Philip Morris Holland BV v Commission of the European Communities, ECR 1980, p. 2671.

⁵ Trade in timber in the rough (round, cut or as particles) of the Slovak Republic with other Member States in 2009 (in 1 000t): imports 266.5, exports 2.5. (source: Eurostat).

⁶ OJ C 319, 27.12.2006, p. 1.

processing of wood or other forestry resources into products or for energy generation (see point 11 above).

- (22) Pursuant to point 179 of the Guidelines aid for the costs of training of forest owners and forestry workers and for consultancy services provided by third parties, including the establishment of business plans, forestry management plans and feasibility studies, as well as participation in competitions, exhibitions and fairs will be declared compatible with Article 107(3) TFEU if the aid fulfils the conditions set out in Article 15 of Commission Regulation (EC) 1857/2006. The Slovak authorities have provided relevant information and given appropriate assurances in this respect (see point 14 above).
- (23) In line with point 16 of the Guidelines, aid under an aid scheme must contain the necessary incentive effect, and cannot be granted retrospectively in respect of activities which have already been undertaken by the beneficiary. The Slovak authorities have given their assurances to comply with the provisions of points 15 and 16 of the Guidelines (see point 15 above)
- (24) Consequently, it may be concluded that the proposed aid measures comply with the relevant provisions of the Community Guidelines for State Aid in the Agriculture and Forestry Sector 2007 to 2013, and more specifically with the conditions of Chapter VII, point 175 (a),(b) and (c) and point 179.

3. CONCLUSION

- (25) In view of the foregoing, the Commission has accordingly decided not to raise any objections to the measure as it is compatible with the internal market under Article 107(3)(c) TFEU.
- (26) If this letter contains confidential information that 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 disclosure to third parties and to publication of the full text of this letter in the authentic language on the Internet site: http://ec.europa.eu/eu_law/state_aids/state_aids_texts_sk.htm.

Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Agriculture and Rural Development
Directorate M – Agricultural Legislation
Unit M.2 - Competition
Office: Loi 130 5/94A
B-1049 Brussels
Fax No: 0032 2 29 67 672

Yours faithfully,
For the Commission

Dacian CIOLOȘ
Member of the Commission