



EUROPEAN COMMISSION

Brussels,
C(2012)

**Subject: State Aid / Slovak Republic
Aid No SA. 34571 (2012/N)
Support for forest management**

Sir,

The European Commission wishes to inform the Slovak Republic that, having examined the information supplied by your authorities on the aid referred to above, it has decided to raise no objections to the relevant aid as it is compatible with the Treaty on functioning of the European Union (hereinafter "TFEU").

In taking this decision the Commission has relied on the following considerations:

1. PROCEDURE

- (1) In accordance with Article 108 (3) of the TFEU, the Permanent Representation of the Slovak Republic to the European Union notified the Commission of this measure by letter of 27 March 2012, registered on the following day.
- (2) By letter of 2 May 2012 the Commission asked for supplementary information which the Slovak authorities provided by letter of 14 May 2012, registered on 15 May 2012.

2. DESCRIPTION

Title

- (3) Support for forest management.

Budget

- (4) The overall amount foreseen is EUR 6 000 000, split by year, the annual amount being EUR 3 000 000.

Duration

- (5) The duration of the scheme is foreseen from the date of its approval by the Commission until 31 December 2013.

S.E. Miroslav Lajčák
Minister zahraničných vecí
Hlboká cesta 2
833 36 Bratislava
Slovenská republika

Legal basis

- Decree No. 320/2011 Coll. of 28 September 2011 on scope, terms and conditions of providing support for forest management;
- Law No. 326/2005 Coll. on Forests, as amended;
- Law No. 231/1999 Coll. on State Aid, as amended.

Aid intensity

- (6) For the compensation of the costs of restocking (point 15 below), aid will be calculated as described in point 17 of this decision.
- (7) Aid intensity up to 100% of eligible costs applies for other measures included in this aid scheme.

Objectives

- (8) The purpose of the aid is to provide assistance, in the form of direct grant, aimed at helping, maintaining and improving conditions of forests and to promote their ecological, protective and recreational functions.

Beneficiaries

- (9) Eligible for aid shall be forest management companies which may be:
- undertakings and natural or legal persons managing the woodland in accordance with § 2.2 of the Commercial Code;
 - any person running activities pursuant to Law No. 181/1995 Coll. on landowners, ;
 - the following two State-controlled enterprises: Forest of the Slovak Republic and Forest-agricultural property Ulic, both established by the Ministry of Agriculture under Law No. 111/1990 Coll. on State enterprises.
- (10) The estimated number of beneficiaries is from 101 to 500, all firms.
- (11) The beneficiary must not be an undertaking in difficulty or restructuralisation.
- (12) The scheme shall be executed by the Agricultural Paying Agency (hereinafter "PPA")¹. On the basis of all applications received the PPA counts all the requirements eligible for granting assistance in the calendar year. If the total sum exceeds the amount available, PPA shall determine the conversion rate to calculate the amount of the aid for each eligible applicant.

Aid scheme description

- (13) Under the present aid scheme following measures shall be granted support:

A. Preventing, eradicating and treating pests and pests damage and tree diseases:

¹ Agricultural Paying Agency will be responsible for the execution of the aid scheme in accordance with Law No 473/2003 Coll. on Agricultural Paying Agency and on promoting entrepreneurship in agriculture

- (14) This measure regards in particular spruce bark beetle and elm bark beetle and covers comprehensive measures to mitigate negative effects of pests spread and to stop spruce mortality. Specifically, it includes monitoring of occurrence of bark beetles, preventative measures against their spread and subsequent secondary pathogenic agents, purchase and deployment of traps and pheromone products, sanitation by debarking or chemical treatment, use of biological products and methods of protection against bark beetles, treatment of infected or damaged trees and other measures to ensure forest hygiene.
- (15) Eligible costs shall include preventative and treatment measures, product appliances and partial compensation for the costs of the stock restoration in forests fallen on the basis of the decision of the State authority to combat diseases and pests². Payment shall be made in order to ensure timely reforestation to prevent heavy water runoff with subsequent flooding.
- (16) Aid shall be provided for the stabilised young forest stands³ not older than 7 years and created following random extraction after the destruction of the original forest. Such a young forest shall be managed in accordance with the Forest care programme and inspected by a competent forest authority, which shall certify that the forest cover is stabilised.
- (17) The amount of aid shall be calculated as a product of the rate per 1 Ha and the total subsidised forest area. The rates will be set by the Ministry and published in the call for applications for grant. For the marketing year 2012 the approved amount of aid is EUR 1.95 million, while the total eligible area is 20 000 Ha, which means the rate of EUR 97.5/ Ha.

B. Constructing, improving and maintaining of forest roads and infrastructure:

- (18) The measure includes constructing and maintaining forest trails, cycle paths and footpaths and their labelling and building and maintenance of visitors' infrastructure, including facilities for persons with special needs.

C. Aid for information materials and activities:

- (19) This measure includes printing of information materials on forests and forest production in electronic and print media and organisation of seminars and public relation events focused on forests.

Stand-still obligation

- (20) The Slovak authorities have confirmed that the incentive requirement, as set out in point 16 of the Commission Guidelines for State aid in the agriculture and forestry sector 2007–2013 (hereinafter "the Guidelines")⁴ is met. More specifically, the aid

² In accordance with the Forest act, the forest management company shall exercise measures to prevent damage and carry out protective measures against damage caused by harmful agents, in particular to remove from the forests damaged and diseased trees that could be a source of increased frequency of harmful biotic factors (with the exception of areas of 5th protection degree), to manage forests affected by air pollution in compliance with measures specified in programmes of forest care to mitigate negative impact and to carry out other measures of forest protection as specified by a public authority. In case of increased risk of damage the forest management company shall at its own expenses promptly take measures to avert this risk and remove damage aftermaths.

³ According to §20.7 of Forest Act, stabilised young forest stand shall be created by suitable forest tree types without significant damage, adapted to local conditions, has noticeable height increase and does not require replenishment.

⁴ OJ C 319, 27.12.2006, p.1.

can only be granted after the aid scheme will have been declared compatible with the TFEU by the Commission.

(21) Aid will only be paid for eligible costs incurred after:

- the aid scheme is declared compatible by the Commission;
- the Ministry publishes on its web-site the amount of resources available for the implementation of this aid scheme in a calendar year;
- the application for aid has been properly submitted to PPA;
- PPA approves the application, i.e. it issues a certificate that the application was submitted pursuant to applicable law, properly registered and it states the expected (latest) term for providing aid.

Cumulation

(22) The Slovak authorities have confirmed that the aid cannot be cumulated with any aid received from other local, regional, national or EU schemes or *de minimis* aid to cover the same eligible costs if, as a result of such a cumulation, the total amount of the aid exceeds maximum aid intensity.

(23) **ASSESSMENT**

Presence of aid

(24) Pursuant to Article 107(1) TFEU, aid granted by a Member State and/or through state resources in any form whatsoever that distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is prohibited, insofar as it affects trade between Member States.

(25) The measure in question is to be financed from the state budget, thus involving public resources.

(26) The measure favours certain undertakings by conferring an advantage on local forest entrepreneurs. It may lead to distortion of competition at the EU level, since the beneficiaries are active in a highly competitive sector of the internal market.

(27) The sector concerned is the forestry sector that is open to competition at EU level and therefore sensitive to any measure in favour of the production in one or more Member States⁵.

(28) According to the case law of the Court of Justice, aid to an undertaking seems to affect trade between Member States where that undertaking operates in a market open to trade at the EU level⁶. The mere fact that the competitive position of an undertaking is strengthened compared with other competing undertakings, by giving it an

⁵ In 2010 Slovak production and trade in primary forestry products amounted to 2.575 million m³: (source: Eurostat)

⁶ 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

economic benefit which it would not otherwise have received in its normal course of business, points to a possible distortion of competition.⁷

- (29) In the light of the above the conditions of Article 107(1) TFEU are fulfilled. It can therefore be concluded that the proposed measure constitutes state aid within the meaning of that Article. Hence it must be examined whether derogation from the general principle of the incompatibility of State aid under Article 107 TFEU might be granted.
- (30) In this case, taking into account the nature of the measures envisaged the derogation pursuant to Article 107(3) (c) of the TFEU may be invoked, whereby 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.

Compatibility of the aid measure

- (31) Regulation (EC) 1857/2006 on the application of Articles 87 and 88 of the Treaty to State aid to small and medium enterprises engaged in production of agricultural products and amending Regulation (EC) No 70/2001 is not applicable, for it does not concern aid to the forestry sector. Moreover, the present aid scheme applies to all firms, not only to SMEs. Therefore, the Commission examines the aid in the light of Chapter VII.C of the Guidelines which sets conditions for eligibility of the aid in the forestry sector.
- (32) In the present case points 175 (c), (e) and (f) of the Guidelines apply.

Preventing, eradicating and treating pests and pests damage:

- (33) For this measure point 175 (c) of the Guidelines applies whereby in order to contribute to the maintenance and improvement of forests and to promote their ecological, protective and recreational function the Commission will declare compatible State aid for preventing, eradication and treating pests, pest damage and tree diseases and damage done by animals. The eligible costs may include preventative and treatment measures and the product appliances and materials necessary for such measures, as well as compensation for the loss of stock and for restocking costs up to the market value of the stock destroyed on the order of the authorities to fight the disease or pest or stock destroyed by animals. Biological and mechanical prevention and treatment methods should be preferred when granting the aid unless it can be shown that such methods are not sufficient.
- (34) The actions under the present measure appear to be compatible with the above conditions:
- eligible costs include monitoring of occurrence of bark beetles, preventive measures against their spread and subsequent secondary pathogenic agents, purchase and deployment of traps and pheromone products, sanitation by debarking or chemical treatment, use of biological products and methods of protection against bark beetles, treatment of infected or damaged trees and other measures to ensure forest hygiene;

⁷ 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

- further, partial compensation, up to market value of the stock destroyed, will be provided for the costs of the stock restoration in forests fallen on the basis of the decision of the State authority to combat diseases and pests;
- the Slovak authorities declare that in application of this measure biological and mechanical methods will be given preference;
- the measure directly contributes to restoring of ecological and protective functions of forests, biodiversity and a healthy forest ecosystem and therefore meets the criteria set by the Guidelines.

Constructing, improving and maintaining of forest roads and infrastructure:

- (35) In the present case point 175 (e) of the Guidelines applies, whereby in order to contribute to the maintenance and improvement of forests and to promote their ecological, protective and recreational function the Commission will declare compatible State aid for constructing, improving and maintaining forest roads, visitors' infrastructures including facilities for persons with special needs, signposts, observation platforms and similar constructions, where the forests and infrastructure are open to public at no costs for recreational purposes.
- (36) The activities under the present measure appear to be compatible with the above conditions:
- the eligible costs include constructing and maintaining forest trails, cycle paths and footpaths and their labelling and building and maintenance of visitors' infrastructure, including facilities for persons with special needs;
 - the supported activities will be carried out in forests which are open to public free of charge for recreational purposes.

Aid for information materials and activities:

- (37) For this measure point 175 (f) of the Guidelines is applicable, whereby in order to contribute to the maintenance and improvement of forests and to promote their ecological, protective and recreational function the Commission will declare compatible State aid for the costs of information materials and activities such as seminars, public relations events and information in the printed and electronic media which disseminate general information on forests. These actions and materials may not contain references to named products or producers or promote domestic products.
- (38) The measure appears to be compatible with the above conditions:
- eligible for aid will be the costs of printing of information materials on forests and forest production in electronic and print media and organisation of seminars and public relation events focused on forests;
 - according to Slovak authorities, these materials may not refer to named products or producers or promote domestic products.
- (39) The Slovak authorities confirmed that no assistance shall be granted for felling the primary purpose of which is the commercially viable extraction of timber.
- (40) Further, the Slovak authorities confirmed that the scheme would not apply to enterprises in difficulty within the meaning of the Community guidelines on state aid

for rescuing and restructuring firms in difficulty. Accordingly, the criterion of excluding companies in difficulty can be considered to be fulfilled.

- (41) The Slovak authorities committed to suspend the payment of any aid under the notified aid scheme to any undertaking that has benefited from earlier unlawful aid declared incompatible by a Commission decision, until that undertaking has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest.

3. CONCLUSION

- (42) On the basis of the above considerations, the Commission concludes that the notified measure is compatible with Article 107 (3) (c) of the TFEU.
- (43) If this letter contains confidential information which shall 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 the letter in the authentic language on the following internet address:

http://ec.europa.eu/eu_law/state_aids/state_aids_texts_sk.htm

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

European Commission
Directorate-General for Agriculture and Rural Development
Directorate M.2
Office: Loi 130 /128
B-1049 Brussels
Fax No.: 0032.2.296 7672

Yours faithfully,
For the Commission

Dacian CIOLOȘ
Member of the Commission