



EUROPEAN COMMISSION

Brussels, 20.5.2019
C(2019) 3917 final

**Subject: State aid–Italy (Bolzano)
SA. 53579 (2019/N)
Criteria for the granting of aid for the removal of damaged trees
pursuant to Article 48 of Provincial Law n. 21 of 21 October 1996**

Sir,

The European Commission ("the Commission") wishes to inform Italy that, having examined the information supplied by your authorities on the State aid scheme referred to above, it has decided not to raise any objections to the relevant scheme as it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union ("TFEU").

The Commission has based its decision on the following considerations:

1. PROCEDURE

- (1) By letter of 25 February 2019, registered by the Commission on the following day, Italy notified, according to Article 108(3) TFEU, the above mentioned aid scheme.
- (2) The Commission sent a request for additional information to the Italian authorities on 18 March 2019, which the Italian authorities answered by letter of 12 April 2019, registered by the Commission on 15 April 2019.

2. DESCRIPTION

2.1. Title

- (3) Criteria for the granting of aid for the removal of damaged trees pursuant to Article 48 of Provincial Law n. 21 of 21 October 1996.

2.2. Objective

- (4) With the present notification the Italian authorities wish to finance investments to restore the damage to forests caused in the Bolzano Province by the catastrophic

S.E On. Enzo Moavero Milanesi
Ministro degli Affari Esteri
Piazzale della Farnesina 1
IT – 00194 Roma

events occurred on 29/30 October 2018, in particular by supporting the removal of the damaged trees.

2.3. Duration

- (5) From the date of the Commission decision until 31 December 2022.

2.4. Budget

- (6) The overall budget, which is fully financed through national resources, is EUR 25 000 000. The granting authority is the Forestry Division of the Bolzano Province.

2.5. Legal basis

- (7) Draft *delibera* of the Provincial Council - Criteria for the granting of aid for the removal of damaged trees pursuant to Article 48 of Provincial Law n. 21 of 21 October 1996 (*Progetto di delibera della Giunta Provinciale – Criteri per la concessione di aiuti per la rimozione di alberi danneggiati ai sensi dell'art. 48 della legge provinciale del 21 ottobre 1996, n. 21*).

2.6. Beneficiaries

- (8) The beneficiaries are small and medium-sized undertakings within the meaning of Annex I to Regulation (EU) No 702/2014¹ that are forest owners or holders in the areas hit by the catastrophic events.
- (9) The number of beneficiaries is estimated to be over 1000.
- (10) Aid will not be granted to undertakings in difficulty within the meaning of point (35.15) of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020² ("the Guidelines").
- (11) Aid will not be granted to undertakings still having at their disposal an earlier unlawful aid that was declared incompatible by a Commission decision (either concerning an individual aid or an aid scheme).

2.7. Aid instrument

- (12) Direct grant. According to the Italian authorities, direct grants serve better than other forms of aid the restoration objective of the scheme, ensuring a quicker and more efficient administrative procedure for the granting and consequently the final payment of the aid.

¹ Commission Regulation (EU) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ L 193, 1.7.2014, p. 1).

² OJ C 204 of 1.7.2014, p. 1. Amended by the Notices published in OJ C 390, 24.11.2015, p. 4; OJ C 139, 20.4.2018, p. 3 and OJ C 403, 9.11.2018, p. 10 and by the Corrigendum published in OJ C 265, 21.7.2016, p. 5.

2.8. Description of the aid scheme

- (13) On 29/30 October 2018 the territory of the Bolzano Province was affected by exceptional meteorological events, characterized by strong gusts of wind, that led to floods of water courses with consequent flooding, landslides, mudslides, debris flows, as well as to the fall of trees. Such events have assumed an exceptional character in the mountain territory of the Province, causing windthrows affecting 5 000 ha of forested areas and around 1 500 000 m³ of wood, compromising the stability of the forests and jeopardizing their protective and anti-erosive function and with the consequent imminent danger of possible forest pests.
- (14) The Italian authorities have therefore set up an aid scheme with the objective of providing support for the restoration of the forest potential damaged by the events, in particular for the removal of the damaged trees. They explained that being the damaged areas above 1 000 m heights, the restoration activities through natural regeneration or reforestations will follow at a later stage, once the climatic alpine conditions will so allow.
- (15) The Italian authorities explained that the Rural Development Programme for 2014-2020 of the Bolzano Province (“RDP”) includes forestry measure 8.3 B-2 covering costs for the removal of trees, but only for prevention and not for restoration purposes. On the other hand, the type of beneficiaries, the aid intensity and the eligible costs of the notified scheme and the abovementioned RDP measure are the same, in order to ensure the coherence of the supported investments with the RDP.
- (16) Aid for the tree removal may be granted under the following conditions:

<i>Type of removal</i>	<i>Aid amount for cubic meter of wood</i>
winch, tractor, harvester	EUR 9,00
horse	EUR 12,00
ropeway	EUR 15,00
helicopter	EUR 16,50

If the removal is carried out through two types of logging, the different aid amounts cannot be cumulated and the predominant type is applied. The removal of wood by helicopter is eligible only if this is established and justified by the forest authorities.

- (17) The Italian authorities have declared that the eligible operations are consistent with the applicable forest protection plan. In particular, they ensured that the surface of forested areas will remain the same after the restoration interventions and that the aided activities on Natura 2000 sites or natural areas will respect the established conservation measures. In the areas where there is a bigger risk for soil erosion and the forests have prevalent protective function, slope stabilisation measures and reforestation will be implemented to protect the soil and the topsoil. In the other areas, the restoration will be done through natural regeneration, where necessary supported by additional reforestation.

- (18) The Italian authorities submitted with the notification the formal recognition by the competent public authorities that the exceptional events of 29/30 October 2018 have occurred and they confirmed that when granting the aid the authorities will check that such events have caused the destruction of at least 20 % of the relevant forest potential.
- (19) The eligible costs do not include value added tax nor support income losses.
- (20) The maximum aid intensity is 100% of the eligible costs.
- (21) The aid granted under the scheme cannot be cumulated with any other aid for the same eligible costs.

2.9. Other commitments

- (22) Italy has informed the Commission that, in order to comply with the transparency requirement, the aid scheme will be published on the following website: <http://www.provincia.bz.it/it/amministrazione-trasparente/sovvenzioni-contributi-sussidi-vantaggi-economici.asp>. Italy committed that the information will be kept for at least 10 years and will be available for the general public without restrictions.
- (23) The Italian authorities committed to bring the notified scheme in line with the State aid rules applicable after the expiry of the Guidelines.

3. ASSESSMENT

3.1. Existence of aid - Application of Article 107(1) TFEU

- (24) According to Article 107(1) of the TFEU, "[s]ave as otherwise provided in the Treaties, any 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 shall, in so far as it affects trade between Member States, be incompatible with the internal market".
- (25) The qualification of a measure as aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between Member States.
- (26) The scheme in question is imputable to the State and financed through State resources (recital (6)). The notified scheme is selective because other undertakings in a comparable legal and factual situation, in the light of the objective pursued by the scheme, within the forestry sector or other sectors, are not eligible for aid and thus will not receive the same advantage. The notified scheme therefore gives only certain undertakings (recital (8)) a selective economic advantage, by strengthening their competitive position on the market. According to the case law of the Court of Justice, the mere fact that the competitive position of an undertaking is strengthened compared to 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 competition³.

- (27) Pursuant to the case law of the Court of Justice, aid to an undertaking appears to affect trade between Member States where that undertaking operates in a market open to intra-EU trade⁴. The beneficiaries of aid operate in the forestry sector where intra-EU trade takes place⁵. The sector concerned is thus open to competition at EU level and therefore sensitive to any measure in favour of the production in one or more Member States. Therefore, the present scheme is liable to distort competition and to affect trade between Member States.
- (28) In light of the above, the conditions of Article 107(1) TFEU are fulfilled. It can therefore be concluded that the proposed scheme constitutes State aid within the meaning of that Article.

3.2. Lawfulness of the aid – Application of Article 108(3) TFEU

- (29) The aid scheme was notified to the Commission on 25 February 2019. It has not been implemented yet. Therefore, Italy has complied with its obligation under Article 108(3) TFEU.

3.3. Compatibility of the aid

- (30) State aid may only be considered compatible with the internal market if it can benefit from one of the derogations provided for in the TFEU.

3.3.1. Application of Article 107(3)(c) TFEU

- (31) Under Article 107(3)(c) TFEU, an aid may be considered compatible with the internal market, if it is found 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.
- (32) For this derogation to be applicable, the aid must comply with the relevant Union State aid rules.

3.3.2. Application of the Guidelines

- (33) As regards the notified aid scheme, Part I, Part II, Section 2.1.3 "Aid for the prevention and restoration of damage to forests from forest fire, natural disasters, adverse climatic events which can be assimilated to natural disaster, other adverse climatic events, plant pests and catastrophic events" and Part III of the Guidelines are applicable.

³ Judgment of the Court of 17 September 1980 in Case 730/79 *Philip Morris Holland BV v Commission of the European Communities*, ECLI:EU:C:1980:209.

⁴ See in particular the judgment of the Court of 13 July 1988 in Case 102/87 *French Republic v Commission of the European Communities* ECLI:EU:C:1988:391.

⁵ In 2017 Italy exported to and imported from other Member States, respectively, 0.2 million m³ and 3.7 million m³ of roundwood (EUROSTAT: Forestry database - Roundwood production and trade).

3.3.2.1. Common Assessment Principles

Contribution to a common objective

- (34) Pursuant to recitals (4) and (14) the scheme contributes to a common objective, by aiming at restoring forest potential. The provisions of points (43) and (44) of the Guidelines are thus complied with. The scheme is a rural development-like measure, which is similar but not identical to the relevant measure included in the Bolzano RDP for 2014-2020 (recital (15)). In the light of the information submitted by the Italian authorities, the notified aid scheme can be regarded as fitting into and consistent with the Bolzano RDP for 2014-2020. The Commission thus considers that the conditions of point (47) of the Guidelines are met and that the scheme contributes to the objectives of rural development.
- (35) As described in recital (17) above, the activities under the scheme will respect the conservation measures where Natura 2000 sites or protected areas are involved. The support is aimed at restoring the forest potential. Therefore, the scheme is expected to have a positive impact on the environment within the meaning of point (52) of the Guidelines.

Need for State intervention

- (36) Since the present scheme fulfils the specific conditions laid down in the relevant sections of Part II of the Guidelines, as analysed below under section 3.3.2.2, the Commission considers, in line with point (55) of the Guidelines, that the aid is a necessary instrument to address the objective of common interest.

Appropriateness of aid

- (37) Pursuant to point (56) of the Guidelines an aid is appropriate if no other less distortive policy instrument or other less distortive type of aid make it possible to achieve the same contribution to the objectives of CAP.
- (38) Since the present scheme fulfils the specific conditions laid down in the relevant sections of Part II of the Guidelines, in line with point (57) of the Guidelines the Commission considers the policy instrument appropriate.
- (39) As regards investments aid not covered by Regulation (EU) No 1305/2013⁶, the Italian authorities provided the reasons why other potentially less distortive forms of aid are less appropriate (recital (12)). The condition of point (62) of the Guidelines is therefore deemed to be satisfied.
- (40) The Commission therefore considers the aid instrument appropriate and the specific aid form in line with Part II of the Guidelines.

Incentive effect and need for aid

- (41) Pursuant to point (75)(q) of the Guidelines, aid covering the restoration costs of the measure falling within section 2.1.3 of Part II of the Guidelines is not required

⁶ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

or is deemed to have an incentive effect. Therefore, the Commission considers that the conditions regarding the incentive effect are met.

Proportionality of the aid

- (42) Pursuant to point (84) of the Guidelines, proportionality is fulfilled if the eligible costs are in line with the specific conditions set out in Part II of the Guidelines and the maximum aid intensities for each type of aid are respected. As shown in section 3.3.2.2 below, the aid intensities and the eligible costs of the notified aid scheme comply with the specific conditions set out in Part II of the Guidelines.
- (43) As described in recital (19), VAT is not included in the eligible costs. The conditions of points (86) of the Guidelines are therefore met.
- (44) Points (100) and (104) of the Guidelines contain rules on cumulation. As aid cannot be cumulated with any other aid to cover the same eligible costs (recital (21)), these points are not applicable to the aid scheme at hand.
- (45) On the basis of the foregoing, the Commission considers that the requirement of proportionality is complied with.

Avoidance of undue negative effects on competition and trade

- (46) As provided for in point (113) of the Guidelines, the Commission considers that where an aid fulfils the conditions and does not exceed the relevant maximum intensities, laid down in the applicable Sections of Part II of these Guidelines, the negative effect on competition and trade is limited to the minimum. The current scheme fulfils the specific conditions laid down in Part II, Section 2.1.3 (recital (55)) and therefore the provisions of point (113) are complied with.

Transparency

- (47) The transparency requirement is complied with as shown in recital (22).

3.3.2.2. Specific assessment according to the category of aid

- (48) According to point (520) of the Guidelines, aid may be granted to private and public forest holders and other private and public bodies and their associations. As described in recital (8) above, this condition is met.
- (49) The scheme aims at supporting restoration costs caused by a natural disaster, thus the eligible costs fall in the scope of point (521)(d) of the Guidelines.
- (50) As described in recital (18), the occurrence of the exceptional events has been formally recognised by the competent public authorities and the granting of the aid will be subject to the acknowledgement of the destruction of at least 20% of the relevant forest potential, in line with point (522) of the Guidelines.
- (51) According to point (524) of the Guidelines the eligible operations must be consistent with the forest protection plan established by the Member States. As described in recital (17) above, this provision is complied with.
- (52) As no aid will be granted for the loss of income resulting from the event (recital (19)), the condition of point (526) of the Guidelines is met.

- (53) As described in recital (20), the aid intensity is in line with the maximum level laid down in point (527) of the Guidelines.
- (54) According to point (528) of the Guidelines the aid granted for restoration costs and any other payments received by the beneficiary, including payments under other national or Union measures or insurance policies for the same eligible costs, are limited to 100 % of the eligible costs. Since the notified aid cannot be cumulated with other support for the same costs (recital (21)) and the maximum aid intensity is 100% (recital (20)), the provisions of point (528) are complied with.
- (55) The specific conditions set out in section 2.1.3 of the Guidelines are therefore met.

3.4. Other conditions

- (56) The Commission takes note that no aid will be granted to undertakings in difficulty (recital (10)), nor to undertakings still having at their disposal an earlier unlawful aid that was declared incompatible by a Commission decision (recital (11)). This is in line, respectively, with point (26) and point (27) of the Guidelines.
- (57) In accordance with point (719) of the Guidelines the Commission only authorises schemes of limited duration. Aid schemes other than those benefiting from co-financing under Regulation (EU) No 1305/2013 and its implementing regulation should not apply for more than seven years. It follows from recital (5) above that this requirement is met.
- (58) The Guidelines are applicable until 31 December 2020 according to point (737) thereof. In that regard, the Commission takes note of the commitment made by the Italian authorities to bring the notified scheme in line with the State aid rules applicable after the expiry of the Guidelines (recital (23)).
- (59) The Commission therefore concludes that the notified aid scheme complies with the relevant provisions of the Guidelines.

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the notified scheme on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) TFEU.

If any parts of this letter are covered by the obligation of professional secrecy according to the Commission communication on professional secrecy in State aid decisions⁷ and should not be published, please inform the Commission within fifteen working days of notification of this letter. If the Commission does not receive a reasoned request by that deadline Italy will be deemed to agree to the publication of the full text of this letter. If Italy wishes certain information to be covered by the obligation of professional secrecy please indicate the parts and provide a justification in respect of each part for which non-disclosure is requested.

⁷ Commission communication C(2003) 4582 of 1 December 2003 on professional secrecy in State aid decisions, OJ C 297, 9.12.2003, p. 6.

Your request should be sent electronically via the secured e-mail system Public Key Infrastructure (PKI) in accordance with Article 3(3) of Commission Regulation (EC) No 794/2004⁸, to the following address: agri-state-aids-notifications@ec.europa.eu.

For the Commission

Phil HOGAN
Member of the Commission

⁸ Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).