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SECRETARIAT-GENERAL

Brussels, 5.2.2015
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CHORAN

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PERMANENT
REPRESENTATION OF
IRELAND TO THE EUROPEAN
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NOTIFICATION PURSUANT TO ARTICLE 297 OF THE TFEU

Subject: COMMISSION DECISION (4.2.2015)

The Secretariat-General would be obliged if you could forward the enclosed Decision to the Ministry for Foreign Affairs.

For the Secretary-General

F.O. 

Valérie DREZET-HUMEZ

Encl. : C(2015) 449 final

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EUROPEAN COMMISSION

Brussels, 4.2.2015
C(2015) 449 final

Subject: State aid/Ireland

Forestry Programme 2014 – 2020: Ireland, comprising the following schemes:
SA. 39744 (2014/N) – IRL Investments improving the Resilience and Environmental value of Forestry – Woodland Improvement Scheme
SA. 39784 (2014/N) – IRL Investments in Infrastructure: Forest Road Scheme
SA. 39785 (2014/N) – IRL Reconstitution Scheme
SA. 39786 (2014/N) – IRL Investments improving the Resilience and environmental value of Forests: NeighbourWood Scheme
SA. 39787 (2014/N) – IRL Investments improving the Resilience and environmental value of Forests: Native Woodland Conservation Scheme
SA. 39788 (2014/N) – IRL Knowledge Transfer and Information Actions
SA. 39789 (2014/N) – IRL Setting up of Producer Groups
SA. 39790 (2014/N) – IRL Innovative Forest Technology
SA. 39791 (2014/N) – IRL Forest Environment and Climate Services: Forest Genetic Reproductive Material
SA. 39792 (2014/N) – IRL Forest Management Plans

Sir,

The European Commission (hereinafter "the Commission") wishes to inform Ireland that, having examined the information supplied by your authorities on the State aid schemes referred to above, it has decided not to raise any objections to the State aid schemes above, which are included in the Forestry Programme 2014 – 2020, and falling within the scope of the present decision (see point 62 below), as they are compatible with the internal market pursuant to Articles 107(2)(b) and 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:

Mr. Charles Flanagan
Minister of the Department of Foreign Affairs and Trade
Iveagh House
80 St Stephen's Green
Dublin 2
Ireland

1. PROCEDURE

- (1) By electronic communication, dated 4 November and 7 November 2014, registered by the Commission on the same days, Ireland notified, according to Article 108(3) TFEU, the Forestry Programme 2014 - 2020, which contains the ten aid schemes mentioned above. The Commission made requests for further information on 24 November and 27 November 2014, in response to which the Irish authorities provided additional information on 28 November 2014, registered by the Commission the same day.

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 schemes covered by this decision have the following budgetary allocations (the schemes are numbered as in the Programme):

Scheme 2: Investments improving the Resilience and Environmental value of Forestry: NeighbourWood Scheme	€ 1,050,000
Scheme 3: Investments in Infrastructure: Forest Road Scheme	€ 30,600,000
Scheme 4: Prevention and Restoration of Damage to Forests: Reconstitution Scheme	€ 4,668,000
Scheme 5: Investments improving the Resilience and Environmental value of Forestry: Woodland Improvement	€ 6,750,000
Scheme 6: Investments improving the Resilience and environmental value of Forests: Native Woodland Conservation Scheme	€ 7,258,000
Scheme 7: Knowledge Transfer and Information Actions	€ 8,700,000
Scheme 8: Setting up of Producer Groups	€ 300,000
Scheme 9: Innovative Forest Technology	€ 900,000
Scheme 10: Forest Environment and Climate Services: Forest Genetic Reproductive Material	€ 420,000
Scheme 11: Forest Management Plans	€ 1,800,000

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

Scheme 2: Investments improving the Resilience and Environmental value of Forestry: NeighbourWood Scheme

- (9) The scheme aims to provide support for the development of new and existing “close-to-home” woodland or “neighbourwoods” for public access, education, and recreation on land in or near villages, towns and cities.
- (10) The scheme is aimed primarily at local authorities and private landholders, working in partnership with local communities. Other landholders may be considered on a case-by-case basis.
- (11) The scheme contains three elements: (a) silvicultural enhancement of existing amenity forests (or 'neighbourwoods'), (b) establishment of new neighbourwoods, (c) installation and upgrade of appropriate recreational facilities within existing or new amenity woodlands.

- (12) Applications under the NeighbourWood Scheme will undergo project evaluation by the Forest Service and appropriate assessment to ensure compatibility with the environment.
- (13) Eligible costs for elements (a) and (b) cover the investment in operations like planting on new site, purchase of suitable forest transplant stock, ground preparation, fertiliser application, fencing and other protective measures, clearance of invasive species, maintenance and re-spacing. Eligible costs for element (c) include the investment in footpaths, signage, way markers, car-parking, seating, picnic tables, fitness or playground equipment, bird watching hides, mountain bike tracks.
- (14) Maximum aid intensity is 100%.

Scheme 3: Investments in Infrastructure: Forest Road Scheme

- (15) The aim of this scheme is to support the construction of forest roads. Only the minimum amount of roadway required will be funded, with the main objective of enabling the access to the forest in order to perform thinning and tending.
- (16) In 2012 the National Forest Inventory showed that 23% of the national estate had reached thinning stage but had not been thinned. Therefore, in order to be eligible for a road grant, 20% of the forest receiving aid will be thinned within three years of receiving the 1st instalment grant. This will be a condition of receiving the 2nd grant.
- (17) The road density aimed at is of 20m/ha of the area served. All road construction works shall be undertaken in compliance with the Forest Road Manual or with the Forest Service specific requirements.
- (18) Investments under this scheme are open to the public free of charge. The roads will serve the multifunctional aspects of the forest.
- (19) Support will be granted to all private forests.
- (20) Eligible costs cover the investment in construction of roads, including works such as tree clearance, inceptor drains, base course and surfacing, bell mouths and turntables, internal T-junctions, culverts and bridges.
- (21) Maximum aid intensity is 100%.

Scheme 4: Prevention and Restoration of Damage to Forests: Reconstitution Scheme

- (22) The scheme aims to provide support for forest holder to restore and retain forests and forest ecosystems following significant damage by natural causes.
- (23) The scheme will contribute to restoring forest potential as a result of damage, or potential damage, from disease outbreaks. It will also support the removal and destruction of trees infected by contagious pathogens, or trees likely to be infected. Support may be considered for the restoration of forests damaged by other natural causes, catastrophic events and/or climate change related events, such as frost and wind, as well as damage caused by deer, where more than 20% of the forest potential has been damaged.

- (24) Significant damage for the purposes of the scheme will mean death or irremediable damage of 20% or more of the trees in the relevant plantation covered by the one contract number or forest block. It will also include the removal of host species for disease such as *Rhododendron* in the spread of *Phytophthora ramorum*. Reconstitution measures will include replanting where appropriate, removal of infected material or host species where required.
- (25) It is also envisaged that the scheme will be tailored to address specific threats and will form part of an integrated pest management control response. A reconstitution scheme currently exists for forests affected by *Chalara fraxinea* (Ash dieback disease) and it is envisaged that a similar scheme may be developed to deal with forests damaged by *Phytophthora ramorum*.
- (26) In the case of aid for prevention of damage to a forest from plant pests, the risk of the occurrence of the plant pest will be supported by scientific evidence and acknowledged by a scientific public organisation.
- (27) The aid scheme related to the damage caused by deer will be established within three years from the occurrence of the event. The aid will be paid out within four years from that date and will be calculated at the level of the individual beneficiary.
- (28) The eligible costs have to be directly incurred by the deer and assessed either by the responsible public authority, a recognized independent expert or by an insurance undertaking.
- (29) The scheme also mentions aid for damage caused by vole and grey squirrel. This aid is not covered by this decision, as these animals are not protected by law. A potential support of such measures under *de minimis* rules falls out of the scope of this decision.
- (30) Eligible costs cover the cost of operations like the removal and destruction of trees and associated material, replacement plants, planting, ground preparation, vegetation control, shaping, creation of firebreaks and reservoirs.
- (31) Maximum aid intensity is 100%.

Scheme 5: Investments improving the Resilience and Environmental value of Forestry: Woodland Improvement

- (32) The scheme aims to provide financial support for forest management operations for woodland improvement works associated with tending and thinning of broadleaf forests planted since 1980 and will enhance the environmental qualities of existing forests.
- (33) The scheme contains two elements: (a) thinning and tending for broadleaves and (b) environmental enhancement of forests.
- (34) The investments are aimed to achieve environmental commitments and the provision of ecosystem services and for the enhancement of the public amenity value of forests and wood land in the area concerned, and for the improvement of the climate change mitigation potential of ecosystems, without excluding economic benefits in the long term.

- (35) Thinning and tending increase the biodiversity in the ground or shrub layer vegetation, by opening up the canopy and enabling more light to reach the forest floor. It will also open up forest areas for walking and other recreational uses, improve the visual amenity of forests and will increase the value of the wood and promote higher levels of tree seed production. Early thinning improves the vitality of forests allowing them to sequester more carbon and contributes to forest stability, through overall resilience in terms of wind damage.
- (36) Eligible costs cover investments in operations like thinning, re-spacing, felling of malformed and over mature trees, clearing buffer areas, improving access for manual fertilisation.
- (37) Maximum aid intensity is 100%.

Scheme 6: Investments improving the Resilience and environmental value of Forests: Native Woodland Conservation Scheme

- (38) The scheme aims to provide support for the protection and enhancement of existing native woodlands and, where appropriate, the conversion of conifers forest to native woodlands.
- (39) The scheme is focused on important native woodland types and opportunities for habitat linkage, and on environmentally sensitive areas, with a view to realising wider eco-system services such as water protection.
- (40) The conservation operations will enhance native woodland biodiversity, improve the quality and diversity of landscapes, improve water and land management, conserve native genetic biodiversity and contribute to long term carbon sequestration.
- (41) The scheme is addressed to both private and public land owners.
- (42) Eligible costs cover investments in operations like preparation of a site-specific Native Woodland Plan, purchase of suitable native planting stock, ground preparation, forest protection (fencing, tree guards aso), clearance, non-commercial tree felling, woodland rejuvenation, maintenance, woodland edge management, maintenance of open spaces, rides and glades, re-spacing, restoration of former coppice or coppice-with-standards woodland to active coppice management.
- (43) Maximum aid intensity is 100%.

Scheme 7: Knowledge Transfer and Information Actions

- (44) The scheme is divided in four elements: (a) Knowledge Transfer Groups (KTG); (b) Continued Professional Development (CPD); (c) Targeted Training; (d) Advisory Services.

Knowledge Transfer Groups

- (45) The scheme aims to provide support for setting up of knowledge transfer groups, thereby maximising the potential for knowledge and skill transfer to forest owners. The Programme will be open to established members of forest holder

groups and to forest holders wishing to join or form groups for the first time. A maximum of 20 members per discussion group is recommended.

- (46) The topics of the groups will focus primarily on silviculture, financial management, forest health, environmental awareness to include water quality and biodiversity and finally timber harvesting/marketing.
- (47) Eligible costs cover the costs for Knowledge Transfer Groups in mainly five areas: silviculture, financial, management, forest health, environmental awareness to include water quality and biodiversity and timber harvesting/marketing.

Continued Professional Development

- (48) The scheme will be providing funding for the Continuous Professional Development (CPD) certifying body. This will involve putting in place a process of certification whereby individuals can submit a record of forestry training, seminars or field visits attended during the year. These records will then be accessed by the CPD body which will evaluate the training and decide on the award of a certification. The scheme is not restricted by number or membership of any organisation. The final beneficiaries operating in the field of forestry will be able to present themselves as being CPD certified. The CPD certification will be voluntary.
- (49) Eligible costs cover the cost of the certification process. The funding will be provided to the CPD certifying body which will most likely be decided by open tender competition. The support will relate to the cost of developing, launching and day to day running of the scheme. It will include the drafting of rules, standards, procedures, terms and conditions of the scheme. The most economically advantageous tender will be accepted.

Targeted Training

- (50) Targeted Training aims to give targeted training to forest holders, foresters and forest machine operators. For private forest holders the main focus would be on forest management while training for machine operators would include harvesting and forwarding. Further topics are health and safety, environmental legislation\guidelines, forestry scheme rules and conditions, silvicultural requirements, new FMP format, low impact silvicultural systems (e.g. continuous cover forestry), native woodlands training, as well as forest health. The scheme can also include provisions for training courses around forestry schemes, procedures, guidelines and environmental directives.
- (51) Eligible costs are the costs of organising the trainings.

Advisory Services

- (52) The scheme will help forest holders and farmers active in the forestry sector to benefit from the use of advisory services aimed at economic and environmental issues concerning forestry, and also involving an element of promotion of the opportunities presented by the new forestry programme, health and safety and awareness of general forest related issues as they arise, e.g. most recently Chalara fraxinea.

- (53) The scheme will include advice to forest holders on the relevant obligations under the Habitats Directive, the Birds Directive and the Water Framework Directive. Appropriate measurement indicators referring to environment will be used.
- (54) Support will be given in the form of clinics, field days, information meetings, workshops and conferences.
- (55) Beneficiaries of the scheme are individual forest holders and farmers.
- (56) Eligible costs are the cost advice granted to beneficiaries. The aid does not involve direct payments to the beneficiaries, as it is paid to the advisory services provider.
- (57) Maximum aid intensity is 100% for the first three elements mentioned in point 37. For the fourth element, aid up to 1 500 EUR per advice may be granted.

Scheme 8: Setting up of Producer Groups

- (58) The scheme aims to support the establishing of forest producer groups, in order to manage forests jointly on a geographical basis and to create economies of scale and reduce costs.
- (59) Beneficiaries will submit a detailed business plan providing a description of the project, including objectives, timelines and projected expenditure. The Department of Agriculture, Food and the Marine will verify that the objectives of the business plan have been reached within a period of five years from the date of recognition of the producer group or organisation. The aid will be subject to this verification.
- (60) The eligible costs include the costs of the rental of suitable premises, the acquisition of office equipment, including computer hardware and software, administrative staff costs, overheads and legal and administrative fees. Where premises are purchased, the eligible costs for premises will be limited to rental costs at market rates.
- (61) Aid will be paid as a flat rate in annual instalments for the first five years from the date on which the producer group or organisation was officially recognised by the competent authority on the basis of its business plan. The last instalment will be paid only after having verifying that the business plan has been correctly implemented.
- (62) Maximum aid intensity is 100 % of the eligible costs and the total amount of aid is limited to EUR 500 000.

Scheme 9: Innovative Forest Technology

- (63) The aim of this scheme is to provide support for the introduction of new technologies for use in private forests, in view of reducing management costs and improving accuracy in terms of forest management outputs.
- (64) Aid will be granted to private forest holders, municipalities and their associations and to SMEs for investments.

- (65) The Irish Authorities have undertaken to ensure that the accepted investment proposals contribute to the improvement of the economic value of forests in one or more holdings. In the case of machinery for example, it will be ensured that they will be used efficiently.
- (66) Eligible costs include investments in smaller scale technologies which are applicable to private forest holders, producer groups, forest contractors and haulage operators, like for example variable tyre pressure systems and forest inventory technologies.
- (67) Maximum aid intensity is 40%.

Scheme 10: Forest Environment and Climate Services: Forest Genetic Reproductive Material

- (68) The aim of this scheme is to provide funding for the management and conservation of forest genetic reproductive material, by managing and conserving registered seed stands and establishing new seed orchards.
- (69) Aid will be granted to public and private forest holders. In the case of state-owned forests, aid may only be granted if the body managing such a forest is a private body or a municipality.
- (70) Funding for part (a) Management and conservation of broadleaf seed stands is cost based and amounts to 75 EUR/ha per annum, for a period of up to 7 years and up to 5ha maximum eligible area. Eligible costs include conservation of forest genetic material for broadleaf, as well as investments improving the resilience and environmental value of forest ecosystems, like thinning, control of ground vegetation, provision for access paths and fencing. For the scope of this scheme, annual costs can be combined to cover expenses but shall not exceed the total amount of 75 EUR/ha per annum.
- (71) Maximum aid intensity for part (a) is 100%, under the conditions specified above.
- (72) Funding for part (b) Establishment of new production areas such as seed orchards including (broadleaf and conifer), is cost based with funding provided up to 50% of the cost of establishment, up to a maximum of 10,000 EUR/ha. An annual maintenance payment will be available for 7 years at a rate of 500EUR/ha per annum. The maximum number of eligible hectares per application will be 5ha.
- (73) Maximum aid intensity for part (b) is 50% for establishment grant and 100% for maintenance.
- (74) Irish Authorities request that forest management plans for seed stands and orchards which are over 5ha, must accompany aid applications in order to be considered for financial support. These plans must be in line with sustainable forest management as defined by the Ministerial Conference on the protection of Forests in Europe of 1993.

Scheme 11: Forest Management Plans

- (75) The scheme aims to support the establishing of forest management plans and to encourage their submission for all forests over 5 hectares when the forest reaches 12 years.

- (76) The Irish Authorities set the condition that all grant aided forests must submit a Forest Management Plan for both broadleaf or conifer plantations at year 12 for areas of 5 hectares or greater.
- (77) The measure is directly contributing to maintaining or restoring the ecological, protective and recreational functions of forests, biodiversity and a healthy forest ecosystem.
- (78) No aid is granted under this scheme to forest based industries, commercially viable extraction and transportation of timber, processing of wood, felling or restocking.
- (79) The technical support may be undertaken by producer groups or organisations. However, in such cases, membership of the respective groups or organisations must not be a condition for access to the service. Any contribution of non-members towards the administrative costs of the group or organization concerned must be limited to the costs of providing the service.
- (80) The aid will be accessible to all those eligible in the area concerned, based on the conditions defined in the legal basis, the Irish Forestry Programme 2014-2020.
- (81) Eligible costs cover the service for establishment of the management plan. The aid will be paid to the advisory services provider and will not involve direct payments to the beneficiaries.
- (82) Maximum aid intensity is 100%.

Common features to all schemes

- (83) Aid provided under this programme will not exceed the aid ceilings laid down in 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.
- (84) The Irish Authorities consider that 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.
- (85) 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.
- (86) 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.
- (87) 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 programme.¹

3. ASSESSMENT

3.1. Scope of the Decision

(88) 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

(89) 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 perceptibly between Member States.

(90) It is undisputed that the schemes in question confer 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 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.²

(91) 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.³ The beneficiaries of aid operate on the forestry market where trade between Member States takes place. Statistical data shows that 434,998.37⁴ 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 357.64⁵ 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.

(92) 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.

¹ 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).

² 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.

³ 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.

⁴ EUROSTAT database, Roundwood production and trade, update from 12/08/14.

⁵ *Ibid.*

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

- (93) The aid schemes were notified to the Commission on 04 and 07/11/2014. Therefore, Ireland has complied with its obligation under Article 108(3) TFEU.

3.4. Compatibility of the aid

- (94) State aid may only be considered compatible with the internal market if it can benefit from one of the derogations provided for in the TFEU. Given the nature of the schemes, the derogation provided for Article 107(2)(b) TFEU may be used for certain compensations under scheme number 4, and the derogation provided for in Article 107(3)(c), for the other schemes.

3.4.1. *Application of Article 107(3)(c) TFEU and Article 107(2)(b) TFEU for Scheme 4 on Prevention and Restoration of Damage to Forests*

- (95) Under Article 107(3)(c), 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.
- (96) Under Article 107(2)(b), aid to make good the damage caused by natural disasters or exceptional occurrences is compatible with the internal market.
- (97) For these derogations to be applicable, the aid must fulfil the requirements of the relevant Union State aid legislation.

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

- (98) 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 2020⁶ (hereinafter "the Guidelines") is applicable.

3.4.2.1. Common Assessment Principles

Objective of common interest

- (99) 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. Pursuant to 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 schemes are rural development like, they operated successfully under previous rural development programmes and started to be financed exclusively from national funds since 2007. The Programme is designed in a consistent manner with Regulation no 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)⁷. The Irish Authorities decided to fund forestry under State aid rules outside the scope of the Irish rural development programme, as it was

⁶ See footnote 1.

⁷ OJ L 347, 20.12.2013, p. 487.

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.

In what regards the schemes covered by section 2.8 of Part II of the Guidelines, which are outside the scope of rural development, the Commission considers that the principle of contribution to the objectives of rural development is met, following sufficient experience as to the contribution of this section to the rural development objectives.

Need for State intervention

- (100) 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.

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 is considered necessary to achieve the objectives of common interest specified in this section.

Appropriateness of aid

- (101) Pursuant to 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.

The Commission considers that, based on the information provided, the Irish Authorities demonstrated to a satisfactory level that the ecological, protective and recreational objectives of the forestry measures in Section 2.8 of Part II of the Guidelines, cannot be achieved with the rural development like forestry measures in Chapters 2.1 to 2.7 of Part II of the Guidelines, as set out in point 63 of the Guidelines. The measures under concern cover the establishment of forest management plans and the aid to make good the damage caused by protected animals.

Incentive effect

- (102) 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.

As described in point 84 and 85 of the above chapter, 2.7. Description of the aid measure, the conditions set out in points 70 to 73 of the Guidelines are met.

Proportionality

- (103) 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 83 above, 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

- (104) 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, as set out in point 116 of the Guidelines. This incentive effect document should be submitted at the application

stage. The applications will be accepted by the Forest Service only if they are fully compliant with the Guidelines and aid will be limited to the minimum necessary, taking into account the counterfactual scenario in the case of large companies.

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 countries⁸.

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 the intra trade is less significant and that the bulk of the production is used for inner consumption. – Avoidance of undue negative effects on competition and trade

Transparency

- (105) 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

Scheme 2: Investments improving the Resilience and Environmental value of Forestry: NeighbourWood Scheme

- (106) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.1.4 of the Guidelines, points 529-532, referring to aid for investments improving the resilience and environmental value of forest ecosystems.
- (107) The scheme is composed of three elements: (a) element 1 will support the silvicultural enhancement of existing amenity forests (or 'neighbourwoods'); (b) element 2 will support the establishment of new neighbourwoods; element 3 will support the installation and upgrade of appropriate recreational facilities within existing or new amenity woodlands. Planting of new trees under element 2 will be funded from Scheme 1 Afforestation and Woodland Creation. That scheme is dealt with within the State Aid decision SA. 39783 (2014/N).

⁸ All data available from EUROSTAT database, last update 10/2014.

- (108) Aid will be granted to local authorities and private landholders, working in partnership with local communities, therefore the conditions set out in point 530 of the Guidelines are met.
- (109) The conditions set out in point 531 of the Guidelines are met, as the main aim of this scheme is the achievement of commitments for the enhancement of the public amenity value of forests and wood land, as well as for benefitting the environment, as neighbouring woods can be used strategically to reinforce existing greenbelts, greenways and sustainable transport corridors, to provide buffers between residential and industrial areas and to protect urban watercourses.
- (110) Aid will be granted in the form of a grant at 100% aid intensity, therefore the conditions set out in point 532 of the Guidelines are met.
- (111) The Scheme requires a detailed management plan as part of the application and there must be clear potential for the development of attractive amenity woodlands that will be strategically located and easily accessible. The woodland will be open to the general public throughout the year and access will be free-of-charge.

Scheme 3: Investments in Infrastructure: Forest Road Scheme

- (112) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.1.6 of the Guidelines, points 542-545, referring to aid for investments in infrastructure related to the development, modernisation or adaptation of forestry.
- (113) Aid covers investment in tangible and intangible assets which concern infrastructure related to the development, modernisation or adaptation of forests, in particular the access to forest land, therefore the conditions of point 543 of the Guidelines are met.
- (114) The investments under this measure are open to the public free of charge and will serve the multifunctional aspects of the forest, therefore the conditions of point 544 of the Guidelines are met. A maximum of 100% of eligible costs of building forest roads will be funded, as set out in point 544 of the Guidelines. Special construction works, primarily aimed at facilitating the construction of forest roads in environmentally sensitive sites, will be supported at a maximum of 50 % aid intensity of eligible costs.
- (115) Forest roads and first thinning operations will be intrinsically linked in the scheme as a certain percentage of thinning must be completed before the second instalment of the road grant can be paid. This has positive ecological and economic benefits.

Scheme 4: Prevention and Restoration of Damage to Forests: Reconstitution Scheme

- (116) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.1.3 of the Guidelines, referring to aid for the prevention and restoration of damage to forests from forest fire, natural disasters, adverse climatic events which can be assimilated to natural disaster, other adverse climatic events, plant pests and catastrophic events.
- (117) Support under will be available to private forest holders only, therefore the conditions of point 520 of the Guidelines are met.

- (118) Pursuant to point 27 of the description above, the eligible costs meet the conditions set out in point 521 of the Guidelines. In line with point 522 of the Guidelines, the aid will be subject to the formal recognition by the competent Irish authorities and it will be granted under condition that at least 20 % of the relevant forest potential was damaged.
- (119) The eligible costs include restoring forest potential as a result of damage caused by deer. This cost is analysed in connection with Sub-Chapter 2.8.5, points 604-615 of the Guidelines.
- (120) Deer are protected in Ireland under the amended Wildlife Act 1976, which meets the conditions set out in point 605 of the Guidelines. The damage suffered by the behaviour of the animals must be at least 20% of the forest potential, which meets the conditions of point 607.
- (121) The conditions of point 609 of the Guidelines are met, as set out in point 31 of the description above.
- (122) The conditions of point 610 and 611 are met, as set out in points 32 and 34 of the description above.
- (123) Damage caused by vole and grey squirrel are mentioned in the legal basis but they are not eligible under this scheme, as these animals are not protected by law. A potential support of such measures under *de minimis* rules falls out of the scope of this decision.
- (124) The measure is directly contributing to maintaining or restoring the ecological, protective and recreational functions of forests, biodiversity and a healthy forest ecosystem, therefore point 590 of the Guidelines is met.
- (125) No aid is granted under this scheme to forest based industries, commercially viable extraction of timber, transportation of timber, processing of wood, felling or restocking, therefore the conditions of point 591 of the Guidelines are met.
- (126) In the case of aid for prevention of damage to a forest from plant pests, the risk of the occurrence of the plant pest will be supported by scientific evidence and acknowledged by a scientific public organisation, therefore the conditions set out in point 523 of the Guidelines are met.
- (127) Eligible operations under the Reconstitution scheme are consistent with the forest protection plan of Ireland which is set out in Forests, products and people, Ireland's forest policy - a renewed vision, 2014, therefore the conditions set out in point 524 of the Guidelines are met.
- (128) Aid will be granted in the form of a grant at 100% aid intensity, therefore the conditions set by points 527 and 615 of the Guidelines are met.
- (129) The aid and any other payments received to compensate the damage made by deer, including payments under national or Union measures or insurance policies, is limited to 100 % of the eligible costs, therefore the conditions set by point 616 are met.

Scheme 5: Investments improving the Resilience and Environmental value of Forestry: Woodland Improvement

- (130) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.1.4 of the Guidelines, points 529-532, referring to aid for investments improving the resilience and environmental value of forest ecosystems.
- (131) The scheme is divided in two elements: (a) thinning and tending for broadleaves and (b) environmental enhancement.
- (132) In accordance with point 530 of the Guidelines, the beneficiaries of aid are primarily private forest holders and other private law bodies and associations.
- (133) Pursuant to point 39 above, the conditions set out in point 531 of the Guidelines, referring to the achievement of commitments for environmental aims for the provision of ecosystem services and for the enhancement of the public amenity value of forests and wood land, and for the improvement of the climate change mitigation potential of ecosystems, without excluding economic benefits in the long term, are met.
- (134) In accordance with point 532 of the Guidelines, aid will be granted in the form of a grant at 100% aid intensity.

Scheme 6: Investments improving the Resilience and environmental value of Forests: Native Woodland Conservation Scheme

- (135) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.1.4 of the Guidelines, points 529-532, referring to aid for investments improving the resilience and environmental value of forest ecosystems.
- (136) In accordance with point 530 of the Guidelines, the beneficiaries of aid are private and public forest holders.
- (137) Pursuant to point 44 above, the conditions set out in point 531 of the Guidelines, referring to the achievement of commitments for environmental aims for the provision of ecosystem services and for the enhancement of the public amenity value of forests and wood land, and for the improvement of the climate change mitigation potential of ecosystems, without excluding economic benefits in the long term, are met.
- (138) In accordance with point 532 of the Guidelines, aid will be granted in the form of a grant at 100% aid intensity.

Scheme 7: Knowledge Transfer and Information Actions

- (139) The Afforestation and Creation of woodlands scheme is divided in four elements: (a) Knowledge Transfer Groups (KTG); (b) Continued Professional Development (CPD); (c) Targeted Training; (d) Advisory Services.

Element 1: Knowledge Transfer Groups (KTG) scheme

- (140) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.4 of the Guidelines, points 564-567, referring to aid for knowledge transfer and information actions in the forestry sector.
- (141) This measure will be primarily targeted at private land-holders, which meets the conditions set out in the Guidelines.

- (142) In accordance with point 565 of the Guidelines, aid will cover up to 100% of the eligible costs. The eligible costs are compliant with point 291 and 293 of the Guidelines. Only costs will be reimbursed and no direct payment will be granted under this measure, which meets the conditions of point 296 of the Guidelines.

Element 2: Continued Professional Development (CPD)

- (143) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.4 of the Guidelines, points 564-567, referring to aid for knowledge transfer and information actions in the forestry sector.
- (144) In accordance with point 565 of the Guidelines, aid will cover up to 100% of the eligible costs. The eligible costs are compliant with points 291 and 293 of the Guidelines, covering the cost of the certification process, which is the end stage of the skills acquisitions process. The funding will be provided to the CPD certifying body which will be decided by open tender competition. The support will relate to the cost of developing, launching and day to day running of the scheme. It will include the drafting of rules, standards, procedures, terms and conditions of the scheme. The scheme will not cover the operating costs of the CPD certifying body. The funding will be provided to the CPD certifying body, which meets the criteria set out in the point 296 of the Guidelines.

Element 3: Targeted Training scheme

- (145) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.4 of the Guidelines, points 564-567, referring to aid for knowledge transfer and information actions in the forestry sector.
- (146) Aid will cover up to 100% of the eligible costs, which meets the conditions of point 565 of the Guidelines. The eligible costs are compliant with point 291 and 293 of the Guidelines, covering training courses about forestry schemes, procedures, guidelines and environmental directives.

Element 4: Advisory Services scheme outline

- (147) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.5 of the Guidelines, points 568-571, referring to advisory services in the forestry sector.
- (148) This measure will provide opportunities for environmentally focus topics for discussion, training and advice, therefore the conditions set out in point 571 of the Guidelines are met.
- (149) Pursuant to points 56 and 57 of the description above, the conditions set out in point 303 of the Guidelines, referring to the use of advisory services for the improvement of the economic and environmental performance, as well as the climate friendliness and resilience of their investment, are met.
- (150) Pursuant to point 60, the conditions of modality of payment set out in point 303 of the Guidelines are met.
- (151) The cost per advice will be limited to 1,500 EUR, which meets the conditions set out in point 307 of the Guidelines.

Scheme 8: Setting up of Producer Groups

- (152) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.7 of the Guidelines, points 578-588, referring to start-up aid for producer groups and organisations in the forestry sector.
- (153) Pursuant to point 63 of the description above, the conditions referring to the business plan set out in point 579 of the Guidelines are met.
- (154) The Irish Authorities commit to respect the relevant provisions on competition law, as set out in points 580 and 581 of the Guidelines.
- (155) In accordance with point 582 of the Guidelines, aid will be limited to producer groups and organisations which are SMEs.
- (156) Pursuant to point 64 of the description above, the conditions on eligible costs set out in point 584 of the Guidelines are met.
- (157) Pursuant to point 65 of the description above, the conditions on modality of payment set out in point 585 of the Guidelines are met.
- (158) The aid intensity is up to 100 % of the eligible costs and the total amount of aid is limited to EUR 500 000, which meets the conditions set out in points 587 and 588 of the Guidelines.

Scheme 9: Innovative Forest Technology

- (159) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.1.5 of the Guidelines, points 533-541, referring to aid for investments in forestry technologies and in processing, in mobilising and in marketing of forest products.
- (160) Pursuant to point 68 in the description above, the conditions on beneficiaries set out in point 537 of the Guidelines are met.
- (161) Pursuant to point 70 of the description above, the conditions on eligible costs set out in point 539 of the Guidelines are met.
- (162) In line with point 541(d) of the Guidelines, aid will be granted in the form of a grant at 40% aid intensity.

Scheme 10: Forest Environment and Climate Services: Forest Genetic Reproductive Material

- (163) The scheme is to be assessed on the basis of Part II, Sub-Chapter 2.3 of the Guidelines, points 551-563, referring to aid for forest-environment and climate services and forest conservation.
- (164) The scheme is divided in two parts: (a) funding for broadleaf seed stands and (b) the establishment of seed orchards including both broadleaf and conifer.
- (165) Pursuant to 73 of the description above, the conditions regarding beneficiaries set out in point 556 of the Guidelines are met.
- (166) Pursuant to point 74 of the description above, the conditions set out in points 552 and 554 of the Guidelines are met. Pursuant to point 62 of the description above, eligible costs include investments improving the resilience and environmental

value of forest ecosystems which fall under sub-chapter 2.1.4, Part II of the Guidelines. For the scope of this scheme, annual costs can be combined to cover expenses but shall not exceed the total amount of 75 EUR/ha per annum.

- (167) Pursuant to point 76 of the description above, the conditions set out in points 552 and 554 of the Guidelines are met.
- (168) The conditions on aid intensity set out in point 563 of the Guidelines, are met for part (a), as set out in point 75 of the description above, and for part (b), as set out in point 77 of the description above.

Scheme 11: Forest Management Plans

- (169) The scheme is to be assessed on the basis of the general conditions of point 589-593, section 2.8, Part II of the Guidelines, as well as of Sub-Chapter 2.8.6, Part II of the Guidelines, points 617-619, referring to aid for establishment of forest management plans.
- (170) Pursuant to point 80 above, the conditions of point 590 of the Guidelines are met.
- (171) Pursuant to point 81 above, the conditions of point 591 of the Guidelines are met.
- (172) According to point 618 of the Guidelines, the 2014-2020 rural development policy makes forest management plans or equivalent instruments a pre-condition for eligibility for aid under several measures, with a view to enhance the achievements of the rural development objectives. Therefore, the Commission maintains its current policy that aid may be given for the establishment of forest management plans.
- (173) Pursuant to point 83 of the description above, the conditions of point 619, and subsequently of points 288 and 289 of the Guidelines, are met.
- (174) Pursuant to points 83 and 84 of the description above, the conditions of point 289 of the Guidelines are met.
- (175) Pursuant to point 85 of the description above, the conditions of point 303 of the Guidelines are met.
- (176) The aid intensity is up to 100 % of the eligible costs, which meets the conditions set out in point 592 of the Guidelines.
- (177) The Commission takes note that according to settled case law⁹, 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.

⁹ 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.

- (178) The Commission takes note of the commitment by the Irish authorities that aid will not be granted to firms in difficulty within the meaning of the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty.
- (179) Consequently, it may be concluded that the notified aid schemes comply 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 (2)(b) and 107(3)(c) 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 via the secured e-mail system Public Key Infrastructure (PKI) to: agri-state-aids-notifications@ec.europa.eu.

Yours faithfully,
For the Commission

Phil HOGAN
Member of the Commission

