



Brussels,

C (2014)

**Subject: State aid/Germany**  
**Aid No SA.37387 (2013/N)**  
**Bund: Framework of the "Common Task Improvement of the**  
**Agricultural Structures and the Coastal Protection (GAK)" Support for**  
**Forestry measures**

Sir,

The European Commission (hereafter: "the Commission") wishes to inform Germany 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 Treaty on the Functioning of the European Union (hereinafter "TFEU").

The Commission has based this decision on the following considerations:

**1. PROCEDURE**

- (1) In accordance with Article 108(3) of the TFEU Germany notified the Commission of this scheme by letter of 20 September 2013, registered by the Commission on the same day. With letters of 18 October 2013 and 20 December 2013 the Commission has requested supplementary information, which the German authorities provided by letters of 15 November 2013, 15 January 2014 and 12 February 2014, registered by the Commission on the same dates.

**2. DESCRIPTION OF THE AID SCHEME**

**Title**

- (2) Bund: Framework of the "Common Task Improvement of the Agricultural Structures and the Coastal Protection (GAK)" Support for Forestry measures.

Seiner Exzellenz Herrn Dr. Frank-Walter STEINMEIER  
Bundesminister des Auswärtigen  
Werderscher Markt 1  
D - 10117 Berlin

## **Objective**

- (3) The objective is to notify to the Commission the amendment to the aid scheme SA.32134 (2010/N): "Framework of the "Common Task Improvement of Agricultural Structures and Coastal protection (GAK)"Forestry measures". This aid scheme was approved by Commission Decision C(2011)1347 of 8 March 2011 and amended with aid number SA.33888 (2011/N), approved by Commission Decision C(2011)8272 of 23 November 2011. The proposed modification is related to its duration and the budget, as well as to three sub measures which are not prolonged.

## **Duration**

- (4) The duration of the prolonged scheme is from the date of the Commission Decision until 31 December 2015.

## **Budget**

- (5) The overall budget approved in the aid scheme SA.32134 (2010/N) for the period 2011-2013 was 180 million euros and has been increased to 210 million euros in the amended aid scheme SA.33888 (2011/N).
- (6) For the period 2014 – 2015 this budget is proposed to be increased by 140 million euros corresponding to the prolonged duration. The amount proposed is 70 million euros for the year 2014 and 70 million euros for the year 2015.

## **Beneficiaries**

- (7) Beneficiaries are according to the Federal Forest Act (Bundeswaldgesetz) natural and legal persons of private and public law as owners of agricultural and forestry land, recognised forestry associations and equated associations. Federal and regional governments and their companies with at least 25% public capital share are excluded.
- (8) The German authorities commit to suspend the payment of the notified aid if the beneficiary still has at his disposal an earlier unlawful aid declared incompatible with the internal market by a Commission Decision (either concerning an individual aid or an aid scheme), until that beneficiary has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest. The implementation is carried out by the competent authorities of the "Lander".
- (9) The German authorities have confirmed that no aid will be granted to firms in difficulty in the meaning of the Community Guidelines on State Aid for Recuing and Restructuring Firms in Difficulty<sup>1</sup>. The implementation is carried out by the competent authorities of the "Lander".

## **Legal basis**

- (10) The scheme is based on the Framework of the "Common Task Improvement of the Agricultural Structures and the Coastal Protection" ("Gemeinschaftsaufgabe Verbesserung der Agrarstruktur und des Küstenschutzes") (hereinafter: GAK). Promotion of forestry measures: promotion of first afforestation, promotion of near natural forest management and promotion of forestry infrastructure.

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<sup>1</sup> OJ C 244, 1.10.2004, p. 2.

## **Aid intensity**

- (11) Up to 100% of eligible expenses.

## **Description**

- (12) The modification relates only to the prolonged duration until 31 December 2015 and the related increase of the budget by 140 million euros. The sub measures nr. 2.1.3. "Income loss premium", nr. 7.6. "Insecticide-free forest protection" and nr. 7.7 "Use of environment-friendly forestry technology" ended as foreseen on 31 December 2013 and are not prolonged. The measure nr. 7.7 "Use of environment-friendly forestry technology", has been previously notified to the Commission with aid number SA.33888 as an amendment to aid scheme SA.32134 and approved by Commission Decision C(2011)8272 of 23 November 2011. As this measure will not be prolonged, the notification at hand concerns the prolongation and budget increase in relation to the measures foreseen in aid scheme SA.32134.
- (13) The German authorities have confirmed that the conditions of the measures for which the prolongation has been requested, remain unchanged in comparison to the approved aid scheme SA.32134.
- (14) Co-financing of some of the measures is possible whereas a decision is the competence of the Länder in compliance with the respective regional Rural Development Programmes. The German authorities have given assurances that double support will be excluded at the implementing of this notified prolongation of the aid scheme and the implementing of the German Rural Development Programmes.
- (15) Pursuant to Article 1 (5) and Article 1 (6) of Commission Implementing Regulation (EU) No 335/2013<sup>2</sup> the German authorities have confirmed that after 31 December 2013 no co-financing will be given to the measures of Article 43 (first afforestation of agricultural land) and Article 45 (first afforestation of non-agricultural land) of Council Regulation (EC) No 1698/2005<sup>3</sup> in the framework of the regional Rural Development Programmes.
- (16) The German authorities have mentioned that the requested prolongation of the aid scheme does not contain forest environmental-commitments within the meaning of Article 47 of Council Regulation (EC) No 1698/2005 and have therefore confirmed that in the framework of the regional Rural Development Programmes no co-financing will be given to this measure after the period mentioned in Article 1 (7) of Implementing Regulation (EU) No 335/2013.
- (17) Germany has submitted the annual reports on the approved aid schemes SA.32134 and SA.33888 in respect of each calendar year during which the schemes have applied.

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<sup>2</sup> Commission Implementing Regulation (EU) No 335/2013 of 12 April 2013 amending Regulation (EC) No 1974/2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 105, 13.4.2013, p. 1.).

<sup>3</sup> Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 277, 21.10.2005, p. 1.).

- (18) Furthermore, the German authorities confirmed that the scheme at hand complies with point 16 of the Community Guidelines for State Aid in the Agriculture and Forestry Sector 2007 – 2013<sup>4</sup> (hereafter "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 TFEU 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: the aid scheme has been set up and declared compatible with the TFEU by the Commission; an application for aid has been properly submitted to the competent authority concerned; 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.

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

#### **Existence of State aid**

- (19) As already set out in the State aid case SA.32134, the scheme constitutes State aid within the meaning of Article 107(1) of the TFEU.

#### **Compatibility of State aid**

- (20) As regards the assessment of the content of the notified scheme, reference is made to the decision taken on State aid scheme SA.32134 which was approved under Chapter VII of the Guidelines and which remain in force, The German authorities confirmed that there are no other alterations proposed. Therefore, this modification does not affect the evaluation of the compatibility of the aid measure with the internal market, as carried out in that decision.
- (21) The Commission notes that Germany has submitted the annual reports on the approved aid schemes SA.32134 and SA.33888 in respect of each calendar year during which the schemes have applied.
- (22) In accordance with the Deggendorf ruling<sup>5</sup>, the Commission takes account of the commitment made by the German authorities to suspend the payment of the notified aid if the beneficiary still has at its disposal an earlier unlawful aid that was declared incompatible by a Commission Decision (either concerning an individual aid or an aid scheme), until that beneficiary has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid including the corresponding recovery interest.
- (23) Point 16 of the Guidelines provides conditions that must be fulfilled for the aid to have an incentive effect. As stipulated under point 18 of this decision, these conditions are met.

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<sup>4</sup> OJ C 319, 27.12.2006, p. 1.

<sup>5</sup> Judgment of the General Court of 13 September 1995, joined cases T-244/93 and T-486/93, *Textilwerke Deggendorf GmbH v Commission*, p. II-2268, paras 51 and 56 et seq.; confirmed by the judgment of the Court of Justice of 15 May 1997, case C-355/95 P, p. I-2575, paras 22 and 26 et seq.

- (24) On the basis of the above considerations it may be concluded that the aid scheme in question complies with the relevant provisions of the Guidelines and is therefore considered being compatible with the internal market under Article 107(3) (c) of the TFEU. However, since the present aid scheme is proposed to be prolonged until 31 December 2015, the Commission would like to remind the German authorities that the current Guidelines are due to expire at 30 June 2014<sup>6</sup> and the Commission may, if necessary, propose appropriate measures to ensure that the existing schemes are adapted to the new applicable rules.

#### **4. DECISION**

The Commission has therefore decided not to raise objections to the scheme as it is compatible with the internal market under Article 107(3) (c) of the TFEU.

If this letter contains confidential information which 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 the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>

Your request should be sent by registered letter or fax to:

European Commission  
Directorate-General for Agriculture and Rural Development  
Directorate I – Agricultural Legislation and Procedures  
Unit I.2 – Competition  
Office: Loi 130 5/94A  
B-1049 Brussels  
Fax No: 0032 2 29 67 672

Yours faithfully,

For the Commission

Dacian CIOLOȘ  
Member of the Commission

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<sup>6</sup> OJ C 339, 20.11.2013, p. 1.