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PUBLIC VERSION

WORKING LANGUAGE

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Subject: State aid C13 (ex NN 17/2010) – Potential aid measures in favour of Elan d.o.o. and Elan Marine d.o.o.

Sir,

The Commission wishes to inform Slovenia that, having examined the information supplied by your authorities on the measure referred to above, it has decided to initiate the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union¹.

1. PROCEDURE

- (1) On 10 July 2008, Völkl, a German ski producer, filed a complaint regarding aid by the Slovenian State allegedly granted to the company *Elan d.o.o.* (hereinafter referred to as "*Elan Ski*"), a Slovenian ski producer.
- (2) Since then, the Commission sent several requests for information to the Slovenian authorities, to which the Slovenian authorities responded on 14 October 2008, 30 January

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 Treaty on the Functioning of the European Union (TFEU) should be understood as references to Articles 87 and 88, respectively, of the EC Treaty where appropriate.

Samuel Žbogar
Minister za zunanje zadeve Republike Slovenije
Prešernova cesta 25
SI-1001 Ljubljana

2010 and 22 February 2010. In November 2009, the Commission also sent a request for information to the complainant, to which he replied on 5 March 2010.

2. THE BENEFICIARIES

2.1. Elan Ski

- (3) *Elan Ski* is a limited liability company active in the manufacturing of skiing equipment. The company is located in Begunje na Gorenjskem, Slovenia. Slovenia is in its totality eligible for regional aid under Art. 107(3)(a) TFEU². In 2007, *Elan Ski* employed approximately 750 people, a number which seems to have been significantly reduced since then.
- (4) Currently, *Elan Ski* holds approximately a share of 9% in the worldwide ski market. Globally, it ranks among the top six ski manufacturers. The skis are manufactured entirely in Begunje, while the snowboard factory is located in Austria, annually producing 200 000 snowboards, of which only one tenth are sold under the Elan trademark. The majority of skis are exported to Germany, and other EU countries, the USA, Canada and Japan. Elan Ski's products are marketed in 46 countries all over the world.³
- (5) *Elan Ski* was State owned from the 1940s until the 1990s. By 1990 the company was bankrupt and was sold to its creditors. In 1991 *Elan Ski* became a joint stock company and was sold in 1992 to a new owner, the Croatian Privredna banka Zagreb. At the end of the 1990s *Elan Ski* faced again a crisis and was purchased in 2000 by the development corporation of Slovenia, a 100% State owned joint stock company that was initially set up for rehabilitation and restructuring of companies, ownership transformation of companies and financing long-term investments.
- (6) *Elan Ski*, which was at that time a public limited company, was subsequently sold to the then Skimar group (now: *Elan Skupina d.o.o.*, hereinafter referred to as "*Elan Skupina*"), which has been since then the parent company of *Elan Ski*. Since 2006, *Elan Ski* is a private limited liability company.

2.2. Elan Marine

- (7) *Elan Marine d.o.o.* (hereinafter referred to as "*Elan Marine*") is a limited liability company active in the production of marine oriented crafts since 1949. Like *Elan Ski*, the company is located in Begunje na Gorenjskem, a region eligible for regional aid under Article 107(3)(a) TFEU. In 2007, *Elan Marine* employed approximately 420 people, a number which has been reduced since then.

² Guidelines on national regional aid for 2007-2013, OJ 4.3.2006, C 54/13.

³ Information from Slovenian government website: <http://www.slovenia.si/>

2.3. Elan Skupina

- (8) On 15 February 2010, both, *Elan Ski* and *Elan Marine*, were 100% subsidiaries of *Elan Skupina*. The holding has two other subsidiaries, namely *Elan Inventa d.o.o.* (service division) and *Marine Nova d.o.o.*
- (9) On 31 December 2007, *Elan Skupina* employed approximately 1200 people (currently approximately 800).
- (10) *Elan Skupina's* shareholders are mainly State owned. The ownership structure in January 2009 of *Elan Skupina* was as follows:
- *Kapitalska družba pokojninskega in invalidskega zavarovanja, d.d.* ("KAD"): *KAD* is a joint stock company whose sole shareholder is the Slovenian State. *KAD* was established with the purpose of creating additional capital for pension and disability insurance by means of assets management. *KAD* is by far the largest shareholder in *Elan Skupina* with currently almost half the shares (see below).
 - Moreover, *KAD* controls a stake held by *Prvi pokojninski sklad* ("the first pension fund", another State fund, hereinafter referred to as "KAD-PPS").
 - *Družba za svetovanje in upravljanje, d.o.o.* ("DSU"); is a limited liability Management and Consultancy Company that is 100% State owned.
 - *Triglav Naložbe, finančna družba, d.d.* ("Triglav investments"), a financial company of which 98% of the shares are owned by *Zavarovalnica Triglav* (see below).
 - *Zavarovalnica Triglav, d.d.*, ("Triglav insurance company"); the company offers all kinds of non-life and life, health and accident insurance; it is mainly held by *Zavod za pokojninsko in invalidsko zavarovanje* ("ZIPZ", the Pension and Disability Insurance Institute) and *Slovenska odškodninska družba, d.d.* (Slovenian indemnity incorporation), which are both State owned.

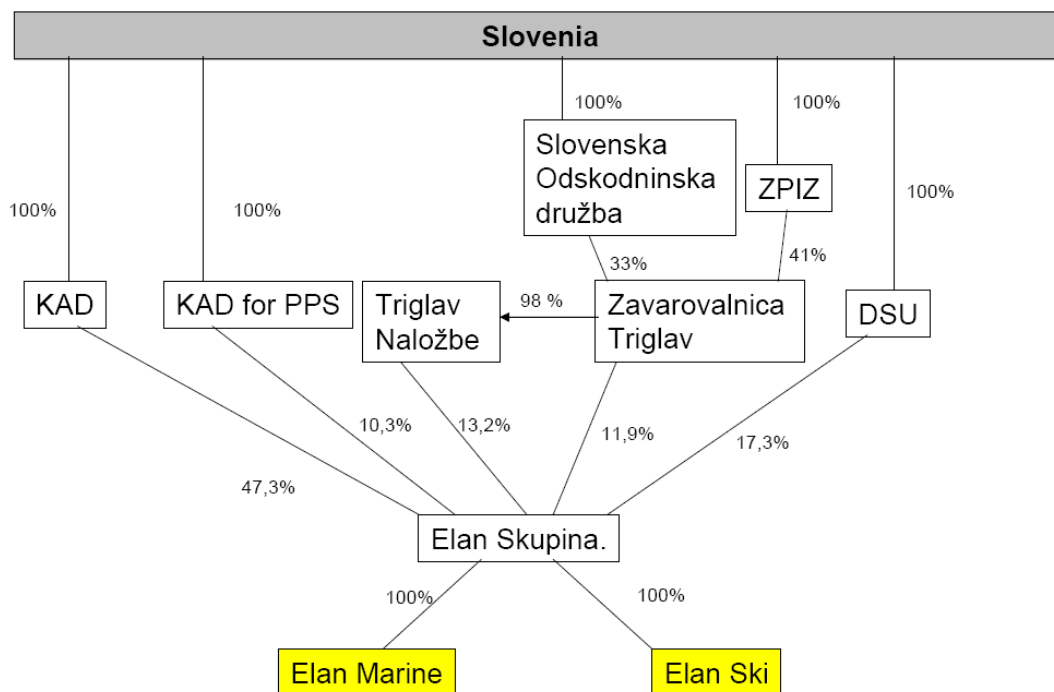


Table 1: Ownership structure in January 2009

- (11) Until April 2008, one private company called *KD Kapital, finančna družba, d.o.o.* ("KD Kapital"), held a stake in *Elan Skupina*.

Entity	1 January 2007	After Measure 1 (April 2008)	After Measure 2 (January 2009)
KAD	30,5%	47,3%	47,3%
KAD-PPS	10,3%	10,3%	10,3%
DSU	17,3%	17,3%	17,3%
Triglav Investments	13,2%	13,2%	13,2%
Triglav Insurance company	11,9%	11,9%	11,9%
KD Kapital	16,8%	0%	0%
Total presumed State ownership	83,2%	100%	100%

Table 2: Ownership structure at different points in time

3. DESCRIPTION OF THE MEASURES

3.1. The capital injection in 2007 ("Measure 1")

- (12) As will be described below, *Elan Skupina* and its subsidiaries were facing difficulties in 2007 and its banks required a capital increase as a condition for further financing.
- (13) On 19 December 2006, *KAD* decided to recapitalise *Elan Skupina*, which led on 29 January 2007 to the signature of a "letter of intent" by the shareholders of *Elan Skupina* to recapitalise the company up to EUR 10,225 million. However, the shareholders only agreed to increase the capital on 4 October 2007. The reason for this delay was that *KD Kapital*, the only private shareholder in *Elan Skupina* at that time, originally opposed the capital increase, in particular as *KAD* intended to install new members in the supervisory board of *Elan Skupina*. *KD Kapital* held a share of 16,83% in *Elan Skupina*. According to the press, *KD Kapital* was irritated by the influence on *Elan Skupina's* business decisions that Slovenian authorities tried to exercise through *KAD*.⁴
- (14) *KD Kapital* finally agreed on the capital increase of EUR 10,225 million in exchange for share selling options, which the company exercised in March 2008, with effect as of April 2008. *KAD* purchased the shares of *KD Kapital* and thus increased its share in *Elan Skupina* from 41% to 57% (of which at that time 10% were held for *KAD-PPS*).
- (15) The shareholder subscriptions were carried out on 15 November 2007 in proportion to the shareholders' ownership shares. *KAD* made a subscription in proportion to its own share and the share it holds on behalf of *KAD-PPS*. Of the EUR 10,225 million injected into *Elan Skupina*, *Elan Ski* received EUR 5,8 million and *Elan Marine* received EUR 4,425 million.

3.2. The capital injection in 2008 ("Measure 2")

- (16) In June/July 2008 the management of *Elan Skupina* asked its shareholders for new capital, amounting to EUR 25 million in order to cover the lack of liquidity of EUR 14 million, to cover *Elan Skupina's* losses of EUR 6,1 million and to have capital of EUR 5 million for restructuring. In addition, *Elan Skupina* needed to reschedule its debts before the end of 2008. A long term plan for *Elan Skupina* was set up in June 2008, followed by a recovery plan dated 8 August 2008. Both plans include a similar financial forecast for the group and the ski and winter division respectively until the year 2012. According to this forecast, the group and *Elan Ski* respectively would be profit making from 2010 on. *Elan Marine* would be profit making from 2011 on. Both plans were set up by the group itself and not by an independent outside advisor.

⁴ Kleine Zeitung, 23 August 2007, "Elan rutscht immer tiefer in die roten Zahlen" (Elan slides further into the red).

- (17) The shareholders considered the plans inadequate. Hence, on 28 August 2008, they only agreed to a recapitalisation of EUR 10 million. The capital increase was subject to an agreement on rescheduling of debts between *Elan Skupina* and its creditors by the end of 2008. The shareholder subscriptions were carried out on 8 September 2008 in proportion to the shareholders' ownership shares. *KAD* made a subscription in proportion to its own share and the share it holds on behalf of *KAD-PPS*.
- (18) Of the EUR 10 million injected into *Elan Skupina*, *Elan Ski* received EUR 5,924 million and *Elan Marine* received EUR 4,076 million.
- (19) According to the information provided by the Slovenian authorities, there have been no further capital increases of the *Elan Skupina* group in the period in question.

4. ASSESSMENT

- (20) It is considered that potential beneficiaries of the measures are *Elan Ski* and *Elan Marine*. While capital was injected into *Elan Skupina*, this company passed the funds on to *Elan Ski* and *Elan Marine* respectively (cp. paragraph (15) and (18)). Hence, it is those two entities that have possibly benefitted from the measures. The Commission will therefore examine whether these entities have received State aid in the meaning of Article 107 TFEU (see below point 4.2), and if yes, whether such aid might be compatible with the internal market (see below point 4.3). To do so, it is necessary to define since when the potential beneficiaries have to be considered as companies in difficulty (see below point 4.1).

4.1. Company in difficulty

- (21) According to point 10 of the Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty⁵ (hereinafter referred to as "Rescue and Restructuring Guidelines"), a company can be considered as being in difficulties where it is unable to stem losses which, without outside intervention by the public authorities, will almost certainly condemn it to going out of business in the short or medium term. Point 10 of the Rescue and Restructuring Guidelines lay down certain circumstances under which a company can be presumed to be in difficulties.
- (22) At this stage, it is considered that the criteria of point 10 of the Rescue and Restructuring Guidelines are not fulfilled for *Elan Ski* and *Elan Marine* respectively. Although at both companies, capital has significantly dropped in the years from 2006 to 2008⁶, it seems that sufficient reserves existed to absorb losses.
- (23) However, according to point 11 of the Rescue and Restructuring Guidelines "Even when none of the circumstances set out in point 10 are present, a firm may still be considered to

⁵ Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty, OJ 2004/C 244/02, prolonged by the Commission Communication concerning the prolongation of the Community Guidelines on State aid for Rescuing and Restructuring Firms in Difficulty, OJ 2009/C 156/3.

⁶ *Elan Ski*: capital 31.12.2006: EUR 36,5 m; 31.12.2007: EUR 25,3 m; 31.12.2008: EUR 24,1 m; *Elan Marine*: Capital 31.12.2006: EUR 5,6 m; 31.12.2007: EUR 5,3 m; 31.12.2008: EUR 3,6 m

be in difficulties, in particular where the usual signs of a firm being in difficulty are present (...) In any event, a firm in difficulty is eligible only where, demonstrably, it cannot recover through its own resources or with the funds it obtains from its owners/shareholders or from market sources".

- (24) The Commission considers that, indeed, the criteria set out in point 11 appear to be applicable to *Elan Ski* and *Elan Marine*. *Elan Ski* made significant losses from 2006 to 2008⁷, as did *Elan Marine* in 2007 and 2008⁸, and both entities experienced decreasing turnover figures since 2005⁹. Moreover, the difficult situation of the group overall¹⁰ (which would, according to a letter of the Elan Skupina management, have faced bankruptcy in 2008 without a recapitalisation) prevented the group from financially assisting the two entities through its own resources. This indicates that *Elan Ski* and *Elan Marine*, at least in 2007 and 2008, met the criteria set out in paragraph 11 of the Rescue and Restructuring Guidelines 2004. Thus, *Elan Ski* and *Elan Marine* can be considered as companies in difficulties at least in 2007 and 2008.

4.2. Existence of State aid

- (25) Article 107(1) TFEU lays down that 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 and affects trade among Member States is incompatible with the Internal Market.

4.2.1. State resources and Imputability

- (26) A measure must be granted from State resources and has to be imputable to the State in order to constitute State aid. Like public authorities, also public undertakings are capable of granting State aid. However, in that context, it has to be determined whether the public undertaking is acting as the "State" in relation to a particular measure, which is the case where the State actually exercises a dominant influence over that undertaking in respect of the measure in question. This means that State resources are those resources which are directly or indirectly under the control or, in other words, at the disposal of the State.¹¹
- (27) As regards *KAD*, who was the main shareholder in *Elan Skupina* at the time of the capital injections, the Slovenian authorities are of the opinion that *KAD* does neither directly nor indirectly use budgetary resources. They argue that the company is solely financed from dividends, interest payments and other income arising from investment and business operations. In addition, *KAD* cannot be classified as a legal person governed by public law.

⁷ Net losses in 2006: EUR 0,472 m; 2007: EUR 6,674 m; 2008: EUR 12,971 m.

⁸ Net profit in 2006: EUR 1,2 m; net losses in 2007: EUR 0,305 m; 2008: 10,214 m.

⁹ *Elan Ski*: Turnover 2005: EUR 66 m; 2006: EUR 48 m; 2007: EUR 40 m; 2008: 38 m; 2009: EUR 36 m; *Elan Marine*: Turnover 2006: EUR 31,8m; 2007: EUR 38,6m; 2008: EUR 25,9m.

¹⁰ In addition to the two potential beneficiaries, also their parent company *Elan Skupina* incurred losses of EUR 8,4m in 2007 and of EUR 12m in 2008. According to information so far available, those losses were due to the bad performance of *Elan Ski*.

¹¹ Case C-482/99 French Republic/Commission (*Stardust Marine*), ECR 2002, I-4397.

- (28) However, it seems that *KAD* is under the control of the State and has to be regarded as a public undertaking within the meaning of Article 2(b) of the Transparency Directive¹². The Slovenian State holds 100% of *KAD*'s subscribed capital and controls the majority of the votes. The Slovenian government appoints all the members of the assembly of *KAD* as well as the supervisory board. Representatives of the Slovenian government are invited to the meetings of the assembly and the supervisory board. The management board is appointed by the assembly and supervised by the supervisory board. Hence, the Commission preliminarily assumes that measures taken by *KAD* stem from State resources and are imputable to the State.
- (29) As regards the remaining shareholders of *Elan Skupina* that took part in the capital injections, at this stage, it seems that *KAD-PPS*, *DSU*, *Triglav Investment* and *Triglav Insurance* all seem to be closely linked to the Slovenian State. Indeed, *DSU* and *KAD-PPS* are 100% owned by the Slovenian State. In the other two shareholders, namely *Triglav Investment* and *Triglav Insurance*, the State appears to be at least the majority shareholder (via other companies). The Slovenian authorities did, however not provide detailed information on the structure of the companies. At this stage, the Commission has doubts that the measures taken by these companies are not imputable to the Slovenian State.
- (30) Hence, the Commission preliminarily concludes that the measures taken by *KAD* stem from State resources and are imputable to the State. As regards the measures granted by the companies *KAD-PPS*, *DSU*, *Triglav Investment* and *Triglav Insurance*, according to the information available so far, it seems that they stem from State resources and are imputable to the State as well, which will be verified during the formal investigation procedure.

4.2.2. Advantage

- (31) According to the private market economy investor principle, it has to be examined whether the terms and conditions of an intervention confer an economic advantage to the beneficiary that it would not have obtained under normal market economy conditions.
- (32) Firstly, it has to be checked whether the Slovenian State acted *pari passu* with a private shareholder of *Elan Skupina* when injecting capital, as according to the Slovenian authorities, at least *KAD* acted *pari passu* with the other shareholders of the company when granting the measures.
- As for the first measure, the single, clearly non-State shareholder in *Elan Skupina*, *KD Kapital*, was not interested in participating. Finally, *KD Kapital* only contributed, because *KAD* granted an option to buy *KD Kapital*'s shares at a guaranteed price. So far, there is no information on the price. Hence, no private shareholder of *Elan Skupina* participated on equal terms with the public shareholders in the capital injection. Besides *KD Kapital* and *KAD*, only shareholders that are majority State owned contributed to the

¹² Commission Directive 2006/111 of 16 November 2006 on the transparency of financial relations between Member States and public undertakings as well as on financial transparency within certain undertakings, OJ L 318, 17.11.2006, p. 17.

capital injection. The contribution of such shareholders cannot be considered when assessing whether the measure was granted *pari passu*. Hence, the Commission has doubts that the first measure was carried out *pari passu* with a private shareholder as the Slovenian authorities argue.

- As for the second measure, no private company seems to have contributed. *KAD* and the other shareholders participating in the second measure are at least majority owned by the State. Hence, at this stage, as for the first measure, the Commission has doubts that the Slovenian State, via *KAD* and the other public shareholders, acted *pari passu* with a private shareholder.
- (33) Secondly, it has to be taken into account that a market investor would attempt to maximise the return on his assets in accordance with the circumstances and his interests, even in the case of an investment in an undertaking in which he already has a shareholding.¹³ There is a series of other indicators that each cast a shadow upon the investments into *Elan Skupina* and hence *Elan Ski* and *Elan Marine* respectively, from the perspective of a market economy investor:
- So far, it seems that the first measure was not based on a business plan or other information on potential return on the investment in the future.
 - As regards the second measure a long-term plan and a recovery plan were set up before the shareholders decided on the capital injection. However, the shareholders of *Elan Skupina* themselves considered the plans as inadequate, which is an indication that these plans cannot be relied upon in order to show that there would be a return in the investment in the future.
 - Both *Elan Ski* and *Elan Marine* seem to have been in difficulty at least at the time of the capital injections.
 - *Elan Skupina* originally asked its shareholders for an even bigger capital injection than the one that was finally granted.
 - The worldwide market for skis is declining. In fact, from the winter of 1991-92 until the winter of 2008-09, the worldwide sales of skis almost halved from 6 million to 3,2 million per year.
- (34) Finally, it has to be considered that a majority shareholder who subscribes the capital necessary to secure the survival of an undertaking which is experiencing temporary difficulties but is capable of becoming profitable again, possibly after a reorganisation, could be considered as private market economy investor intending to secure its investment done in the past.¹⁴ At this stage, it cannot be excluded that this is the case as regards the capital injections in *Elan Skupina* and its subsidiaries respectively, although it can be doubted as the three entities seem to have been in difficulty for many years.

¹³ Case T-228/99, WestLB / Commission, ECR 2003, II-435.

¹⁴ Cp. case C-303/88 Italian Republic /Commission. - State aid to undertakings in the textile and clothing sector (ENI Lanerossi), ECR 1991 I-1433.

- (35) Hence, the Commission has doubts that the two measures were granted in line with the private market economy investor principle. Moreover, the injections were granted only to two specific companies and therefore selective. Therefore, the Commission considers that the measures taken constituted a selective advantage to the beneficiaries.

4.2.3. *Distortion of competition and effect on trade*

- (36) The Commission considers that the measures taken by the Slovenian authorities in favour of *Elan Ski* and *Elan Marine* were likely to distort competition and affect trade between Member States, by providing an undertaking with an advantage over other competitors not receiving such grants. Indeed, there is trade between Member States in skiing equipment and marine oriented crafts, in which the two beneficiaries operate.

4.2.4. *Conclusion on the existence of State aid*

- (37) On account of the arguments above, considers at this stage that the two measures in question may have involved State aid within the meaning of Article 107 (1) TFEU to *Elan Ski* and *Elan Marine*.

4.3. **Compatibility of the aid**

- (38) State aid measures can be considered compatible on the basis of the exceptions laid down in Article 107(2) and 107(3) TFEU.
- (39) So far, the Slovenian authorities have not provided information on the compatibility of the measures, as they maintained that they did not entail aid. Nevertheless, given that the measures in question were granted to companies in difficulty, the Commission preliminarily assessed the compatibility of the measure under the Rescue and Restructuring Guidelines. In addition, it was considered whether the measure could be compatible as regional aid. As regards compatibility on any other basis, so far, the Commission has no indications.

4.3.1. *Rescue and Restructuring Guidelines*

- (40) Under these Guidelines, only companies in difficulty are eligible. As described above, both *Elan Ski* and *Elan Marine* can be considered as companies in difficulty at the time of the capital injections. In principle, a firm belonging to a larger business group is normally not eligible, except where it can be demonstrated that the firm's difficulties are intrinsic and are not the result of an arbitrary allocation of costs within the group, and that the difficulties are too serious to be dealt with by the group itself (paragraph 13 of the Rescue and Restructuring Guidelines). As the parent company of *Elan Ski* and *Elan Marine*, *Elan Skupina*, was in financial difficulties itself at the time when the measures were granted (see description above), the Commission considers the requirements of paragraph 13 to be met. *Elan Ski* and *Elan Marine* seem to be eligible for rescue and restructuring aid.
- (41) According to paragraph 25(a) of the Rescue and Restructuring Guidelines, **rescue aid** can only take the form of loans or guarantees. Hence, the capital injections in question cannot be considered as rescue aid.

- (42) In case of **restructuring aid**, the Rescue and Restructuring Guidelines (paragraph 31 et seq.) require the submission of a sound restructuring programme that allows for restoring the viability of the company. The aid must be limited to the minimum necessary. In this context, the beneficiary has to make an own contribution to the costs of restructuring. Finally, to avoid undue distortions of competition, the Rescue and Restructuring Guidelines foresee compensatory measures.
- (43) At this stage, these conditions appear not to be met for the measures in question:
- So far, the Slovenian authorities submitted parts of two so-called restructuring plans, namely a long-term plan for *Elan Skupina* and a "recovery programme", which however do not seem to meet all the conditions laid down in the Rescue and Restructuring Guidelines.
 - It is unclear whether the aid was limited to the minimum necessary.
 - Furthermore, from the information provided to the Commission, there is no indication that there was an own contribution. To the contrary, the one owner of *Elan Skupina* not linked to the State, *KD Kapital*, reduced its participation in connection with the first measure.
 - There is no information on compensatory measures. When assessing such appropriate measures, the Commission would also take into account the market structure.
- (44) Finally, it has to be considered that rescue or restructuring aid must comply with the "one time, last time principle" as laid down in point 72 et seq of the Rescue and Restructuring Guidelines, i.e. that no new rescue or restructuring aid could be approved when rescue or restructuring aid was granted in the past. It is not clear whether *Elan Skupina* and its subsidiaries *Elan Ski* and *Elan Marine* have benefitted from rescue or restructuring aid before.
- (45) Overall, the Commission has doubts that the measures could be compatible as restructuring aid.

4.3.2. *Regional aid*

- (46) As mentioned above, *Elan Ski* and *Elan Marine* are located in a region eligible for aid under Article 107(3)(a) TFEU. So far, it is not clear whether the capital injections could be considered as compatible regional aid, as it seems that both beneficiaries were in difficulty at the time of granting and are therefore not eligible to receive regional aid.
- (47) Hence, *prima facie*, the Commission doubts that the measures could be considered compatible as regional aid.

5. CONCLUSION

(48) In the light of the above considerations, the Commission has decided to initiate the formal investigation procedure provided for in Article 108(2) TFEU to the measures in question.

Decision

In the light of the foregoing considerations, the Commission, acting under the procedure laid down in Article 108(2) TFEU, requests Slovenia to submit its comments and to provide all such information as may help to assess the aid, within one month of the date of receipt of this letter. In particular, information should contain:

Information as regards the companies *DSU*, *Triglav Investment* and *Triglav Insurance* respectively:

- Please provide information which share (in %) the Slovenian State holds directly or indirectly in *DSU*, *Triglav Investment* and *Triglav Insurance*. If there are other shareholders than the State, please provide information whether they are in turn directly or indirectly owned by the Slovenian State.
- Please provide a short description of the way the decisions within *DSU*, *Triglav Investment* and *Triglav Insurance* are being adopted and the reasoning the management board and the supervisory board have to follow when adopting a decision.
- Please provide the decisions of the management board and the supervisory board of *DSU*, *Triglav Investment* and *Triglav Insurance* on the two capital injections in *Elan Skupina* (at that time: *Skimar*) and the minutes of the meetings during which those decisions were taken.
- Please describe who is responsible for the appointment of the supervisory board of *DSU*, *Triglav Investment* and *Triglav Insurance*. In addition please submit a list of the members of the supervisory board as well as the positions which those members hold within Slovenian public authorities.

Purchase of *KD Kapital's* shares in *Elan Skupina* by *KAD*:

- Please provide information on the price that *KAD* paid *KD Kapital* for its 16,83% shares in *Skimar* in April 2008 as well as a copy of the share sell option contract.
- In addition, please provide the minutes of the 116th supervisory meeting of *KAD*, in which the share sell option contract between *KAD* and *KD Kapital* was agreed.

It requests your authorities to forward a copy of this letter to the potential recipient of the aid immediately.

The Commission wishes to remind Slovenia that Article 108(3) TFEU has suspensory effect, and would draw your attention to Article 14 of Council Regulation (EC) No 659/1999, which provides that all unlawful aid may be recovered from the recipient.

The Commission warns Slovenia that it will inform interested parties by publishing this letter and a meaningful summary of it in the *Official Journal of the European Union*. It will also inform interested parties in the EFTA countries which are signatories to the EEA Agreement, by publication of a notice in the EEA Supplement to the *Official Journal of the European Union* and will inform the EFTA Surveillance Authority by sending a copy of this letter. All such interested parties will be invited to submit their comments within one month of the date of such publication.

If this letter contains confidential information which should not be published, 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 publication of the full text of this letter. Your request specifying the relevant information should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
State Aid Greffe
B-1049 Brussels

Fax No: +32-2-296.1242

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-President of the Commission

NOTICE FOR PUBLICATION IN THE OJ, C SERIES
(decisions to initiate the formal investigation procedure)

STATE AID – Slovenia

STATE AID No C13/2010 (ex NN17/2010)
- potential aid measures in favour of Elan d.o.o. and Elan Marine d.o.o.

Invitation to submit comments pursuant to Article 108(2) TFEU

Text with EEA relevance

By means of the letter dated 12.05.2010, reproduced in the authentic language on the pages following this summary, the Commission notified Slovenia of its decision to initiate the procedure laid down in Article 108(2) TFEU concerning the abovementioned measures.

Interested parties may submit their comments on measures in respect of which the Commission is initiating the procedure within one month of the date of publication of this summary and the following letter, to:

European Commission
Directorate-General for Competition
State aid Greffe
Office: SPA3, 6/5
B-1049 Brussels
Fax No: +32 2 296 12 42

These comments will be communicated to Slovenia. Confidential treatment of the identity of the interested party submitting the comments may be requested in writing, stating the reasons for the request.

TEXT OF SUMMARY

Subject: State aid C13/2010 (ex NN 17/2010) Potential aid measures in favour of Elan d.o.o. and Elan Marine d.o.o.

I. Procedure

On 10 July 2008 a complaint was filed regarding an alleged State aid to Elan ski (Slovenia). The Commission has investigated the alleged measure through a number of requests for information to the Slovenian State. In addition, the Commission received detailed information from the complainant.

II. Description

The beneficiaries of the measures in question were *Elan Ski*, a company active in the production of ski and *Elan Marine*, a company active in the production of marine oriented crafts. Both companies, which are located in a region eligible for regional aid under Article 107(3)(a) TFEU, are 100% owned by *Elan Skupina*, which is in turn owned by several State owned companies. *Elan Skupina* and its two subsidiaries have been struggling financially for several years. Accordingly, in 2007 and 2008, the State owned companies who own *Elan Skupina*, provided it with two capital injections of EUR 10 million each, of which *Elan Skupina* injected approximately EUR 11,7 million in *Elan Ski*. The remaining EUR 8,3 million was transferred to *Elan Marine*.

III. Assessment

These capital injections could entail State aid within the meaning of Article 107(1) TFEU. As they were undertaken by State owned companies, they seem to be imputable to the Slovenian State. In addition, they possibly provided an advantage to the company which did not have easy access to capital and credit in its prevailing state. If the measures in question are to be considered as State aid, the Commission has to verify whether such aid could be compatible under Article 107(2) or 107(3) TFEU. So far, the Commission does not have sufficient information to conclude on the compatibility of the measures in question.

IV. Conclusion

In the light of the foregoing considerations, the Commission has to initiate the formal investigation procedure provided for in Article 108(2) TFEU to the measures described above.