



EUROPEAN COMMISSION

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**PUBLIC VERSION**

**WORKING LANGUAGE**

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**Subject: State Aid/United Kingdom**  
- **Aid No N 76/2009**  
- **English Woodland Grant scheme**

Sir,

The Commission wishes to inform the United Kingdom (UK) 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 EC Treaty.

*The Commission has based its decision on the following considerations:*

## **1. PROCEDURE**

(1) In accordance with Article 88(3) of the EC Treaty, by letter of 12 February 2009, registered as received on the same date, the UK Permanent Representation to the European Union notified the Commission of this measure. Additional information was submitted by letters of 27 April 2009, 22 June 2009, 28 July 2009 and 2 September 2009, all registered as received on the same date.

## **2. DESCRIPTION OF THE AID SCHEME**

### **2.1. Title**

(2) English Woodland Grant Scheme

The Rt Hon David MILIBAND  
Secretary of State for Foreign Affairs  
Foreign and Commonwealth Office  
King Charles Street  
London SW1A 2AH  
United Kingdom

## **2.2. Budget**

- (3) Total budget of £ 125 million (approximately €145.8 million)

## **2.3. Duration**

- (4) From the date of the Commission Decision until 31.12.2013

## **2.4. Beneficiaries**

- (5) Over 1 000 small and medium-sized woodland owners and lessees.

## **2.5. Legal basis**

- (6) Forestry Act 1975.

## **2.6. Aid measure**

- (7) The UK authorities explain that the Forestry Commission (FC), the UK government department for forestry, administers forestry related grant support programmes specific to each of the three devolved administrations of England, Scotland and Wales. In England, the support programme is the English Woodland Grant Scheme (EWGS), a suite of grants to support afforestation and forest management for a wide range of environmental and social benefits. EWGS consists of six components: Woodland Creation Grant, Woodland Management Grant, Woodland Planning Grant, Woodland Assessment Grant, Woodland Improvement Grant and Woodland Regeneration Grant.
- (8) The UK authorities state that EWGS is primarily delivered through the Rural Development Programme (RDP) and therefore fulfils the conditions laid down in Articles 43, 45, 47 and 49 of Council Regulation (EC) No 1698/2005<sup>1</sup>. In addition to the EWGS measures incorporated in the Rural Development Programme, two EWGS components - the Woodland Management Grant for Access<sup>2</sup> and the Woodland Regeneration Grant<sup>3</sup> - are implemented through separate standing State aid schemes.
- (9) According to the UK authorities the primary aim of the present notification is to seek State aid coverage for financial contributions provided by the UK Government for the EWGS measures in the framework of the RDP for England as a counterpart of Community support, as clarified by Article 57 of Commission Regulation 1794/2006<sup>4</sup>. Furthermore, additional national financing could be provided for these RDP measures on the basis of the present State aid scheme. The UK authorities have confirmed in this regard 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 England RDP, with the exception of the payment rates that

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<sup>1</sup> OJ L 277, 21.10.2005, p. 1

<sup>2</sup> State aid No N 346/2007

<sup>3</sup> State aid No N 204/2007

<sup>4</sup> OJ L 368, 23.12.2006, p. 15, as amended.

may be provided. In addition, the UK authorities have given assurances that each measure and sub-measure, including the proposed maximum intervention rates included in the present State aid scheme, complies with the relevant articles of Council Regulation (EC) 1698/2005.

- (10) The UK 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.
- (11) Furthermore, the UK 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<sup>5</sup> (hereinafter: the guidelines). 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 treaty by the Commission. If the aid scheme creates automatic right to receive the aid, requiring 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 Treaty by the Commission. If the aid scheme requires an application to be submitted to the competent authority concerned, the aid itself will only be granted for activities undertaken or services received after the following conditions have been fulfilled: a) the aid scheme has been set up and declared compatible with the Treaty by the Commission; b) an application for aid has been properly submitted to the competent authority concerned; c) the application has been accepted by the competent authority concerned in a manner which obliges that authority to grant the aid, clearly indicating the amount of aid to be granted or how this amount will be calculated; such acceptance by the competent authority will only be made if the budget available for the aid scheme is not exhausted.

#### **2.6.1. Woodland creation grant (first afforestation of agricultural and non-agricultural land)**

- (12) The woodland creation grant (WCG) is based on Articles 43 and 45 of Regulation 1698/2005 and its objective is to support the establishment of permanent woodland on both agricultural and non-agricultural land.
- (13) The WCG consists of two components: i) a basic contribution and ii) an additional contribution to costs. Every agreement receives the basic contribution, but additional contributions are applied only where specific targeting criteria are also met. The aid provided includes: establishment costs (an area-based standard grant) and in afforesting agricultural land, a contribution to agricultural income foregone (an annual payment for 10 or 15 years depending on the type of woodland established). The priorities, the criteria and the rates of additional grant payments will be subject to amendment over time. The UK authorities confirm that the cumulation of the basic grant and additional contributions will not exceed the maxima allowable under Articles 43 and 45 of Regulation (EC) 1698/2005 or any amending regulation (Annex to Council Regulation (EC) No 1698/2005 fixes the maximum annual premium to cover loss of income from afforestation for farmers and associations thereof at 700 EUR per hectare and for any other natural persons or private-law

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<sup>5</sup> OJ C 319, 27.12.2006, p. 1.

bodies at 150 EUR per hectare. The maximum allowable intensity for establishment costs is 80% of the eligible costs in the areas referred to in Article 36(a)(i), (ii) and (iii), 70% of eligible costs in other areas and 85% of eligible costs in outermost regions.). No aid would be provided to cover maintenance costs.

- (14) The silvicultural requirements for the establishment of different woodland types are specified when the establishment costs are calculated. All the costs necessary for the plantation are listed and valued using information from the industry's professional bodies and forestry practitioners. These costs are reviewed on a regular basis. Where a particular cost is not always required on every site, a judgement is made on the likelihood that the cost would be incurred, and an equivalent percentage of the total cost is applied to the afforestation model. The UK authorities explain that where a cost is known to have significant variances around England the standard cost utilised is towards the lower level rather than the average cost. The authorities point out that using this lower than average cost together with an intervention rate below the maximum permitted in the Annex to Council Regulation (EC) No 1698/2005 ensures that risk of overcompensation is avoided. Furthermore, the UK authorities assure that they will control that there will be no overcompensation in individual cases. To substantiate and confirm the adequacy and accuracy of establishment cost payments an independent organisation was engaged by the Forestry Commission to validate standard costs and methodology. The standard costs and models were adjusted to take account of the comments raised and have since been updated to accommodate significant increases in costs over the subsequent two years. The UK authorities have confirmed that, in accordance with Article 31(2) of Regulation 1974/2006, the cost models include only those costs directly linked to and necessary for the plantation.
- (15) The UK authorities state that in accordance with the requirement of Article 31(1) of Regulation (EC) No 1974/2006, 'Agricultural land' is defined as land used for horticulture, fruit growing, arable cropping, seed growing, dairy farming, livestock breeding and keeping, the use of the land as grazing land, meadowland, osier land, market grounds and nursery grounds, or the use of land as woodland where that use is ancillary to the use of the land for other agricultural activities.
- (16) In addition, the UK authorities state that in accordance with the requirement of Article 31(3) of Regulation (EC) No 1974/2006, a farmer is defined as a person who devotes an essential part of their working time to agricultural activities and who derives at least 25% of their gross income from farming, taking into account all the land that they farm in England. Support for afforestation of agricultural land will not be available to farmers who are benefiting from early retirement support.
- (17) The UK authorities explain that in order to ensure that afforestation of agricultural land is in accordance with Articles 43 and 50(6) of Regulation (EC) No 1698/2005, applicants seeking support under EWGS must declare that the application concerns the conversion to woodland of agricultural land, as defined above, that they own, lease or tenant. The land must have been under an agricultural land use for the three years preceding the date of application. To benefit from the higher rate of Farm Woodland Payment applicants must declare that they are farmers as defined above or association thereof. Public authorities are not eligible for Farm Woodland Payments.
- (18) On receipt, all applications are assessed to ensure that they meet the environmental standards, as currently set out in the "UK Forestry Standard" - the statement of the UK requirements for sustainable forest management, which is

supported by guidelines on nature conservation, landscape, archaeology, soil and water. The application may not include Christmas trees. In case of fast-growing species for short cultivation (species with a rotation time, namely the period between two harvest cuts on the same parcel, of less than 15 years), support for afforestation will be limited to establishment costs only. In addition, proposals for new planting which may have a significant effect on the environment are also subject to Environmental Impact Assessment<sup>6</sup>. The UK authorities specify that any forestry activity within, or likely to affect, Natura 2000 sites must be undertaken in ways which do not damage their value for the designated habitat or species. The Conservation (Natural Habitats etc) Regulations 1994 implement the Habitats Directive and require an appropriate assessment of the implications of proposals of any Natura 2000 site.

### **2.6.2. Woodland Management grant (forest-environment commitments)**

- (19) The Woodland Management grant (WMG) which is based on Article 47 of Regulation 1698/2005, supports annual or regular management operations to reverse bio-diversity decline and to enhance the biodiversity or recreational interest of woodland<sup>7</sup>.
- (20) WMG is an area-based standard grant paid in five annual instalments. Applications must be from private woodland owners or associations of woodland owners making a joint application for adjoining woodland properties or municipalities or their associations. Tenants of woodland owned by the government or the Crown may also apply, but any support will not be eligible for co-financing.
- (21) To be eligible for this grant, woodland owners must agree voluntarily to undertake work that develops or maintains the woodland in a state where it can be managed in a sustainable manner. Such management will be over and above the required as the statutory minimum i.e. what is needed to meet the requirements of the UK Forestry Standard.
- (22) The work that may be undertaken for WMG is prescribed to ensure that due consideration is given to a wide range of work options and that the appropriate standards are understood and met. The eligible work covers a range of the most common actions and factors that contribute to maintaining woodland condition and sustainability in England. These actions include: sustainability monitoring, soil and ground water protection, manipulation of light regime, management of open space within woodland, management of deadwood habitat, management of veteran trees, protection of features of archaeological and cultural heritage interest, maintenance of woodland boundaries, grey squirrel control, control of non-native species, management of impacts of deer. The applicant must specify the work from this list that will be undertaken to meet the needs of the woodland as determined by the management plan or condition assessment. Where all resources available for this measure are not sufficient to support all eligible applications, those receiving specified targeted environmental and biodiversity priorities will be given precedence.

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<sup>6</sup> Under the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999.

<sup>7</sup> The WMG for Access covering the recreational aspects of WMG falls under State aid scheme N 346/2007.

The priorities will be selected to specifically enhance biodiversity or preserve high-value forest ecosystems or reinforce the protective value of forests with respect to soil erosion, maintenance of water resources and water quality and natural hazards.

- (23) All the costs necessary for each operation eligible for grant support are valued using expert knowledge, information and judgement from representatives of the industry's professional bodies and practitioners. They are based on the cost of using contractors to supply the operations and services and so recognize the market value of any benefit in kind contributions by the beneficiary or other volunteers. The UK authorities explain that where a cost is known to have significant variances around England the standard cost utilised is towards the lower level rather than the average cost. The authorities point out that using this lower than average cost together with an intervention rate below the maximum permitted in the Annex to Council Regulation (EC) No 1698/2005 ensures that risk of overcompensation is avoided. Furthermore, the UK authorities assure that they will control that there will be no overcompensation in individual cases. These costs and resultant standard costs are reviewed on a regular basis. The costs do not include elements of fixed investment costs by the beneficiary such as contract agreement and management, machinery purchase, buildings or financing.
- (24) The WMG is currently £30 per hectare per year for five years<sup>8</sup>. It is estimated that this represents an average contribution to eligible costs of between 15% and 50% and in any event will not exceed 100%. The aid intensity may change as a result of any amendment to standard costs that may arise, but will not exceed either the maximum rate of support allowed under Article 47 of Council Regulation (EC) 1698/2005 (Annex to Council Regulation (EC) No 1698/2005 foresees a 40 EUR per hectare minimum annual payment and a 200 EUR maximum annual payment for forest-environmental commitments, which may be increased in exceptional cases taking into account of specific circumstances to be justified in rural development programmes) or any amending regulation, or 100% of eligible costs.

### **2.6.3. Woodland planning grant (non-productive investments)**

- (25) The woodland planning grant (WPG) contributes to the costs of preparing a plan for sustainable management across the whole woodland holding of the applicant. The management prescriptions/operations supported under the WPG include: silvicultural systems (harvesting, phased felling and restructuring of new plantations, restocking and regeneration etc), new planting, protection and maintenance (pest and disease management, fire plans, waste disposal and pollution, protection from unauthorised activities), game management, protection and enhancement of biodiversity (management of designated areas).
- (26) The application for support to prepare a management plan must exceed a minimum size threshold (currently 3 ha). In addition, the woodland cannot be certified to the UK Woodland Assurance Standards (UKWAS) at the time of application as that status requires that the landowner already has a management plan.

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<sup>8</sup> The UK authorities explain that in order to overcome the issue of GB Pound/EURO fluctuating exchange rate and to ensure that the minimum annual payment fixed in the Annex to Council Regulation (EC) No 1698/2005 would be respected the level of support for Woodland Management Grant will be £30/ha or €40/ha whichever is higher at the time of the payment.

Any plan supported under this grant must however meet the same published requirements as an UKWAS Management Plan to ensure that quality standards are consistent and that all sustainability issues are fully addressed.

- (27) Currently the grant is paid at £10 per hectare for the first 100 ha and £5 per hectare for additional areas over 100 ha, all subject to minimum payment of £300. The rates of payment per hectare and minimum payment are subject to amendment but in no case will they exceed 100% of costs.

#### *2.6.3.1. Woodland planning grant delivered as technical support*

- (28) The UK authorities state that there may be occasions where the plans prepared under the Woodland Planning Grant would not clearly meet the conditions of Article 49 of Regulation (EC) No 1698/2005, particularly if a major component of the plan addresses the economic production of timber or wood fuel. In these cases, support - to the same aid intensity as that provided under Article 49 - will be provided as non co-financed State aid. The UK authorities confirm that the rates of support will not exceed 100% of the costs of the preparation of the woodland management plan and that the aid would be provided by means of subsidised services and will not involve direct payment to producers. Aid will be accessible to all woodland owners in England provided they meet the conditions detailed under the Woodland Planning Grant (Cf. point 26 above). The UK authorities have confirmed that the aid for consultancy services provided by third parties would not constitute aid towards a continuous or periodic activity nor relate to an enterprise's usual operating expenditure.

#### **2.6.4 Woodland assessment grant (non-productive investments)**

- (29) Woodland assessment grants (WAG) contribute to the costs of determining the extent of important environmental and social aspects of woodland to prevent work taking place, unknowingly, in unsustainable ways. To be eligible for this grant the applicant must be proposing to prepare a plan or to seek grants or permission to undertake work in woodland that is likely, in the Forestry Commission's view, to have important environmental and social values. Where an assessment of the impact of the proposed work requires further specific information the applicant may seek WAG support for this. According to the UK authorities, the purpose of the support is to ensure that management decisions are based on a sound knowledge of the sensitivities and needs of the woodland, and the opportunities to derive public benefits.
- (30) The assessment required would be specified by the Forestry Commission according to the information needs, and support will be limited solely to the collection of this information. Grant will not be offered where the information is not required by the Forestry Commission in order to discharge satisfactorily its statutory duties or to deliver other grants. This grant cannot be paid on a non-woodland site or a site proposed for afforestation and will not be offered where the information is readily available or is mandatory requirement for any purpose other than to inform the approval and delivery of support under the EWGS. The assessments to be supported are limited to the following types: ecological assessment in diverse or ecologically sensitive woodland where the work proposed is likely to have a significant impact; landscape design in sensitive or prominent landscapes, where the planned scale or type of operations could potentially have significant visual impact,

historic and cultural assessment where there is evidence on the site of an interest that the proposals will affect, or where local knowledge identifies a value in an assessment, prior to the work taking place in woodland and stakeholder interest where a stakeholder or community meeting needs to be held to explore likely interest or where such interest has been expressed and needs to be evaluated.

- (31) The WAG grant is currently paid at rates which provide aid at approximately 80% of cost, subject to a minimum payment of £300. The UK authorities have confirmed that the payments would in no case exceed 100% of costs.

### **2.6.5 Woodland improvement grant (non-productive investments)**

- (32) Woodland improvement grants (WIG) contribute towards the costs of creating or improving the environmental and social values of woodland. WIG can be used to support changes that are required in order to complement work supported by the Woodland Management Grant or to implement actions identified through the Woodland Assessment or Woodland Planning processes. This grant is delivered through a set of defined funds, available on a regional basis, to target support to projects meeting regional and/or national environmental and social priorities. WIGs are currently aligned to three main priorities: SSSI (Sites of Special Scientific Interest) Condition, UK Biodiversity Action Plan (BAP) targets (in England), Priority UK BAP targets (in England), woodland birds and red squirrel reserves. To be eligible for WIG the work proposed must meet the published eligibility criteria for a specific WIG fund. Each WIG fund supports only non-productive investments that initiate or secure change or take opportunities for, or remove threats to, the protection and improvement of public benefits from forests and woodlands.

- (33) The support may include programmes of investment work as well as the purchase and installation of capital items. A fund may be specified to require applications to be assessed on a competitive bid, or 'challenge' basis in order to secure best value for limited funds.

- (34) The grants under this measure are delivered using standard costs. All the costs necessary for each operation eligible for grant support are valued using expert knowledge, information and judgement from representatives of the industry's professional bodies and practitioners. They are based on the costs of using contractors to supply the operations and services and so recognise the market value of any benefit in kind contributions by the beneficiary or other volunteers.

- (35) The UK authorities explain that where a cost is known to have significant variances around England the standard cost utilised is towards the lower level rather than the average cost. The authorities point out that using this lower than average cost together with an intervention rate below the maximum permitted in the Annex to Council Regulation (EC) No 1698/2005 ensures that risk of overcompensation is avoided. Furthermore, the UK authorities assure that they will control that there will be no overcompensation in individual cases. These costs and resultant standard costs are reviewed on a regular basis. The standard costs and their application were substantiated by an independent organisation. These costs have been subsequently updated. The UK authorities state that each WIG fund has a fixed and, published contribution rate and although the aid intensity will vary, in no case will it be less than 20% or more than 100% of standard costs.

### **3. ASSESSMENT UNDER COMPETITION RULES**

#### **3.1. Presence of aid within the meaning of Article 87(1) of the EC Treaty**

- (36) Under Article 87(1) of the EC Treaty, 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 common market.
- (37) The aid at issue is financed out of State resources and benefits certain undertakings (Cf. point 2.4 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-Community trade.<sup>9</sup> 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.<sup>10</sup> The beneficiaries of the aid at issue operate on a market where intra-Community trade takes place.<sup>11</sup> The aid measure could therefore distort competition and affect trade between Member States and consequently constitutes aid pursuant to Article 87(1) of the EC Treaty.

#### **3.2. Compatibility of aid pursuant to Article 87(3)**

- (38) However, the prohibition of State aid in Article 87(1) is subject to certain exceptions.
- (39) Pursuant to Article 87(3)(c) of the Treaty, aid may be considered compatible with the common 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.
- (40) 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 2013, in particular Chapter VII thereof.

##### **3.2.1. Aid for afforestation of agricultural and non-agricultural land, aid for forest-environment payments and aid for non-productive investments**

- (41) 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 87(3)(c) of the Treaty if the aid meets the conditions laid down in Articles

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<sup>9</sup> 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.

<sup>10</sup> 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.

<sup>11</sup> In 2005 the UK exported some 908 thousand m<sup>3</sup> of round wood to and imported some 658 thousand m<sup>3</sup> from other EU Member States (Source: EUROSTAT).

43-49 of Regulation (EC) No 1698/2005 and does not exceed the maximum intensity stipulated therein.

- (42) The notified measures were already assessed by the Commission in the context of the programming and were approved within the framework of the Rural Development Programme for England 2007 to 2013. The UK authorities have confirmed in this context that each of the measures and sub-measures included in the present State aid scheme is identical in content to the respective measures and sub-measures approved in the RDP for England, with the exception of the payment rates that may be provided.
- (43) The measures comply with the provisions of Articles 43, 45, 47 and 49 of Council Regulation (EC) No 1698/2005.
- (44) As regards the afforestation of agricultural and non-agricultural land, the UK authorities have demonstrated that the aid would be granted to beneficiaries pursuant to Articles 43 and 45 of Council Regulation (EC) No 1698/2005. The support will cover the establishment costs (including only those costs directly linked to and necessary for the plantation) and in afforesting agricultural land, a contribution to agricultural income foregone as a result of afforestation for a maximum of 15 years (Cf. points 13 and 14 above). The UK authorities have provided the definition of agricultural land eligible for support for first afforestation (Cf. point 14 above) as well as the definition of a farmer (Cf. point 15 above) and the requirements laid down for applicants (Cf. point 17 above) and the actions carried out within Natura 2000 sites (Cf. point 18 above). Support for afforestation of agricultural land will not be available to farmers who are benefiting from early retirement support (Cf. point 16 above). Public authorities would not be eligible for Farm Woodland Payments. No aid would be granted for the planting of Christmas trees. In case of fast-growing species for short cultivation (species with a rotation time, namely the period between two harvest cuts on the same parcel, of less than 15 years), support for afforestation will be limited to establishment costs only (Cf. point 18 above). The UK authorities have confirmed that the rate of support would not exceed the amounts provided for by Articles 43 and 45 of Council Regulation (EC) No 1698/2005 (Cf. point 13 above).
- (45) The UK authorities have demonstrated that forest-environment payments will be made to beneficiaries pursuant to Article 47 of Council Regulation (EC) No 1698/2005. Aid will be granted annually per hectare of forest to beneficiaries who make forest-environmental commitments on a voluntary basis. The proposed commitments go beyond the statutory requirements laid down in the UK Forestry Standard and the aid is granted within the limits set out in the Annex to Regulation (EC) No 1698/2005 (Annex to Council Regulation (EC) No 1698/2005 foresees a 40 EUR per hectare minimum annual payment and a 200 EUR maximum annual payment for forest-environmental commitments, which may be increased in exceptional cases taking into account of specific circumstances to be justified in rural development programmes). The payments shall cover additional costs and income foregone resulting from the commitment made. Commitments will be undertaken for a period of between five and seven years.

- (46) As described in sections 2.6.3, 2.6.4 and 2.6.5 above, the UK authorities will provide support for non-productive investments under the present scheme. Aid with an aid intensity of up to 100% will be provided in relation to forest-environmental commitments or other environmental objectives. This complies with Article 49 of Council Regulation (EC) No 1698/2005.

### **3.2.2 State aid for technical support**

- (47) Pursuant to point 179 of the Community 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 87(3)(c) of the Treaty if the aid fulfils the conditions set out in Article 15 of Commission Regulation (EC) No 1857/2006<sup>12</sup>.
- (48) 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 aid may be granted for consultancy service if the latter is 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 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.
- (49) The UK authorities provided relevant information and gave appropriate assurances to demonstrate that these conditions will be met (Cf. point 28 above). The cost of establishment of Woodland management plans can be considered eligible pursuant to point 179 of the Community guidelines. The conditions of Article 15 of Commission Regulation (EC) No 1857/2006 are also met, as the aid shall only cover the fees for the consultancy services rendered, the support is granted as a subsidised service, the aid intensity is up to 100% and the aid will be accessible to all woodland owners in England provided they meet the conditions detailed under Woodland Planning Grant.
- (50) Furthermore, the incentive element requirement, stipulated in point 16 of the guidelines, will be respected. Aid under the present scheme shall only be granted in respect of activities undertaken or services received after the aid scheme has been set up and declared compatible with the treaty by the Commission. If the aid scheme creates automatic right to receive the aid, requiring 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

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<sup>12</sup> OJ L 358, 16.12.2006, p. 3

declared compatible with the Treaty by the Commission. If the aid scheme requires an application to be submitted to the competent authority concerned, the aid itself will only be granted for activities undertaken or services received after the following conditions have been fulfilled: a) the aid scheme has been set up and declared compatible with the Treaty by the Commission; b) an application for aid has been properly submitted to the competent authority concerned; c) the application has been accepted by the competent authority concerned in a manner which obliges that authority to grant the aid, clearly indicating the amount of aid to be granted or how this amount will be calculated; such acceptance by the competent authority will only be made if the budget available for the aid scheme is not exhausted (Cf. point 11 above).

- (51) 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.

#### **4. CONCLUSION**

- (52) In view of the foregoing, the Commission has accordingly decided to consider the aid compatible with the common market under Article 87(3)(c) of the Treaty.
- (53) 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/community\\_law/eulaw/index\\_en.htm#aides](http://ec.europa.eu/community_law/eulaw/index_en.htm#aides). 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

Mariann Fischer Boel  
Member of the Commission