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Subject: State aid No. SA.34680 (2012/N) – Slovenia
Aid scheme for elimination of consequences of natural disasters

Sir,

1. PROCEDURE

- (1) On 19 April 2012 Slovenia notified a disaster aid scheme for elimination of consequences of natural disasters in Slovenia. The notification was registered under SA.34680 (2012/N).
- (2) By letter dated 15 June 2012 (2012/063450) the Commission services requested further information, which was submitted by the Slovenian authorities on 9 July 2012 (2012/073486).

2. DESCRIPTION OF THE AID

2.1. Objective and geographic scope

- (3) The objective of the notified scheme is to grant support in exceptional emergency situations to compensate for damage caused by future natural disasters in the whole territory of Slovenia. The scheme shall only cover the following categories of future natural disasters: earthquakes, landslides, floods and avalanches.

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2.2. Legal basis

- (4) The legal basis of the scheme is the Act on the protection against natural and other disasters¹.
- (5) The measure is implemented on the basis of the following administrative regulations:
 - Act on the removal of the consequences of natural disasters²;
 - Decree on damage evaluation methodology³;
 - Rules of procedure for assessing damages and removal of the consequences of damage to the Slovenian economy resulting from natural and other disasters⁴.

2.3. Duration

- (6) Compensation for damages can be awarded as from the approval of the measure by the European Commission. The scheme will expire after a period of six years starting from the date of approval.

2.4. Beneficiaries

- (7) Aid under the present scheme aims at small and medium enterprises as well as large enterprises in all sectors with the exception of undertakings active in the fisheries and aquaculture sector covered by the Guidelines for the examination of State aid to fisheries and aquaculture⁵, and of undertakings active in the production, processing and marketing of agricultural products listed in Annex I of the Treaty and the part of the forestry sector covered by the Community Guidelines for State aid in the agriculture and forestry sector 2007 to 2013⁶.
- (8) The number of potential beneficiaries of the scheme is estimated by the Slovenian authorities to be within the range of 101 up to 500 entities.

¹ Zakon o varstvu pred naravnimi in drugimi nesrečami (ZVNDN, Ur.l. RS, št. 51/06-UPB1, 97/10), http://zakonodaja.gov.si/rpsi/r04/predpis_ZAKO364.html.

² Zakon o odpravi posledic naravnih in drugih nesreč (ZOPNN, Ur.l. RS, št. 114/05-UPB1, 90/07, 102/07), http://zakonodaja.gov.si/rpsi/r04/predpis_ZAKO3734.html.

³ Uredba o metodologiji za ocenjevanje škode (Uradni list RS, št. 67-03, 79-04, 33-05, 81-06 in 68-08), http://zakonodaja.gov.si/rpsi/r09/predpis_URED2969.html.

⁴ Pravilnik o postopkih za ocenjevanje škode in odpravo posledic škode ob naravnih in drugih nesrečah v slovenskem gospodarstvu.

⁵ Guidelines for the examination of State aid to fisheries and aquaculture (OJ C 84, 3.4.2008, p. 10).

⁶ Community guidelines for State aid in the agriculture and forestry sector 2007-2013 (OJ C 319, 27.12.2006, p. 1).

2.5. Budget

- (9) The measure is financed from resources of the Slovenian national budget. Financing is only made available in the event of actual damages. Therefore, the precise budget of the measure cannot be established. Budget planning foresees an annual amount of 10 million EUR and the total budget of 60 million EUR.

2.6. Eligible costs

- (10) The concept of damage as applied by the Slovenian authorities is based on the principle that only the costs necessary to restore or replace the damaged asset to its former condition and the assets necessary for business continuity are eligible.
- (11) This concept includes in particular refinancing costs of machinery and equipment partially or wholly destroyed due to natural disaster, costs to replace partially or wholly lost stocks of materials, unfinished production, products and merchandise as well as costs due to loss of income.

2.7. Form of aid and aid intensity

- (12) Aid under the present scheme is awarded in the form of direct grants.
- (13) The total aid per beneficiary cannot exceed the material damage incurred. The aid intensity is expressed as a percentage of the eligible costs. The Slovenian authorities confirmed that the maximum aid intensity for compensation of damage to non-insured property or loss will not exceed 50 % of the eligible costs. In case the property or loss was insured against a natural disaster of the type suffered by the beneficiary, the compensation will not exceed 60 % of the eligible costs. The higher aid intensity in case of insured property or loss of income may stimulate insurance against losses from natural disasters among undertakings.

2.8. Determination of a natural disaster and administration of the scheme

- (14) In the event of a natural disaster as covered by the present scheme (earthquake, landslide, flood or avalanche), a local community, undertaking, institution or other organisation located in the region where the damage occurred may initiate damage assessment by sending within three days a preliminary assessment of the damage to the Administration of the Republic of Slovenia for Civil Protection and Disaster Relief (Uprava Republike Slovenije za zaščito in reševanje, hereinafter: URSZR). At the same time, the Slovenian Environmental Agency (hereinafter: ARSO) issues a meteorological report. If the damage caused by the natural disaster exceeds 0.3 ‰ of the planned State budget revenue, the natural disaster is qualified as a large-scale natural disaster by the Ministry of Economic Development and Technology (Ministrstvo za gospodarski razvoj in tehnologijo, hereinafter: MGRT), which relies not only on the reports from local authorities but also on the meteorological report prepared by the ARSO.

- (15) The damage assessment starts on the basis of a decision of the URSZR which identifies the area concerned, the committees responsible, the expert teams as well as the time-frame for the completion of the damage assessment. In cooperation with regional committees and authorised evaluators, the national committee for damage assessment reviews and validates the damage assessment, which is sent to the Government of the Republic of Slovenia for approval. The Government then orders the competent Ministry (MGRT) to set up a Programme for the removal of consequences of natural disaster (hereinafter: Programme) defining the geographical scope, beneficiaries, assessment of damage and amount of aid provided for. Finally, on the basis of the damage assessment and of the Programme submitted by the national committee, the MGRT decides on the amount of funds necessary to cover the damage to the economy suffered from the natural disaster.
- (16) The scheme is managed by the MGRT, which is also the granting authority, with assistance from national and regional committees. The Ministry of Finance is responsible for payments.

2.9. Mechanism of aid provision

- (17) Aid under the notified scheme can only be granted upon application of the potential beneficiary located in the eligible area. The applicants have to indicate the damaged assets and the amount of damage. Each item of damage must be proven by adequate documentation.
- (18) The material damage resulting from natural disasters incurred by the applicants is to be assessed by an independent assessor or expert teams under the control of regional and national committees for damage assessment.
- (19) The methodology of assessment applied depends on the type of the damage. Detailed rules for damage assessment are laid down in the Decree on damage assessment methodology.
- (20) Damage to machinery and equipment is determined through the purchase-value method, which includes a valuation of damaged machinery and equipment before and after the disaster. The estimated market value is considered, taking into account the effect of depreciation. Reimbursement cannot be claimed for machinery and equipment that is fully depreciated. The amount of damage reported by the beneficiary must be confirmed by a sworn Court evaluator or authorised evaluator of the Slovenian Institute of Auditors. Copies of insurance policies should also be attached and will be taken into consideration.
- (21) Damage to stocks of material, unfinished production, products and commercial goods is established on the basis of accounting documents (delivery notes, invoices, etc.) proving their existence at the time of the disaster. Damage to stocks of material and commercial goods is determined on the basis of the difference between the purchase value and the actual value after the disaster, also taking into account price variations. Damage to stocks may only be claimed for goods that have been transferred to the balance sheet

of the undertaking in the 24 months prior to the disaster. The amount of damage reported by the beneficiary must be confirmed by a sworn Court evaluator or authorised evaluator of the Slovenian Institute of Auditors. Copies of insurance policies should also be attached and will be taken into consideration.

- (22) Damage due to loss of income represents the earnings which the undertaking could have realised after the disaster compared to its own performance before the disaster, if the disaster had not happened and the company had operated normally. Compensation is calculated on the basis of the average monthly value-added⁷, multiplied by the number of months (up to a maximum of three months) during which the undertaking was not able to resume its business as before the disaster. The methodology used takes account of the undertakings' earnings before interest and taxes (EBIT), depreciation and labour costs.
- (23) Upon completion of the assessment, the MGRT will take the granting decision on the basis of a formal administrative procedure. The decision includes in particular the information on the beneficiary, the exact description of the reasons of granting the aid, the calculation method for the amount of the compensation, the time-frame for the use of the granted funds (not exceeding twelve months) and the payment method.

2.10. Cumulation

- (24) The level of damage is determined for each individual case. The amount of the compensation received cannot exceed the material damage suffered from a natural disaster.
- (25) The Slovenian authorities confirmed that account will be taken of the rules on cumulation of aid and that the overall amount of compensation received by an individual beneficiary from any public funds combined with insurance payments will not exceed 100 % of the assessed damage in any circumstances.

2.11. Outstanding recovery orders

- (26) The Slovenian authorities confirmed that they will 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.

2.12. Information and reporting obligations

- (27) The Slovenian authorities committed to abide by the following information and reporting obligations:

⁷ Figures are based on the income statement, the application form or other proof for the 12 months before the disaster. If the undertaking has been in operation for less than 12 months before the disaster, the average monthly value-added is calculated on the basis of figures from the income statement or the application form, or other proof for the period of operation of the undertaking.

- Within a delay of fifteen days beginning with the start of measures (as described in recital 14 above) on the basis of the notified scheme, the Slovenian authorities inform the Commission services about the concrete application of the scheme. In this context, information has to be submitted on the basis of which the presence of an earthquake, landslide, flood or avalanche can be proven according to Article 107(2)(b) of the Treaty on the Functioning of the European Union (hereinafter: TFEU). Also, the already implemented or planned measures and the estimated volumes of damage and aid have to be indicated.
- In the aftermath of the implementation of the scheme in a concrete situation, at the latest within three months after the last individual aid regarding a certain natural disaster has been granted, the Slovenian authorities transmit the respective final report. In so far conclusive information on the basis of which the presence of an earthquake, landslide, flood or avalanche can be proven according to Article 107(2)(b) of the TFEU will be submitted to the Commission services. In addition, information on all individual implementation measures and the concrete number of beneficiaries, as well as the overall aid amount will be submitted.

2.13. Confidentialities

- (28) Slovenia indicated that the notification does not contain any confidential information which should not be disclosed to third parties.

3. ASSESSMENT OF THE MEASURE

3.1. Existence of aid

- (29) The compensation is provided through State resources within the meaning of Article 107(1) of the TFEU. Since the compensation will be granted to a limited number of undertakings, the measure is considered to be selective and to confer an advantage which may distort or threaten to distort competition. As the scheme covers sectors and undertakings involved in trade between Member States, there is a risk that the aid could affect such trade. Therefore, the proposed aid measure constitutes State aid within the meaning of Article 107(1) of the TFEU.

3.2. Legality of aid

- (30) The Slovenian authorities have fulfilled their obligation laid down in Article 108(3) TFEU by notifying the aid measure before putting it into effect. The Commission takes note of the fact that the scheme will enter into force only after approval by the Commission.

3.3. Compatibility of aid

- (31) The Commission has examined the notified scheme pursuant to Article 107(2)(b) TFEU. This assessment has led to the following observations:

3.3.1. *Damage caused by natural disasters*

- (32) Article 107(2)(b) of the TFEU states that aid to make good the damage caused by natural disasters shall be compatible with the internal market.
- (33) For the time being no common definition of a “natural disaster” exists, only a provision in the Community guidelines for State aid in the agriculture and forestry sector 2007-2013 states under its paragraph 121 that earthquakes, avalanches, landslides and floods may constitute natural disasters. The categories of natural disasters covered by the scope of application of the notified scheme are in line therewith.
- (34) Furthermore, the Commission has already confirmed in several decisions that earthquakes⁸, landslides⁹, floods¹⁰ and avalanches¹¹ constitute natural disasters in the meaning of Article 107(2)(b) of the TFEU.
- (35) The Slovenian authorities are reminded that the scheme can only be applied to earthquakes, landslides, floods and avalanches under Article 107(2)(b) of the TFEU. This has to be interpreted restrictively and in accordance with the standards established by the practice of the Commission and the jurisprudence of the Court of Justice of the European Union.
- (36) The risk that aid on the basis of the notified scheme will be paid out in situations not constituting natural disasters in the meaning of Article 107(2)(b) of the TFEU can be excluded. In this respect, it should be taken into account that the power to decide about the application of the scheme is not attributed to the local authorities or the regions themselves, but to the State's level. When deciding about the existence of a natural disaster several institutions are involved and the competent Ministry relies not only on the reports of local

⁸ State aid N 459a/2009 – Italy – Aid scheme for compensation for damage caused by the earthquake in Abruzzo of 6 April 2009 (OJ C 278, 18.11.2009, p.3).

⁹ State aid N 364/2010 – Poland – Aid scheme for compensation of damage caused by the floods in Poland – amendment to N 235a/2010 (OJ C 283, 20.10.2010, p. 4); State aid N 235a/2010 – Poland – Aid scheme for compensation for damage caused by the floods in Poland in May and June 2010 (OJ C 283, 20.10.2010, p. 2).

¹⁰ State aid SA.33180 – Poland – Aid scheme for compensation for damage caused by floods in Poland (OJ C 23, 28.1.2012, p. 6); State aid N 359/2010 – Germany – Disaster aid scheme "Regelung Hochwasserhilfe 2010 Sachsen" (OJ C 283, 20.10.2010, p. 3); State aid N 386a/2009 – Germany – Scheme on granting of State aid to compensate for damage caused by natural disasters in Rheinland-Pfalz (OJ C 25, 2.2.2010, p. 11); State aid SA.32162 – Slovenia – Aid to compensate damages from floods in September 2010 (OJ C 170, 10.6.2011, p. 3); State aid SA.32683 – Italy – Aid to compensate damages caused by 2010 floods in Veneto region (OJ C 236, 12.8.2011, p. 2).

¹¹ State aid N 394/2005 – Italy – Prolongation of the emergency planning for natural disasters (N 433/2000), (OJ C 79, 1.4.2006, p. 26.); State aid N 564b/2004 – Austria – Guidelines of the Land of Niederösterreich for damages caused by natural disasters (OJ C 270, 29.10.2005, p. 42).

authorities but also on special reports provided by the Agency of the Republic of Slovenia for the Environment.

- (37) Finally, the Slovenian authorities committed to inform the Commission services about the concrete application of the notified scheme within a delay of fifteen days beginning with the start of measures (as described in recital 14 above). In particular, the Slovenian authorities have to submit information on the basis of which the presence of an earthquake, landslide, flood or avalanche can be proven according to Article 107(2)(b) of the TFEU. Should the situation arise that the given event does not constitute a natural disaster, this information mechanism would still provide the opportunity for the Commission to take appropriate actions.

3.3.2. Mechanism to rule out overcompensation

- (38) In order to be compatible with Article 107(2)(b) TFEU the aid must be proportional to the damage caused by the natural disaster and the compensation for damage to assets claimed for by the beneficiaries must be a proven direct consequence of the former. Aid must not result in overcompensation of damage; it should only make good the damage caused by the natural disaster.
- (39) The objective of the present scheme is to bring the situation of the affected entities to the situation as from before the disaster. The compensation is based on the renovation or replacement cost of the affected property (see recital 10 above) and not on the up-graded value. Furthermore, the beneficiaries can only claim compensation for damage which is a proven direct consequence of the natural disaster and the aid per beneficiary is limited to the material damage incurred (see recitals 10 and 11 above).
- (40) To determine the damage and the clear link with the natural disaster, the Slovenian authorities require that the beneficiaries produce, together with the request for aid, a statement containing the material value of the damage resulting from natural disaster, immediately after the damage has been incurred. Moreover, the aid granting bodies to which the beneficiary applies for aid will verify and ascertain the material damage suffered from natural disaster (see points 2.8 and 2.9 above).
- (41) Aid under the present scheme and compensation from other sources, including insurance payments, may not exceed the value of the damage to the individual beneficiary. To avoid overcompensation, any reimbursement received from insurance companies has to be deducted from the aid amount. Overcompensation is therefore ruled out (see recital 25 above).
- (42) On the basis of the above, the Commission finds that the scheme compensates damage caused by the natural disaster only and that it introduces an appropriate mechanism to ensure that there will be no overcompensation.

3.3.3. Conclusions

- (43) On the basis of all these considerations, the Commission takes the view that the notified scheme can be applied to future damages caused by the above mentioned categories of natural disasters, without prior notification of such an event to the Commission.
- (44) In line with the foregoing assessment, the Commission concludes that the aid measure is compatible with the internal market pursuant to Article 107(2)(b) of the TFEU.

4. DECISION

- (45) The Commission has accordingly decided to consider the aid scheme to be compatible with Article 107(2)(b) of the TFEU.
- (46) The Commission reminds the Slovenian authorities that, in accordance with Article 108(3) of the TFEU, all plans to refinance, alter or change this scheme have to be notified to the Commission.
- (47) The Commission notes that the Slovenian authorities have confirmed that the notification does not contain confidential information.

Yours faithfully,

For the Commission

Joaquín ALMUNIA
Vice-President