Subject: State Aid/Italy (Piemonte)
SA.32929 (2011/N) "Initiatives for the protection, conservation, safeguard and recovery of forest environments and for the training of operators in the forestry sector"

Sir,

The Commission wishes to inform the Italian 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 the Functioning of the European Union (hereinafter: TFEU).1

The Commission has based its decision on the following considerations:

1. PROCEDURE

(1) In accordance with Article 108(3) of the TFEU, by letter of 27 April 2011, registered as received on the same date, the Italian Permanent Representation to the European Union notified the Commission of this measure.

(2) Additional information was submitted by letters of 1 August 2011, registered as received on the same date, and 13 October 2011, registered the following day.

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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. DESCRIPTION OF THE AID SCHEME

2.1. Title

(3) Initiatives for the protection, conservation, safeguard and recovery of forest environments and for the training of operators in the forestry sector ("Iniziative a sostegno della protezione, conservazione, tutela e ricostituzione degli ambienti forestali e per la formazione degli operatori del settore forestale").

2.2. Budget

(4) The total budget foreseen for this scheme is EUR 7 Million, financed through the European Agricultural Fund for Rural Development (EAFRD) and the Italian State and the Piemonte Region funds. The total budget for measure 111.2 amounts to EUR 3,8 Million and the total budget for measure 226 to EUR 3,2 Million.

2.3. Duration


2.4. Beneficiaries

(6) The number of eligible beneficiaries is estimated from 501 to 1000.

(7) The Italian authorities commit to suspend the payment of the notified aid if the beneficiary still has at its disposal an earlier unlawful aid that was declared incompatible by a Commission Decision (either concerning an individual aid or an aid scheme), until that beneficiary has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest.

2.5. Legal basis


(9) Managing and economic promotion of the forests ("Gestione e promozione economica delle foreste") and its Forestry Regulation ("Regolamento forestale di attuazione della L.R. n. 4/2009");

(10) Implementing Regional Regulation: Rules governing the Register of Piemonte Forest enterprises (Regolamento regionale recante: “Disciplina dell'albo delle imprese forestali del Piemonte”);

(11) Framework Legislation concerning forest fire (“Legge-quadro in materia di incendi boschivi”).

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3 L.r. 10.02.2009 n. 4.
4 DPGR 15.02.2010, 4/R.
5 DPGR 8.02.2010, n. 2/R e 22.02.2010, n. 6/R.
(12) Interventions for forest fire protection ("Interventi per la protezione dei boschi dagli incendi").

2.6. Cumulation

(13) The Italian authorities have given their assurances that the aid in question cannot be cumulated with any other public support received from other EU, national, regional or other public entities' schemes to cover the same eligible costs.

(14) The Italian authorities will perform monitoring and control actions using the instruments to control the RDP of the Piemonte Region and others like the Agricultural Information System of the Piemonte Region (SIAP) and through the procedures laid down by the Regional Agricultural Grants Office (ARPEA) to ensure that there will be no over compensation.

2.7. Stand-still obligation

(15) The Italian authorities confirm that the scheme at hand complies with point 16 of the Community Guidelines for State Aid in the Agriculture and Forestry Sector 2007 to 2013 (hereinafter: the Guidelines).

2.8. Aid measures

(16) The aid at stake will be granted in the context of measures 111, Action 2 and 226 Actions 1, 2 and 3 of the Italian RDP for the Piemonte Region.

(17) The Italian authorities have confirmed in this regard that both measures included in the present State aid scheme are identical in content to the respective measures 111.2 and 226 approved in the RDP.

(18) The Italian authorities declare that the measures in question apply only to living trees and their natural environment in forests and other wooded land.

(19) The Italian authorities confirm that the measures under the present scheme exclude aid to 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.

2.8.1. Measure 111.2

(20) The measure applies on the whole territory of Piemonte and is intended for the vocational training and information of the forestry sector workers.

(21) Aid under this measure can be granted to the following beneficiaries:

- Public and private forestry operators, workers employed by companies or public entities located in Piemonte, resident workers (living within the territory of the Region), forest and tree farm owners, free lance technicians, public administration workers, technicians and officials, self-employed workers having a VAT

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7 L.r. 09.06.1994 n. 16.
identification number and staff working in the forestry advisory bodies stated under measure 115 of the RDP of the Piemonte Region.

- Priority is given to operators in mountain areas and/or those operating in forestry areas owned by public entities or associations.

(22) The Italian authorities confirmed that aid under the present scheme is granted in kind by means of subsidised services and does not involve direct payments of money to producers.

(23) The aid is accessible to all those eligible in the area concerned, based on objectively defined conditions.

(24) The Piemonte Region, public and private vocational training corporations or organizations and forestry operators (technicians, companies, non-temporary forestry-timber operators' associations) are eligible service providers. Where the provision of technical support is undertaken by producer groups or other organisations, membership of such groups or organisations is not a condition for access to the service. Any contribution of non-members towards the administrative costs of the group or organisation concerned is limited to the costs of providing the service.

(25) The Italian authorities foresee the following interventions: education and training; consultancy services; organisation of and participation in forums to share knowledge between businesses, competitions, exhibitions and fairs; costs of information materials and activities such as seminars, public relations events and information in the printed and electronic media, which disseminate general information concerning forests.

(26) Support provided under this scheme shall not include courses of instruction or training which form part of normal programmes or systems of agricultural and forestry education at secondary or higher levels.

(27) The Italian authorities foresee the following eligible costs:

- concerning education and training: (i) costs of organising the training programme and (ii) travel and subsistence expenses of participants;
- concerning consultancy services provided by third parties, the fees for services which do not constitute a continuous or periodic activity nor relate to the enterprise's usual operating expenditure, such as routine tax consultancy services, regular legal services, or advertising;
- concerning the organisation of and participation in forums to share knowledge between businesses, competitions, exhibitions and fairs: (i) participation fees; (ii) travel costs; (iii) costs of publications; (iv) the rent of exhibition premises and (v) symbolic prizes awarded in the framework of competitions, up to a value of EUR 250 per prize and winner;
- information materials and activities such as seminars, public relations events and information in the printed and electronic media, which disseminate general
information concerning forests. The supported actions and materials may not contain references to named products or producers or promote domestic products.

(28) The maximum intensity is 100% of the eligible costs.

2.8.2. Measure 226 'Restoring forestry potential and introducing prevention actions'

(29) Support provided under this measure can be granted for restoring forestry potential in forests damaged by natural disasters and fire and for introducing appropriate prevention actions.

(30) The Italian authorities confirm that the primary objective of the measure is to maintain and restore forest ecosystem and biodiversity or the traditional landscape and that no aid is granted for felling whose primary purpose is commercially viable extraction of timber or for restocking where the felled trees are replaced by equivalent ones.

(31) Aid could be granted to natural or legal persons, alone or associated, municipalities ('Comuni'), public bodies with non economical objectives, owners (all kinds of ownership) of the land or the infrastructure eligible for the investments, associations grouping operators in the sector concerned, associations and consortia of forest owners and the Piemonte Region.

(32) The Italian authorities foresee the following interventions/eligible costs:

- Restoring actions: interventions aiming at restoring the areas damaged by fires, including felling and hauling the death or damaged forest cover, reforestation through seeding or planting of suitable indigenous species;

- Preventive actions, restricted to areas classified as high and medium forest fire risk by the Regional Plan: establishment or improvement of protective infrastructures, maintenance and safety of water supply points for fire fighting and of forest paths, mobile water tanks;

- Structural hydro-forestry works using naturalistic engineering techniques for the stabilization of the slopes to prevent natural calamities and to reduce hydrogeological, hydraulic and avalanche risks.

(33) The maximum intensity is 100% towards the relevant eligible costs when the beneficiary is a public body and 80% of the total eligible cost for other beneficiaries.

(34) All the restoring and prevention interventions in areas of hydro-geological instability shall be consistent with the basin planning and the rest of soil protection planning instruments.

(35) All interventions under this scheme shall respect the environment and the landscape, especially in those areas where there could be a negative impact in the
ecosystem, and complying with Directives n° 79/409/EEC ('Birds')\(^9\) and 92/43/EEC ('Habitat')\(^10\).

(36) Support for maintaining forest firebreaks through agricultural activities shall not be granted for areas benefiting from agrienvironment support.

3. **ASSESSMENT**

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

(37) Under Article 107(1) of the 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.

(38) The prohibition of State aid enshrined in the above quoted article applies only insofar as the beneficiaries are undertakings. The Court of Justice has consistently ruled that the notion of undertakings encompasses every entity engaged in an economic activity, irrespective of its legal form and the way in which it is financed.\(^11\) Under the present measure the beneficiaries are considered to be undertakings insofar as they exercise an economic activity.

(39) The aid at issue is financed out of State resources and benefits certain undertakings.

(40) 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-Union trade.\(^12\) 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.\(^13\) The beneficiaries of the aid at issue operate on a market where intra-Union trade takes place. The aid measure could therefore distort competition and affect trade between Member States and consequently constitutes aid pursuant to Article 107(1) of the TFEU.

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\(^{12}\) 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.

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

(41) However, the prohibition of State aid in Article 107(1) is subject to certain exceptions.

(42) Pursuant to Article 107(3)(c) of the Treaty, 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.

(43) Aid to the forestry sector has to be examined against the background of the Guidelines, in particular Chapter VII thereof. The aid scheme in question cannot be exempted in line with Commission Regulation (EC) No 1857/2006 on the application of Articles 87 and 88 of the EC Treaty to small and medium-sized enterprises active in the production of agricultural products and amending Regulation (EC) No 70/2001, since it falls outside of the scope of that regulation (forestry measures are not Annex I activities and are therefore not covered by this regulation).

(44) Point 16 of the Guidelines provides conditions that must be fulfilled for the aid to have an incentive effect. The Italian authorities have given assurances that the provisions of Point 16 of the Guidelines will be respected (cf. para (15)).

(45) The Italian authorities commit to suspend the payment of the notified aid if the beneficiary still has at its disposal an earlier unlawful aid that was declared incompatible by a Commission Decision (either concerning an individual aid or an aid scheme), until that beneficiary has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest (cf. para (7)).

(46) Chapter VII of the Guidelines allows Member States to grant support for the forestry sector, subject to a number of conditions.

(47) Pursuant to point 174(b) of the Guidelines, the rules of Chapter VII should apply "only to living trees and their natural environment in forests" and they should not apply to "State aid to forest based industries or for transportation of timber or for processing of wood or other forestry resources into products or for energy generation."

(48) As described in paras (18) and (19), these conditions are complied with. Thus, Chapter VII applies to the aid in question.

(49) The Italian authorities have confirmed in this context that each of the measures and sub-measures included in the present State aid scheme are identical in content to the respective measures and sub-measures approved in the RDP for Italy (see para (17)).

3.2.1. Measure 111.2

(50) Pursuant to point 179 of the Guidelines, the Commission will declare State aid for training of forest owners and forestry workers and for consultancy services provided by third parties, including establishment of business plans, forestry management plans and feasibility studies, as well as participation in competitions, exhibitions and fairs, to be compatible with Article 107(3)(c) of the TFEU if the aid fulfils the conditions set out in Article 15 of Commission Regulation (EC) No 1857/2006.\(^{15}\)

(51) According to Article 15 of Commission Regulation (EC) No 1857/2006, Member States may grant aid of up to 100% for the technical support activities listed. The eligible costs and aid intensity of the technical support provided under the present scheme, as described in points (25), (27) and (28) above, are in compliance Article 15 of Commission Regulation (EC) No 1857/2006.

(52) Article 15(2)(c) of Commission Regulation (EC) No 1857/2006 stipulates that the aid may be granted for consultancy services if provided by third parties and as long as it does not constitute a continuous or periodic activity nor relates to the enterprise's usual operating expenditure (such as routine tax consultancy services, regular legal services or advertising); only the fees for such consultancy services will be considered as eligible costs. The Italian authorities have confirmed that the consultancy services provided in the framework of the present scheme comply with this condition (cf. point (27) above).

(53) The aid must be granted in kind by means of subsidised services and must not involve direct payments of money to producers. Moreover, the aid must be accessible to all those eligible in the area concerned, based on objectively defined conditions. Where the provision of the technical support is undertaken by producer groups or other organisations, membership of such groups or organisations may not be a condition for access to the service, and any contribution of non-members towards the administrative costs of the group or organisation concerned must be limited to the costs of providing the service. The Italian authorities have confirmed that these conditions are complied with (cf. points (22) to (24) above).

(54) Point 175(f) states that support may be granted towards 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 concerning forests. The supported actions and materials may not contain references to named products or producers or promote domestic products. The Italian authorities have confirmed that the present scheme fulfils these conditions (cf. point (27) above).

(55) Article 21 of Council regulation (EC) No 1698/2005 states that support provided under this scheme shall not include courses of instruction or training which form part of normal programmes or systems of agricultural and forestry education at secondary or higher levels. The Italian authorities stated that the present scheme fulfils this requirement (cf. point (26)).

(56) Consequently, it may be concluded that the proposed aid measures comply with the relevant provisions of the Guidelines.

\(^{15}\) OJ L 358, 16.12.2006, p. 3
3.2.2. Measure 226

Pursuant to point 176 of the Guidelines, the Commission will declare State aid for afforestation of agricultural or non-agricultural land, establishment of agroforestry systems on agricultural land, Natura 2000 payments, forest-environment payments, restoration of forestry potential and introduction of prevention actions as well as non-productive investments to be compatible with Article 107(3)(c) of the Treaty if the aid meets the conditions laid down in Articles 43 to 49 of Regulation (EC) No 1698/2005 and does not exceed the maximum intensity stipulated therein.

The proposed measure shall comply with Article 48 of Regulation 1698/2005.

In conformity with article 48(1) of the afore-mentioned Regulation, the measure aims at restoring forestry potential in forests damaged by natural disasters and fire and at introducing appropriate prevention actions. The Italian authorities confirm that this is the aim of the present scheme (cf. para (29)).

In accordance with Article 48(2) of the afore-mentioned Regulation, the preventive actions against fire will be applied only in areas classified as high or medium forest fire risk area. The Italian authorities confirm that the proposed measure fulfils this requirement (see para (32)).

According to Article 33 (1) of Regulation (EC) No 1974/2006, where support under Article 48 of Regulation (EC) No 1698/2005 covers the creation of forest firebreaks, eligible costs may comprise, beyond the cost of establishment, subsequent maintenance cost on the area concerned. However, support for maintaining forest firebreaks through agricultural activities shall not be granted for areas benefiting from agrienvironment support. The Italian authorities confirm that the notified aid scheme complies with this provision (see paras (32) and (36)).

According to Article 33 (2) of Commission Regulation 1974/2006, preventive actions against fire may cover the following:

"(a) establishment of protective infrastructures such as forest paths, tracks, water supply points, firebreaks, cleared and felled areas, launching of operations to maintain firebreaks and cleared and felled areas;

(b) preventive forestry practices such as vegetation control, thinning, diversification of vegetation structure;

(c) setting-up or improvement of fixed forest fire monitoring facilities and communication equipment."

As stated above (see para (32)), preventive actions under the measure at stake are included within the above-mentioned actions.

The Annex stating the maximum rates for the aids granted under Articles 43 to 49 of Regulation 1698/2005 does not lay down any rate for aid granted under Article 48.

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Consequently, it may be concluded that the proposed aid measures comply with the relevant provisions of the Guidelines.

4. **CONCLUSION**

In view of the foregoing, the Commission has accordingly decided to consider the aid compatible with the internal market under Article 107(3)(c) of the TFEU.

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_it.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 5/140  
B-1049 Brussels  
Fax No: 0032 2 29 67 672

Yours faithfully,  
For the Commission

Dacian CIOLOȘ  
Member of the Commission