



EUROPEAN COMMISSION

Brussels, 4.2.2015
C(2015) 448 final

Subject: **State aid/Ireland**
Forestry Programme 2014 – 2020: Ireland
SA. 39783 (2014/N) – IRL Afforestation and Creation of Woodlands

Sir,

The European Commission (hereinafter "the Commission") wishes to inform Ireland 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 Afforestation and Creation of Woodlands Scheme, which is part of the Irish Forestry Programme 2014 – 2020 and which falls within the scope of the present decision, as it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union (hereinafter "TFEU").

The Commission has based its decision on the following considerations:

1. PROCEDURE

- (1) By electronic communication, dated 7 November 2014, registered by the Commission on the same day, Ireland notified, according to Article 108(3) TFEU, the Forestry Programme 2014 - 2020, which contains the scheme mentioned above. The Commission made requests for further information on 27 November 2014, in response to which the Irish authorities provided additional information on 28 November 2014, registered by the Commission the same day. Further information on the Afforestation Scheme was provided by Ireland on 14 January 2015.

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2. DESCRIPTION

2.1. Title

- (2) Forestry Programme 2014 – 2020: Ireland

2.2. Objective

- (3) With the present notification, the Irish authorities aim to grant State aid in order to build and maintain the national forest resource and its services. The State supported afforestation has been in operation since the 1980s, as a response to low forest land cover in Ireland.

2.3. Legal basis

- (4) The legal basis is the Forestry Programme 2014-2020 of Ireland, prepared by the Forestry Division, Department of Agriculture, Food and the Marine;
- (5) The following documents provide further guidance on the implementation of the forestry programme:
- The Department for Agriculture Food and Marine’s “Statement of Strategy 2011-2014”;
 - The forest policy review “Forest Products and People - Ireland’s Forest Policy - A Renewed Vision”;
 - Ireland’s Prioritised Action Framework (PAF) for NATURA 2000;
 - Ireland’s Strategy on Renewable Energy 2012- 2020;
 - The “Code of Best Forest Practice - Ireland”, together with the adherence to the principles of Sustainable Forest Management (SFM) and to the national environmental guidelines which are currently under review.

2.4. Duration

- (6) Until 31/12/2020.

2.5. Budget

- (7) The total budget for the scheme is 199,486,744 EUR.

2.6. Beneficiaries

- (8) The beneficiaries of the Programme are both public and private actors, including SMEs and large companies. A total estimate of up to 25,000 beneficiaries will apply for the Programme.

2.7. Description of the aid measure

- (9) The scheme aims to provide support for afforestation, in the form of establishment cost and 15 annual premium payments.

- (10) The Afforestation and Creation of woodlands scheme is divided in four sub-schemes: (a) Afforestation Scheme; (b) Native Woodland Establishment Scheme; (c) Agro-Forestry Scheme; (d) Forestry for Fibre Scheme.

(a) Afforestation Scheme

- (11) The aim of the Afforestation scheme is to increase the forest cover area in Ireland, which is currently at a very low level of 10.7%, in comparison with the EU average of 38%. The target is to reach 18% forest land cover by mid-century.
- (12) This scheme will be primarily targeted at private land-holders.
- (13) Projects must be undertaken in compliance with national and EU legislation. Only projects which receive prior written approval from the Department of Agriculture, Food and the Marine, and are undertaken in compliance with sustainable forest management and any specific conditions of approval, will be eligible for support.
- (14) Support will take the form of grants towards the cost of establishment and annual premiums for a period of 12 years, in order to cover the costs of agricultural income foregone and maintenance.
- (15) General de minimis aid¹ will be used to provide funding for annual premiums of the years 13-15 for “Afforestation” sub-scheme. The de minimis aid does not fall under the scope of this decision.
- (16) The eligible operations include ground preparation, cost of plants, planting, fertiliser, management of competing vegetation, filling-in planting, shaping of broadleaves, mapping, fencing and tree protection, establishment of firebreaks, management and supervision and other related operations deemed appropriate by the Forest Service.
- (17) The land will remain under forestry indefinitely and therefore is subject to a re-planting obligation.

(b) Native Woodland Establishment Scheme

- (18) The aim of Native Woodland Establishment Scheme is to support the establishment of new native woodlands on 'green field' sites, providing opportunities to protect and expand Ireland's native woodland resource and its associated biodiversity.
- (19) The scheme provides financial support for farmers and other landholders.
- (20) Support will take the form of grants towards the cost of establishment and annual premiums for a period of 12 years, in order to cover the costs of agricultural income foregone and maintenance.

¹ Commission Regulation (EU) No 1407/2013, of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector, OJ L 352, 24.12.2013, p. 9.

- (21) General de minimis aid² will be used to provide funding for annual premiums of the years 13-15 for “Native Woodland Establishment” sub-scheme. The de minimis aid does not fall under the scope of this decision.
- (22) The scheme is a key biodiversity measure within Ireland’s national forest policy, by supporting a wide range of other benefits and functions arising from native woodlands, relating to reversing wider habitat fragmentation, the protection and enhancement of water quality, landscape, cultural heritage, wood and non-wood products and services, the practice of traditional woodland management techniques, environmental education, and carbon sequestration.
- (23) The scheme will increase the area of native woodland within Ireland and will introduce a forestry land use option for farmers in environmentally sensitive areas, promoting the use of native woodland creation to deliver wider ecosystem services such as water quality, soil stabilisation and habitat connectivity.
- (24) For environmental purposes, strict adherence to the Native Woodland Establishment Site Appraisal Framework will apply for this scheme.
- (25) The land will remain under forestry indefinitely and therefore is subject to a re-planting obligation.

(c) Agro-Forestry Scheme

- (26) The aim of the Agro-Forestry Scheme is to support for the first time silvopastoral agro-forestry systems which combine forestry and pasture, including grazing and the growing of fodder.
- (27) Funding will be provided to private land owners only.
- (28) A stocking rate of 400 - 1000 trees per hectare at equal spacing is proposed and the minimum eligible plot size and width will be 0.5 ha and 20 metres respectively. The trees will be thinned out over the tree species rotation using continuous cover forestry principles.
- (29) Individual trees must be protected by tree shelters in the early years of establishment. Where an agro-forestry plot forms part of a larger afforestation project, the agro-forestry plot must be fully fenced to prevent animal trespass into the adjacent forest plots.
- (30) Agro-forestry will remain under forestry indefinitely and therefore is subject to a re-planting obligation.

(d) Forestry for Fibre Scheme

- (31) The aim of the Forestry for Fibre Scheme is to meet a forecast supply-demand gap for fibre for energy and other wood product applications that will arise over the next two decades. The scheme is targeted at growing productive species on fertile sites capable of providing wood biomass yields. Eligible species under this scheme are the Italian Alder, Hybrid aspen, Eucalyptus and Poplar.

² Commission Regulation (EU) No 1407/2013, of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector, OJ L 352, 24.12.2013, p. 9.

- (32) General de minimis aid³ will be used to provide funding for annual premiums of the years 13-15 for “Forestry for Fibre” sub-scheme, as well as to fund all annual premiums for sub-scheme. The de minimis aid does not fall under the scope of this decision.
- (33) The maximum aid intensity is 100% for all sub-schemes, with the exception of “Agro-Forestry” sub-scheme which benefits of a maximum 80% intensity for grants and 100% intensity for the annual premium.

Common features to all schemes

- (34) All afforestation under the four sub-schemes will require consent from the Forest Service in order to ensure that the site is suitable. Afforestation will be avoided on environmentally unsuitable sites. Afforestation will be adapted to environmental sensitivities, such as habitats and species (including NATURA sites, Freshwater Pearl Mussel and Hen Harrier), water quality (including fisheries sensitive areas, waterbody status, acid sensitive areas), archaeology, landscape, and local sensitivities.
- (35) The measure will comply with Natura 2000 management plans or, in the absence thereof, with the general conservation objectives of the sites (non-deterioration of the sites as a minimum requirement).
- (36) The inappropriate afforestation of sensitive habitats such as peat lands and wetlands will be avoided, as well as the negative effects on areas of high ecological value including areas under high natural value farming.
- (37) The four sub-schemes will allow species selection based on their suitability to the soil types present and other site factors like elevation, moisture, and landscape.
- (38) It will be a requirement of all applications submitted for approval to contain at least 10% of the area with broadleaved and native species which may be planted in areas adjacent to watercourses or in areas to maximise landscape impacts. At national level, Ireland aims to achieve a target of 30% broadleaves.
- (39) Integrated pest management principles will be mainstreamed into forestry establishment and management, in order to ensure that new forest plantations have a strong focus on prevention and suppression of harmful organisms so as to increase climate resilience. Integrated Pest Management will also be obligatory for the professional users.
- (40) The environmental requirements and the ecological infrastructure will be considered in a coherent and integrated manner, in order to achieve the indicated environmental aims in relation to soil and water quality, biodiversity and ecosystems protection.
- (41) Aid provided under this programme will not exceed the aid ceilings laid down in the European Union Guidelines for State aid in the agricultural and forestry

³ Commission Regulation (EU) No 1407/2013, of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid in the agriculture sector, OJ L 352, 24.12.2013, p. 9.

sectors and in rural areas 2014 to 2020⁴ (hereinafter "the Guidelines"). This will apply in all cases when aid is granted concurrently under several schemes. Other forms of State aid are not envisaged to fund eligible costs other than that already described in this programme.

- (42) The Irish Authorities consider that the aid does not present an incentive for the beneficiary wherever work on the relevant project or activity has already started prior to the aid application by the beneficiary to the national authorities.
- (43) The aid application for the schemes under this Programme will include the applicant's name and the size of the undertaking, a description of the project or activity, including its location and start and end dates, the amount of aid needed to carry it out and the eligible costs. In the case of large companies, a counterfactual scenario will be provided and a credibility check performed.
- (44) The Irish authorities committed to suspend the payment of the 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 the unlawful and incompatible aid including the corresponding recovery interest.
- (45) The Irish authorities have confirmed that companies which are in difficulty within the meaning of the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty are specifically excluded from receiving any aid under the present scheme.⁵

3. ASSESSMENT

3.1. Scope of the Decision

- (46) The *de minimis* aid granted by the Member State is excluded from the scope of this decision.

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

- (47) For Article 107(1) TFEU to apply, the measures must provide an economic benefit to an undertaking which it would not have received in its normal course of business, the aid must be granted to certain undertakings, the benefit must be granted by a Member State or through State resources and the measures must be capable of affecting trade between Member States.
- (48) It is undisputed that the scheme in question confers an advantage on their recipients. This advantage is funded from the State budget, i.e., granted through State resources and it favours forest owners, foresters and companies active in the field of forestry, which are also active in external and/or intra-EU trade. 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

⁴ The European Union Guidelines for State aid in the agricultural and forestry sectors, OJ C 204 of 1.7.2014.

⁵ The definition of undertakings in difficulty applied under the European Union Guidelines for State aid in the agricultural and forestry sectors, OJ C 204 of 1.7.2014, p. 1., is covered by the one that applies in the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249 of 31.07.2014).

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.⁶

- (49) 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 trade.⁷ The beneficiaries of aid operate on the forestry market where trade between Member States takes place. Statistical data shows that 434,998.37⁸ thousand cubic metres of round wood were produced in the European Union in 2013, out of which around 36,330 thousand cubic metres were traded between EU member States in 2013. In the same year, Ireland exported 357.64⁹ thousand cubic meters to other EU countries. 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.
- (50) In light of the above, the conditions of Article 107(1) of the TFEU are fulfilled. It can therefore be concluded that the proposed scheme constitutes State aid within the meaning of that Article.

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

- (51) The aid scheme was notified to the Commission on 07/11/2014. Therefore, Ireland has complied with its obligation under Article 108(3) TFEU.

3.4. Compatibility of the aid

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

- (52) State aid may only be considered compatible with the common market if it can benefit from one of the derogations provided for in the TFEU.
- (53) 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.
- (54) For that derogation to be applicable, the aid must fulfil the requirements of the relevant Union State aid legislation.

⁶ Judgment of the Court of 17 September 1980 in Case 730/79 *Philip Morris Holland BV v Commission of the European Communities* [1980] ECR 2671.

⁷ See in particular the judgment of the Court of 13 July 1988 in Case 102/87 *French Republic v Commission of the European Communities* [1988] ECR 4067.

⁸ EUROSTAT database, Roundwood production and trade, update from 12/08/14.

⁹ *Ibid.*

3.4.2. *Application of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020*

- (55) As regards the notified aid scheme, Part II, Chapter 2 of the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020¹⁰ (hereinafter "the Guidelines") is applicable.

3.4.2.1. Common Assessment Principles

Objective of common interest

- (56) In conformity with point 43 of the Guidelines, the Programme aims to promote the efficient and sustainable use of resources in the Irish forestry sector. The schemes are rural development like, they operated successfully under previous rural development programmes and started to be financed exclusively from national funds since 2007. In conformity with point 47 of the Guidelines, the Irish Authorities demonstrate that the Programme fits into and is consistent with the "Rural Development Programme Ireland 2014-2020". The Programme is designed in a consistent manner with Regulation (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)¹¹. The Irish Authorities decided to fund forestry under State aid rules outside the scope of the Irish rural development programme, as it was considered that an already ambitious rural development programme would not have sufficient financial capacity for another large scheme such as forestry.

In line with point 52 of the Guidelines, the Irish Authorities have assessed the environmental impact of the schemes, demonstrating that the aid measure does not result in an infringement of applicable Union environmental protection legislation. The Irish Authorities foresee protection measures to respect environmental sensitivities, including the protection of habitats and species (including NATURA sites, Freshwater Pearl Mussel and Hen Harrier), water quality (including fisheries sensitive areas, water body status, acid sensitive areas), archaeology, landscape, and local sensitivities. The capacity of the site to support a forest is also taken into consideration, via factors such as site fertility, elevation and exposure, and access.

Need for State intervention

- (57) State intervention is required on grounds of market failure in afforestation and woodland management in Ireland. Ireland has a low level of forest cover (10,7%) compared to the rest of Europe (37%), so State support is required in order to encourage reluctant land owners to convert their land forever to an alternative land use. The aim of general interest of the Irish Authorities is to increase the forest land cover area to 18% by mid-century.

The Irish Authorities demonstrated that the market is not delivering the expected objectives without State intervention. Farmers have to forego their annual income, in order to change to forestry, where the results of investment can be achieved only after 30 to 40 years after planting. The conversion of land use from agriculture to forestry represents a case of market failure and justifies state support.

¹⁰ See footnote 2.

¹¹ OJ L 347, 20.12.2013, p. 487.

According to point 55 of the Guidelines, the Commission considers that the market is not delivering the expected objectives without State intervention concerning the aid measures fulfilling the specific conditions laid down in Part II of the Guidelines, which are analysed below under section 3.4.2.2 Specific assessment. As it appears from the analysis in that chapter, the specific conditions are fulfilled. Therefore, such aid should be considered necessary to achieve the objectives of common interest specified in this section.

Appropriateness of aid

- (58) As per points 56 and 57 of the Guidelines, the scheme is an appropriate policy instrument to address forest management in Ireland. The Irish Authorities inform that other potentially less distortive forms of aid do not exist at the moment, as referred in point 62 of the Guidelines. However, the Irish Authorities commit to capitalise on the experience acquired and to explore new financial and funding mechanisms to encourage a greater level of institutional investment in afforestation and in mobilising wood supply from the existing private forest estate. The Commission therefore considers the aid instruments appropriate and the specific aid forms are in line with the Part II of the Guidelines.

Incentive effect

- (59) In conformity with point 66 of the Guidelines, the scheme has an incentive effect, as it changes the behaviour of undertakings in the forestry sector, engaging them in additional activity contributing to the development of the forestry sector, in which they would have normally not engaged. This is due to the fact that forestry has very long rotation cycles of 30 to 40 years, which discourages investors, given the time lag between investment and harvest. The situation is similar for thinning. Statistics show that in 2012, 23% of the national estate had reached thinning stage but had not been thinned.
- (60) As described in points 42 and 43 above, in 2.7. Description of the aid measure, the conditions set out in points 70 to 73 of the Guidelines are met.

Proportionality

- (61) Pursuant to point 84 of the Guidelines, proportionality is fulfilled, as the eligible costs are in line with the specific conditions set out in Part II of the Guidelines and the maximum aid intensities are respected (see Section 3.4.2.2 below).

Pursuant to point 96 of the Guidelines, the Irish Authorities ensure that the aid amount for large companies will not exceed the minimum necessary to render the project sufficiently profitable. Large companies must provide documentary evidence that the aid is proportionate, by submitting an IRR and NPV analysis of the investment with aid and without aid. Only applications which are deemed proportionate will be grant aided by the Forest Service.

As described in point 41 above, in 2.7. Description of the aid measure, the conditions regarding cumulation of aid, set out in points 99 to 107 of the Guidelines, are met.

Effects on distortion of competition

- (62) Pursuant to point 113 of the Guidelines, the negative effect on competition and trade is limited to the minimum, as the aid has positive effects on the development of the sector, fulfils the conditions set out in Part II of the Guidelines and does not exceed the relevant maximum aid intensities specified therein.

For the investment schemes, Ireland takes all necessary measures to ensure that the negative effects will be limited to the minimum, pursuant to point 116 of the Guidelines.

From a statistical point of view, Ireland produced 2,759.62 thousand cubic metres of round wood in 2013. It exported 357,64 thousand cubic meters of round wood to other EU countries, which represents around 13% of national production, and less than 0,984% of the approx. 36,330 thousand cubic metres traded in total between EU Member States in 2013. Equally during 2013, Ireland imported a total of 252,92 thousand cubic metres of round wood, out of which 251,53 thousand cubic metres originated from other EU countries¹².

We observe similar trends during the period 2004-2013: (a) production of total round wood is at around an average of 2,500 thousand cubic metres per year; (b) export of round wood averages at around 280 thousand cubic metres per year, so around 11% of production; (c) import of round wood averages at around 190 thousand cubic metres per year; (d) import and export to third countries are at low levels averaging 5 thousand cubic metres per year, except the year 2010, with a balance of export of approx. 140 thousand cubic metres.

It results from the above that the impact on trade between Member States is less significant and that the bulk of the production is used for inner consumption.

Transparency

- (63) Pursuant to point 128 of the Guidelines, the Irish Authorities specify that the relevant information will be published on the website of Department of Agriculture, Food and the Marine, respecting the conditions set out in that respective point.

3.4.2.2. Specific assessment according to the category of aid

Afforestation and Creation of woodlands

Sub-scheme 1: Afforestation Scheme

- (64) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.1.1 of the Guidelines, points 504-512, referring to aid for afforestation and creation of woodland.
- (65) In accordance with point 505 of the Guidelines, aid may be granted to public and private land-holders and their associations. This measure will be primarily targeted at private land-holders. In the case of state-owned land, aid may be

¹² All data available from EUROSTAT database, last update 10/2014.

granted if the body managing such land is a private body or municipality in accordance with point 506 of the Guidelines.

- (66) In accordance with point 507 of the Guidelines, aid will be granted in the form of an establishment grant covering 100% of eligible costs, subject to the maximum laid down in the Scheme, and an annual premium. The annual premium is paid at different rates depending on the type of tree, and is meant to cover the cost of maintenance and income foregone. In accordance with State aid rules, the annual premium will be paid for 12 years. The Irish Authorities have informed the Commission that 3 additional annual premiums will be paid via *de minimis* aid up to year 15. As mentioned in point 15 above, these additional premiums are not covered by the present decision.
- (67) The conditions set out in point 508 of the Guidelines are met, as no aid may be granted for the planting of trees for short rotation coppicing, Christmas trees or fast growing trees for energy production.
- (68) The conditions of point 509 of the Guidelines concerning minimum environmental requirements are met, as set out in points 34 to 40 of the description above. Species planted will be adapted to the environmental and climatic conditions of the area and comply with minimum environmental requirements.

Sub-scheme 2: Native Woodland Establishment Scheme

- (69) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.1.1 of the Guidelines, points 504-512, referring to aid for afforestation and creation of woodland.
- (70) In accordance with point 505 of the Guidelines, aid may be granted to public and private land-holders and their associations. This measure will be primarily targeted at private land-holders. In the case of state-owned land, aid may be granted if the body managing such land is a private body or municipality in accordance with point 506 of the Guidelines.
- (71) The conditions set out in point 508 of the Guidelines are met, as no aid may be granted for the planting of trees for short rotation coppicing, Christmas trees or fast growing trees for energy production. Species planted must be adapted to the environmental and climatic conditions of the area and comply with minimum environmental requirements. The Irish Authorities specify that all grant payments will be conditional on the forest being adequately established and maintained and undertaken in compliance with the silvicultural and environmental conditions of the original approval.
- (72) In accordance with point 507 of the Guidelines, aid will be granted in the form of an establishment grant covering 100% of the eligible costs, subject to the maximum laid down in the Scheme, and an annual premium. The annual premium is paid at different rates depending on the type of tree, and is meant to cover the cost of maintenance and income foregone. In accordance with State aid rules, the annual premium will be paid for 12 years. The Irish Authorities have informed the Commission that 3 additional annual premiums will be paid via *de minimis* aid up to year 15. As mentioned in point 21 above, these additional premiums are not covered by the present decision.

- (73) The conditions of point 509 of the Guidelines concerning minimum environmental requirements are met, as set out in points 34 to 40 of the description above. Species planted will be adapted to the environmental and climatic conditions of the area and comply with minimum environmental requirements.

Sub-scheme 3: Agro-Forestry Scheme

- (74) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.1.2 of the Guidelines, points 513-518, referring to aid for establishment of agro-forestry systems.
- (75) In accordance with point 515 of the Guidelines, funding will be provided for private land-holders.
- (76) In accordance with point 516 of the Guidelines, aid will be granted in the form of an establishment grant and annual premiums for a period of five years. The annual premium will cover 80% of the eligible costs and the annual premium will cover 100% of the maintenance costs, which meets the conditions set out in point 518 of the Guidelines.
- (77) In accordance with point 517 of the Guidelines, a tree stocking rate of 400 to 1000 trees per hectare is proposed and the minimum eligible plot size and width will be 0.5 ha and 20 metres respectively. The trees will be thinned out and felled over the tree species rotation, using continuous cover forestry principles.
- (78) Agro-forestry must remain under forestry indefinitely and therefore is subject to a re-planting obligation.

Sub-scheme 4: Forestry for Fibre Scheme

- (79) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.1.1 of the Guidelines, points 504-512, referring to aid for afforestation and creation of woodland.
- (80) In accordance with point 505 of the Guidelines, aid may be granted to public and private land-holders and their associations.
- (81) In line with point 507 of the Guidelines, aid will be granted in the form of an establishment grant covering 100% of the eligible costs.
- (82) Pursuant to point 506 of the Guidelines, aid for afforestation of land for fast growing trees covers only the costs of establishment. In conformity with point 509(b) of the Guidelines, fast growing trees are defined by Ireland as having 9 years between cuts. Trees planted under this scheme will be cut between 10 to 15 years, which justifies the inclusion of this scheme under afforestation. An annual premium payment will be paid for 10 years under general de minimis rules. As mentioned in point 32 above, these additional premiums are not covered by the present decision.
- (83) The conditions set out in point 508 of the Guidelines are met, as no aid may be granted for the planting of trees for short rotation coppicing, Christmas trees or fast growing trees for energy production. Species planted must be adapted to the environmental and climatic conditions of the area and comply with minimum

environmental requirements. The Irish Authorities specify that all grant payments will be conditional on the forest being adequately established and maintained and undertaken in compliance with the silvicultural and environmental conditions of the original approval.

- (84) Preference will be given to applications that propose to use improved genetic material, such as planting stock from tree improvement programmes. Planting sites will comply with minimum environmental conditions (sites must be below 200m in elevation, enclosed, and with free-draining arable or pasture soils or surface water gleys without a peat layer; fertilizer application will not be required).
- (85) The conditions of point 509 of the Guidelines concerning minimum environmental requirements are met, as set out in points 34 to 40 of the description above. Species planted will be adapted to the environmental and climatic conditions of the area and comply with minimum environmental requirements.
- (86) In accordance with point 729 of the Guidelines, which sets out the right of the Commission to seek additional information on existing aid schemes, the Irish Authorities have agreed to provide information to the Commission, following the mid-term review of the forestry programme 2014-2010, as to the progress achieved in increasing the forest land cover. This agreement is triggered by the observation of a relatively slow progress in increasing the forest land cover over the past years, taking as particular reference the progress achieved during the former Programme for Afforestation 2007-2013.
- (87) The Commission takes note that according to settled case law¹³, the Irish Authorities will 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.
- (88) The Commission takes note of the commitment by the Irish authorities that aid will not be granted to companies in difficulty within the meaning of the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty.
- (89) Consequently, it may be concluded that the notified aid scheme, including the four sub-schemes above, complies with the relevant provisions of the Guidelines.

4. CONCLUSION

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

¹³ See 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-2288, 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.

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 via the secured e-mail system Public Key Infrastructure (PKI) to: agri-state-aids-notifications@ec.europa.eu.

For the Commission

Phil HOGAN

Member of the Commission