



EUROPEAN COMMISSION

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C(2019) 8643 final

**Subject: State aid / Czech Republic
SA. 54137 (2019/N)
Subsidy framework for granting contributions for the forest
management**

Sir,

The European Commission ("the Commission") wishes to inform the Czech Republic that, having examined the information supplied by your authorities on the State aid scheme referred to above, it has decided not to raise any objections to the relevant scheme as it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union ("TFEU").

The Commission has based its decision on the following considerations:

1. PROCEDURE

- (1) By letter of 15 April 2019, registered by the Commission on the same day, the Czech Republic notified, according to Article 108(3) TFEU, the above mentioned aid scheme.
- (2) The Commission sent a request for additional information to the Czech authorities on 14 June 2019, 22 August 2019 and on 21 October 2019, which the Czech authorities answered by letters of 27 June 2019, 5 September 2019 and 24 October 2019, registered by the Commission on 27 June 2019, 5 September 2019

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and 25 October 2019, respectively. In addition, the Czech authorities submitted additional information on 23 September 2019, 1 November 2019, 5 November 2019 and 20 November 2019.

- (3) The notified aid scheme relates to an existing State aid scheme for forest management SA.36748 (2013/N), which was approved by the Commission until 31 December 2020.¹ Since new rules became applicable in the meantime, the present aid scheme in its entirety has to be analysed under the European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas 2014 to 2020² ('the Guidelines'). From the adoption by the Commission, the present aid scheme will replace the aid scheme SA.36748 (2013/N).
- (4) The Czech authorities have confirmed their acceptance for the Commission decision to be adopted and notified in English language, due to urgency.

2. DESCRIPTION

2.1. Title

- (5) Subsidy framework for granting contributions for the forest management.

2.2. Objective

- (6) With the present notification, the Czech authorities wish to provide support to the forestry sector, in order to ensure sustainable forest management, preserve all the non-productive functions of the forest ecosystems that benefit wider society and reduce forest holders' costs for activities focusing on those functions.
- (7) The aid scheme aims at maintaining and restoring forest ecosystems, including regeneration of degraded plants, increasing stability, resilience and biodiversity of forests as well as protection against biotic and abiotic harmful agents causing forest damage.
- (8) The Czech authorities have provided an analysis of the potential impact of the present aid scheme on the environment. Most of the aid notified will have only a positive impact on the environment (improvement of woodland with a view to improve the species composition, soil quality and thereby the ecological value of forests, changing the species composition of forest stands towards a richer mix of species and limiting as far as possible the negative impact of climate change, support for environmentally friendly technology, channelling water run-off and infiltration in forests, preventing damage to forest stands caused by negative biotic and abiotic events). In case of preventive and protective measures, although the use of mechanical means of protection is always preferred to chemical means, the use of chemical agents (which appear on the State administration's list of approved substances) is also eligible, given the current level of bark-beetle infestation in the Czech Republic. Since the use of such methods has prevented greater damage to forests by the spread of bark beetle, which in the Czech Republic has already resulted in widespread deforestation, the Czech authorities consider that the use of less environmentally friendly (chemical) methods of

¹ Decision C(2013) 7746 final of 20 November 2013.

² OJ C 204 of 1.7.2014, p. 1. Amended by the Notices published in OJ C 390, 24.11.2015, p. 4, OJ C 139, 20.4.2018, p. 3 and OJ C 403, 9.11.2018, p. 10.

protection has prevented even greater damage to the forest ecosystem. Against this background, the Czech authorities have concluded that the aid will not have a negative impact on the environment. This will also be ensured through the procedure for approving forest management plans, during which the plans are assessed from the perspective of their impact on the environment in a binding opinion from the Czech nature conservation authority. The Czech authorities have provided assurances that the present aid scheme will have no impact on compliance with obligations arising from the relevant provisions of EU law in the field of environmental protection, and thus will not result in infringement thereof.

2.3. Legal basis

- (9) The legal basis of the present aid scheme is:
- (a) Law No 289/1995 Coll., on forests, as amended [*Zákon č. 289/1995 Sb. o lesích a o změně a doplnění některých zákonů*];
 - (b) Law No 129/2000 Coll., on the Regions, as amended [*Zákon č. 129/2000 Sb. o krajích*];
 - (c) Law No 218/2000 Coll., on budgetary rules, as amended [*Zákon č. 218/2000 Sb. o rozpočtových pravidlech*];
 - (d) Law No 250/2000 Sb., on budgetary rules of the regional budgets, as amended [*Zákon č. 250/2000 Sb. o rozpočtových pravidlech územních rozpočtů*];
 - (e) Draft Subsidy Framework for granting financial aid to forest management³ ("Subsidy Framework") [*Dotační rámec pro poskytování příspěvků na hospodaření v lesích*].

2.4. Duration

- (10) From the date of the Commission decision until 31 December 2025. Since the Guidelines are applicable until 31 December 2020, the Czech authorities have undertaken a commitment to align, if needed, the present notified aid scheme with the new Guidelines applicable beyond that date.

2.5. Budget

- (11) Overall budget is CZK 8.5 billion (approx. EUR 329 million), financed from the State budget.
- (12) Aid is paid out by the Regional offices on their respective territories unless the contributions for the same subject are paid out by the Ministry of Agriculture. Contributions for territories of national parks and their buffer zones are paid by the Ministry of Environment. Contributions for forests on plots of land, which is of importance for State defence, will be paid by the Ministry of Defence.

³ It will be published on the following website after the adoption of the present Commission decision: <http://eagri.cz/public/web/mze/lesy/dotace-v-lesnim-hospodarstvi-a-myslivosti/financni-prispevky-na-hospodareni-v/>

2.6. Beneficiaries

- (13) Forest owners or any person who under §58 of the Forest Act is subject to the rights and obligations of forest owners (tenants), with the exception of the enterprise “*Lesy ČR*” (Czech Forests).
- (14) In principle, undertakings of all sizes may be beneficiaries. As regards aid for purchase of small items of forestry equipment, only SMEs and private forest holders (with the exception of legal persons managing State-owned forests) are eligible for aid.
- (15) The estimated number of beneficiaries is over 1000.
- (16) The Czech authorities have provided assurances that no aid will be granted to forest-based industries.
- (17) Aid will not be granted to undertakings in difficulty, within the meaning of the definition stipulated in point 35(15) of the Guidelines.
- (18) Likewise, the Czech authorities have committed to suspend the payment of the aid if the beneficiary of aid 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 the beneficiary has reimbursed or paid into a blocked account the total amount of the unlawful and incompatible aid including the corresponding recovery interest.
- (19) The Czech authorities have explained that in accordance with Act No 289/1995 Coll. on forests, all forest holders owning more than 50 hectares of forest are obliged to manage their forest property in accordance with a forest management plan approved by the State Forestry Administration. A forest holder owning less than 50 hectares of forest may also manage their forest property in accordance with a forest management plan. A forest management scheme is drawn up for all forests of less than 50 hectares in the ownership of natural or physical persons, provided that no forest management plan has been drawn up for them. Forest management plans and forest management schemes are basic tools for planning management in forests and (in conjunction with the binding indicators of forest management plans) tools for sustainable forest management within the meaning of the Ministerial Conferences on the Protection of Forests in Europe. Data from forest management plans and forest management schemes are stored in the data warehouse of the State Forest Administration. The State then has access to all information from forest management plans and forest management schemes in order to ascertain the condition of forests, for the State administration to fulfil its remit and for the creation of forestry policy. Data from forest management plans and forest management schemes stored in the data warehouse are available to all granting authorities for forestry aid in the Czech Republic.

2.7. Aid form and intensity

- (20) Direct grant. The Czech authorities have explained that most contributions under the Subsidy Framework are provided for activities carried out as part of forest management on a continuous basis. The Czech authorities have not yet acquired enough experience with aid in the form of financial instruments for such type of support, but they envisage using this form in the future. Based on the experience

so far and on the compensatory nature of certain support under the present aid scheme, the Czech authorities consider the form of direct grant as an appropriate instrument to achieve the objectives of the Subsidy framework, in particular as regards the reinforcement of non-productive forest functions benefitting wider society (cf. recital (8)). In addition, the majority of Czech forest holders manage estates with a single-digit number of hectares of woodland (an average estate size is around 3 hectares of forest) and, according to the Czech authorities, it can be assumed that other forms of aid would lead to much less interest for such small forest holders and, therefore, to a risk in relation to sustainable forest management (cf. recital (66)).

- (21) The aid will be payable in form of lump sum payments established on the basis of a fixed rate (i) established *ex ante* for each operation per technical units (hectare, metre etc.) and based on standard assumptions of additional costs and income foregone or (ii) based on the real costs of the given measure. The Czech authorities have provided explanations and data relating to the method for calculating the aid amount for each of the measures. The aid amounts are fixed on the basis of standard assumptions of additional costs and income foregone. The Czech authorities have confirmed in this regard that the calculations and the corresponding aid contain only elements that are verifiable, are based on figures established by appropriate expertise, indicate clearly the source of the figures used, are differentiated to take account of regional or local site conditions and actual land use, and do not contain elements linked to investment costs.
- (22) The Czech authorities have provided a list of all necessary reference values and calculations for each of the activities financed and ensured that all possible overcompensation will be avoided. The calculations are based on data provided by the Ministry of Agriculture in its Annual Reports on the State of Forest Stands and by the Forestry Industry of the Czech Republic, as well as data provided by the Czech Statistical Office and the Forest Management Institute in Brandýs nad Labem (*Ústav pro hospodářskou úpravu lesů*). The quality of the work and compliance with the rules in force must be confirmed by an expert.
- (23) As explained by the Czech authorities, the reference values reflect average market prices, the evolution of which is continuously monitored. The calculations provided for the past 10 years show that the reference values have been relatively stable changing by less than 1%. The available data show that the costs of forest management are slightly increasing over the years.
- (24) According to the Czech authorities, this calculation ensures that there will not be any overcompensation and that the aid intensity will not exceed 100 %.
- (25) The notified Subsidy Framework provides for maximum fixed rates (rate ceiling). The respective awarding authorities might differentiate according to the type of forest concerned. Law No. 289/1995 Coll. makes a distinction between *commercial forests*, which are used mainly for wood production, *protective forests*, which are found in unfavourable locations such as slide rocks, steep slopes or high mountains, *special function forests*, located in water catchment areas, national parks and reserves. Law No. 289/1995 Coll. also identifies forests which were significantly damaged by sulphur and nitrogen oxides in the past, located in danger zones A and B, and which suffered significant soil acidification, with an ensuing decline in the number of forest stands.

2.8. Description of the aid scheme

(26) Measures supported under the present aid scheme relate to:

- regeneration, stabilization and tending of forests stands;
- use of ecological and environmentally friendly technologies;
- preventive and defensive forest protection measures;
- anti-erosion measures for forest trails;
- purchase of small items of forestry equipment;
- maintaining a higher proportion of amelioration and stabilisation species.

They are described in detail below.

A. Measures notified under Section 2.1.4 of Part II of the Guidelines (“Aid for investments improving the resilience and environmental value of forest ecosystems”)

(27) The following measures are concerned:

- (a) “Protection of young forest stands until established (protection against weeds, animals, weevils and rodents)”;
- (b) “Stabilisation of forest stands within the statutory period”;
- (c) “Establishment of new enclosures in order to secure forest stands or part thereof (min. 160 cm) with a proportion of ameliorative and strengthening forest species (of at least 30%)”;
- (d) “Individual protection of seedlings against animals”;
- (e) “Forest protection measures against browsing and bark-peeling by animals”;
- (f) Protection against animals under the measure “Natural regeneration and artificial regeneration by sowing” (recital (103)(a)).

(28) The Czech authorities have explained that the measures support the enhancement of the public amenity value of forests and woodland in the area concerned and the improvement of the climate change mitigation potential of ecosystems. The protection of forest stands ensures the growth of trees, which are not damaged by insect pests or animals etc., thereby providing for faster change in the species composition of forest stands and reducing the expenses of forest holders for forest restoration. According to the Czech authorities, in the long term, the aid will bring economic benefit for forest holders resulting from the production function of the forest, which is inseparable from non-productive functions, only the latter being the objective of the aid. However, compared to coniferous trees and from a purely economic point of view, the forest owner rather suffers a loss in the form of higher costs for restoration and protection of deciduous trees and worse sales of the related timber.

- (29) The Czech authorities have explained that the following costs will not be eligible for aid:
- (a) working capital;
 - (b) costs connected to leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges.
- (30) As regards possible effects of the aid on competition and trade, the Czech authorities have explained the following: None of the measures included under the Subsidy Framework are aimed at support for production functions of forests, in other words for the economic systems of forest enterprises. Aid is intended for strengthening non-productive functions that benefit wider society and will have an impact on reducing forest holders' costs for activities focusing on those functions (i.e. functions, which only generate costs for forest holders). Profitability does not come into play for these measures, only reduction in forest holders' costs. There is therefore no risk of creating excess capacity or increasing the labour force of the aid beneficiaries. All the aid is available to all forest owners in the Czech Republic (with the exception of the State enterprise *Lesy ČR*) and for all forests in the Czech Republic. It is about very small-scale measures (individual or collective fencing off of plantings). As regards fencing projects, without fencing it is almost impossible to safeguard plantings of broad-leaved species. Compared with investment projects focused on production activities in forestry and, in particular, in other sectors, the absolute amount of support is extremely low (at most in the tens of millions of Czech crowns for the entire country for thousands of aid beneficiaries) and not even cumulative amounts of aid could lead to negative effects on competition. With regard to the nature and position of the forestry sector and its relationships with the other sectors in the economy it is not likely that aid intended for non-productive functions benefitting wider society would have any negative effect on those sectors.
- a. Measures "Protection of young forest stands until established (protection against weeds, animals, weevils and rodents) and "Stabilisation⁴ of forest stands within the statutory period⁵"
- (31) This support concerns measures which bring the respective forest stands into the stand's establishment, i.e. to protect them until the time of 7-10 years from the completion of the regeneration phase has passed, whereas the number of viable seedlings⁶ will not be lower than 80 %. As explained by the Czech authorities, the reduction of excessive vegetation and mechanical protections against animals will be performed in order to allow and enhance the growth of forest stands.
- (32) Mechanical and biological methods, such as trampling and cutting of weeds of immediate surroundings of seedlings are given priority. For the suppression of

⁴ Stabilization of forest stand can be defined as a set of activities aiming at enabling the seedlings to grow. Cleaning works such as trampling and cutting of weeds of immediate surroundings of seedlings are given priority. These interventions are carried out up to the stabilization of seedlings in order to improve their growth conditions, in particular providing the seedling sufficient light and limiting nutrient depletion from the soil around plants.

⁵ § 31(6) of the Law No 289/1995 Coll., on forests.

⁶ I.e. seedlings which are grown-in, stabilized and have good physiological conditions to grow further.

pests, especially *Hylobius abietis* and *Muridae*, standard methods are used, in particular coating with repellents before and during planting.

- (33) To protect trees against damage caused by animals the following mechanical and bio-chemical methods are used: coating with repellants, installation of a mechanical protection of seedlings or the establishment of fences. Chemical methods are used only exceptionally in cases where other methods are not effective to prevent damage. Otherwise, mechanical methods are given preference.
- (34) Mechanical protections include the purchase of repellent substances and the coating, and installation of a mechanical protection of seedlings (tubes, caps) and the costs of other material and associated works necessary for the protection against pests. Among eligible costs for setting up fences are mainly the purchase and transport of materials and the installation of the fences itself. The support also reflects the costs of further repairs, which are necessary during the lifetime of protections. Regarding biological methods the eligible costs include purchase, transport and handling of repellents. Eligible costs include costs of used material and associated works (incl. reparatory works).
- (35) Aid under the measure „Stabilisation of forest stands within the statutory period” is paid once (as a one-off payment) after the stabilization of young stands is achieved, which in practice usually happens at the age of 5-7 years of forest stand. At the same time, such aid is only granted for stands in forests outside the “imission (air-pollution) areas”⁷. Aid will be paid up to:
- (a) CZK 30 000/ha (for basic forest species);
 - (b) CZK 50 000/ha (for amelioration and stabilization forest species).
- (36) Aid under the measure „Protection of young forest stands until established“ is paid annually for operations carried out in order to reach the stabilization of young stands and until the stabilization of stands and is granted only for forests inside the imission (air-pollution) areas⁸. Aid will be paid up to:
- (a) CZK 4 500/ha (protection against weed);
 - (b) CZK 3 500/ha (protection against animals);
 - (c) CZK 1 000/ha (protection against weevils);
 - (d) CZK 2 500/ha (protection against rodents).
- (37) A different way of payment for forests affected by air pollution was introduced as a response to worse conditions for forest regeneration (mainly due to soil acidification) due to which more time is required for achieving stabilization of young stands.

⁷ I.e. forest stands outside the zones A and B according to the Decree No. 78/1996 Coll. laying down the zones of risks for forests affected by air pollution.

⁸ I.e. forest stands inside the zones A and B according to the Decree No. 78/1996 Coll. laying down the zones of risks for forests affected by air pollution, i.e. the highest zones as regards the air pollution.

- (38) The Czech authorities have provided reference values and calculations demonstrating that the maximum aid amount of support will not exceed 100%.
- (39) For the two measures concerned, the costs of establishing related forest management plans and their equivalent instruments will also be eligible for aid, up to 100%.

b. Measure “Establishment of new enclosures in order to secure forest stands or part thereof with a proportion of ameliorative and strengthening forest species”

- (40) The support will be provided for the construction of new special enclosures with a height of at least 160 cm in order to secure forest stands or parts thereof in which the proportion of amelioration and stabilization forest species exceeds 30%. Such protection ensures a faster change in the species composition of those stands and their growth and in this way increases the resistance of forest stands and the ecological value of forest ecosystems.
- (41) Eligible construction costs include the purchase of material, its installation, handling and transport and associated works necessary for carrying out the construction works. The support also covers the costs of further repairs, which are necessary during the life time of these protections.
- (42) Under the terms of the aid scheme, the amount of contribution is fixed at CZK 70000/km. The Czech authorities have provided reference values and calculations whereas the average market price for this type of works includes costs of materials and accessory materials. The costs for works on the spot range between CZK 80 000/km and 120 000/km. The aid intensity will therefore remain below 100%.
- (43) The costs of establishing related forest management plans and their equivalent instruments will also be eligible for aid, up to 100%.

c. Measure “Individual protection of seedlings against animals”

- (44) This measure is about protection of individual planted trees of amelioration and stabilisation species. The description of the activities related to this measure is outlined in recitals (32)-(34) above.
- (45) The aid will be paid up to CZK 50 per protected tree and the aid intensity will be up to 100% of the eligible costs.
- (46) The costs of establishing related forest management plans and their equivalent instruments will also be eligible for aid, up to 100%.

d. Measure “Forest protection measures against browsing and bark-peeling by animals”

- (47) The measure consists in local preventive actions against damage caused by animals on forest stands. These actions are carried out on the so-called forest’s “skeleton”, i.e. on the most promising trees in forest stands, which will not be eliminated in the future in the framework of lopping. The aim of the measure is to

prevent damage to forest stands caused by browsing and bark-peeling by animals and to reduce the attractiveness of trees to animals.

- (48) The Czech authorities have explained that measures against browsing and bark peeling involve purely mechanical barriers, with no negative impact on the environment.
- (49) The aid covers mechanical protection against browsing and bark-peeling (protective wrappings, removal of lower branches and mechanical small-scale bark disruption (“*zraňování*”). The Czech authorities have explained that mechanical small-scale bark disruption is one of the protection methods for minimizing damage to spruce or other stands caused by deer barking and subsequent rots. It means mechanical small-scale disruption of the bark (in younger forest stands before creating rough bark) in order to prevent deer from stripping the bark. Disrupt bark is not attractive for deer anymore for two reasons – it is not possible to peel big pieces of the bark and the tree starts to secrete resin.
- (50) Eligible costs consist of costs of materials and works. Aid will be paid per protected tree and up to 100 % of the eligible costs.
- (51) The costs of establishing related forest management plans and their equivalent instruments will also be eligible for aid, up to 100%.

e. Protection against animals under the measure “Natural regeneration and artificial regeneration by sowing”

- (52) This aid is part of the measure “Natural regeneration and artificial regeneration by sowing”, as described below (recitals (106) - (119)). It aims at protecting trees against damage caused by animals until the respective forest stands are brought into stand’s establishment (see recital (108)).
- (53) Eligible costs cover mechanical and bio-chemical protection against animals (see description in recitals (33) - (34)).
- (54) Aid will be granted up to 100% of the eligible costs.
- (55) The costs of establishing related forest management plans and their equivalent instruments will also be eligible for aid, up to 100%.

B. Measure notified under Section 2.1.5 of Part II of the Guidelines (“Aid for investments in forestry technologies and in processing, in mobilising and in marketing of forest products”)

- (56) The following measure is concerned: “Contribution to small items of forestry equipment”.
- (57) The aim of the measure is to support management by small forest owners, i.e. to encourage small owners to properly manage small forest estates.
- (58) The Czech authorities have explained that forests in the Czech Republic are highly fragmented, with an average estate size of around 3 ha of forest. The aid should represent incentive to small owners in particular to carry out activities in forests that may be negligible from a layman’s point of view but are important, for example, for the timely preservation of forest stands. Neglecting these

activities could have a negative impact not only on those estates but also on neighbouring ones, in particular if forest protection were to be neglected. Carrying out activities such as looking after young forest stands (trimming and protecting young forest plants) and cultivating them (pruning and thinning) helps forest stands to become established more quickly. Cultivation makes them more resistant to abiotic factors (damage caused by wind or snow). This leads to the strengthening of forest potential, an increase in the economic value of forest stands and a reduction of the future costs for the forest owner. In the majority of cases, support will be given to small forest owners, i.e. holders managing assets up to 50 hectares of forests.

- (59) The Czech authorities have explained that the supported forestry equipment involves hand-operated equipment and, therefore, does not have any potential to damage the forest environment from the point of view of the burden on forest land nor to damage plantations, stands or other components of the forest environment. In the case of sprayers, as in all other cases of use of chemical agents in forests, only authorised products from the list drawn up in accordance with the register kept by the Central Institute for Supervising and Testing in Agriculture may be used. The use of these products is monitored by the State Phytosanitary Administration, the Czech Environmental Inspectorate, and other concerned authorities.
- (60) The Czech authorities have explained that the aid relates to activities to look after forest stands or cultivating and other extraction activities carried out using motorised saws in forests. The investment is therefore limited to operations prior to any processing of wood. At most, it may relate to the cutting of harvested trees.
- (61) Aid applies only to machinery and equipment intended for the management of plots of land designated as forest.
- (62) Eligible costs include the purchase of the following small items of forestry equipment (which must always be new):
 - a) saws;
 - b) brush cutters;
 - c) sprayers.
- (63) The following costs are not eligible:
 - (a) working capital;
 - (b) costs connected to leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges.
- (64) The aid amount is limited to 50% of eligible costs (as attested by accounting documents) within the territory of the entire Czech Republic (with the exception of Prague where the aid will not be granted). The contribution may also be given in the form of a rate per piece of equipment, in which case the maximum aid intensity of 50% will also apply. In that case, the granting authorities undertake to update the rate in accordance with the current market price of the equipment in question. In the case of a fixed-rate contribution, a maximum total eligible

expenditure is set to prevent overcompensation. The indicative amounts are in the range of around CZK 5 000-15 000 for each item of eligible expenditure. The beneficiary must always bear at least 50% of the purchase cost.

- (65) As explained by the Czech authorities, the present measure does not support investments in renewable energy infrastructure, electricity production from biomass or bioenergy projects.
- (66) As regards possible effects of the aid on competition and trade, the Czech authorities have explained the following: None of the measures included under the Subsidy Framework are aimed at support for production functions of forests, in other words for the economic systems of forest enterprises. Aid is intended for strengthening non-productive functions that benefit wider society and have an impact on reducing forest owners' costs for activities focusing on those functions (i.e. functions which only generate costs for forest owners). Profitability does not come into play for these measures, only reduction in forest owners' costs. There is therefore no risk of creating excess capacity or increasing the labour force of the aid beneficiaries. All the aid is available to all forest owners in the Czech Republic (with the exception of the State enterprise *Lesy ČR*) and for all forests in the Czech Republic (with the exception of Prague). Aid for small items of forestry equipment covers only 3 eligible costs (saws, brush cutters and sprayers) and is intended for small forest owners (often natural persons) who are exposed to higher risks in terms of sustainable yields from forests. Small forest owners do not usually have a forestry education, they may live far away from property that has been recently returned to them, and these factors may lead to them having less of an interest in managing their forests and to greater risks concerning forest protection and prevention and defence against infestations. Aid earmarked for small forest owners for managing their property is therefore crucial for preserving forest stands. Neither the individual nor cumulative amounts of this support (which totals a few hundred thousand Czech crowns at most) can have a substantial impact on competition; its scope is limited both in terms of its reach and its volume.

C. Measure notified under Section 2.1.6 of Part II of the Guidelines (“Aid for investments in infrastructure related to the development, modernisation or adaptation of forestry”)

- (67) Concerned is the following measure: “Anti-erosion measures on forest roads — water channelling and infiltration”.
- (68) Anti-erosion measures on forest roads are intended to increase forest water retention. Almost all overland water run-off in forests occurs on roads. Collecting the water from roads (using barriers, longitudinal road drainage), and assisting its infiltration (wells, drains) increases water retention in forests, and also helps to reduce the potential negative impacts of climate change (e.g. in flooding).
- (69) The purpose of the aid is to control the flow and infiltration of water by building drainage of forest roads, increasing erosion protection of forest roads and increasing the stability of the course of the roads. This is investment in forestry infrastructure relating to the enhancement of the soil protection role of forests and to ensuring that forest roads are effectively accessible, preventing or reducing damage to forests caused by water erosion and water run-off.

- (70) The forest roads to which the eligible investments relate are L3 and L4 class roads in accordance with standard ČSN 73 6108 relating to slope roads and technology lines. A forest slope road (class 3 forest road) is a skid road passable for tractors and special rough terrain vehicles; under good conditions it is also passable for off-road motor vehicles. The minimum available width of the road is three metres. A technology line (class 4 forest road) may be a skid road or skidding track for the removal of timber at right angles to the contour with an unpaved surface and an unremoved organic layer of soil, at least two metres wide, without additional amenities. These categories of forest roads are more susceptible to damage caused by water erosion (surface run-off) due to their steep longitudinal inclines and to their minimal technical equipment. Without such equipment, further damage may be caused to their surroundings (they may become secondary waterways and cause erosion).
- (71) The Czech authorities have explained that these categories of forest roads (like all other categories) are publicly accessible free of charge in accordance with the Czech legislation and are used for forest management purposes. They are thus multifunctional in nature, ensuring that the forest is accessible for forest management including forest protection, forest harvesting, recreational functions of forests and more.
- (72) The following investments are supported:
- (a) building and reconstruction of longitudinal and transversal drainage features for category L3 and L4 forest roads and aid to combat water infiltration (e.g. spring wells, drains and infiltration features);
 - (b) installation of other structural elements necessary for stabilising the course of a road (e.g. gutters, drains, backfilling, packing, screening and retaining walls and terraced and infill slopes, including anti-erosion protection).
- (73) The eligible costs are only the direct costs of implementing the aforementioned drainage features and strengthening of the roads, i.e., in particular, earthworks, materials or the purchase of road equipment (cross-drains etc.).
- (74) The following costs are not eligible:
- (a) working capital;
 - (b) costs connected to leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges.
- (75) The aid intensity amounts up to 100% of the eligible costs.
- (76) As regards possible effects of the aid on competition and trade, the Czech authorities have explained the following. None of the measures included under the Subsidy Framework are aimed at support for production functions of forests, in other words for the economic systems of forest enterprises. Aid is intended for strengthening non-productive functions that benefit wider society and have an impact on reducing forest owners' costs for activities focusing on those functions (i.e. functions which only generate costs for forest owners). Profitability does not come into play for these measures, only reduction in forest owners' costs. There

is therefore no risk of creating excess capacity or increasing the labour force of the aid beneficiaries. All the aid is available to all forest owners in the Czech Republic (with the exception of the State enterprise *Lesy ČR*) and for all forests in the Czech Republic. It is about smaller-scale measures (projects concerning drainage features and reinforcement for category L3 and L4 forest trails – access paths and access trails). Compared with investment projects focused on production activities in forestry and, in particular, in other sectors, the absolute amount of support is extremely low (at most in the tens of millions of Czech crowns for the entire country for thousands of aid beneficiaries) and not even cumulative amounts of aid could lead to negative effects on competition. With regard to the nature and position of the forestry sector and its relationships with the other sectors in the economy it is not likely that aid intended for non-productive functions benefitting wider society would have any negative effect on those sectors.

D. Measures notified under Section 2.3 of Part II of the Guidelines (“Aid for forest-environment and climate services and forest conservation”)

- (77) The following measures are concerned:
- (a) use of environmentally friendly technologies;
 - (b) maintaining a higher proportion of amelioration and stabilisation species.
- (78) The Czech authorities have undertaken the commitment that revision clauses as required in points 724-726 of the Guidelines will be included in all agreements for aid under the present measures.
- (79) The Czech authorities have confirmed that the rules for area related payments provided for in Article 47 of Regulation (EU) No 1305/2013⁹ and in any delegated act adopted pursuant to that provision will be complied with.
- a. Measure “Use of environmentally friendly technologies”
- (80) This measure covers the following activities:
- (a) clearing or skidding the wood using a cableway;
 - (b) clearing or skidding the wood using a horse;
 - (c) clearing or skidding the wood using an iron horse;
 - (d) skidding by an assortment method at the collection point without hauling wood on the surface with a machine weighing up to 6 tons per axle;
- (81) The use of ecologically and environmentally friendly clearing or skidding technologies damages forest stands to a much lesser extent due to a reduced contact of transported wood with the surface and causes no abrasion to standing trees. Clearing or skidding with the use of a cableway contributes to forest land protection as the soil surface is not damaged by the use of classical technologies.

⁹ Regulation (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), OJ L 347 of 20.12/2013, p. 487.

The use of horses represents an ecologically friendly way of skidding with regard to the whole ecosystem and the assortment method promotes a technology that is gentle to the soil and prevents its disintegration and subsequent erosion. Subsequently, a negative impact on the availability of water resources in the areas concerned can be minimized.

- (82) The commitment is to use methods of collecting timber that are more environmentally friendly than standard methods, such as skidder tractors. The Czech authorities have explained that the use of green technologies is always voluntary as no obligation in this regard is included in the national legislation. Hence, according to the Czech authorities, the relevant commitments go beyond national mandatory requirements. The use of green technologies generates increased costs to the forest owner. A precondition for receiving the support is that an applicant undertakes such a commitment voluntarily for a period of five years. The contribution rate is set at an amount corresponding only to additional costs compared with commonly used technologies.
- (83) These additional costs are based on the technology chosen, which normally would not have been used due to its cost. The higher costs of these technologies are also the financial expression of the lower labour productivity.
- (84) When using machinery for clearing and skidding the wood, the Czech authorities declare that all characteristics of the soil on the respective site are being taken into account (slope degree, soil composition, quality of the first soil layers, waterlogging). All negative effects of using machinery (poaching of soil, creation of erosion furrows, damages on standing trees) will be minimized. The category of machinery up to 6 tons concerns small tractors, harvesters and transporters with specific technological features that besides its weight significantly lowers the impact on the environment, in particular by enabling to transport woods without touching the forest soil. This has positive effects with regard to the level of damages of standing trees and top layer of the soil, as compared to lighter machinery for skidding the trees on the soil.
- (85) Eligible costs for skidding with the use of a cableway involve transport and installation of the system in place and its operation. In the case of use of a horse eligible costs are analogous. Eligible costs for the use of the assortment method are those associated with the operation of the machine itself and with a different wood assortment prior to its removal from the forest.
- (86) The rate of aid is fixed per one cubic meter of skidded wood. In this regard, the Czech authorities explained that due to different sizes of forest estates in the Czech Republic, different generic and age forest composition and different related amount of extracted wood, no uniform rate per ha of forest can be given.
- (87) They further explained that these contributions (in particular for using a horse or cableway) are ultimately channelled into specific sensitive forest areas (such as slope steepness, waterlogging, areas with difficult access, protected areas) where the use of standard technologies could lead to significant damages on the environment.¹⁰ The Czech authorities therefore have proposed to consider the

¹⁰ The Czech authorities have explained that with the set contribution rate of CZK 100/m³ (approx. EUR 4/m³) and the maximum ceiling of EUR 200/ha as provided for in the Guidelines, a volume of skidded

annual ceiling of EUR 300/ha. In view of the nature of clearing and skidding activities that form part of forest regeneration and take place on a given site typically at intervals of several years (5 years), the maximal amount of aid is equal to the sum of 5 yearly limits, i.e. EUR 1 500/ha/commitment period. The Czech authorities commit that amounts of support beyond the maximum ceiling of EUR 200 yearly per hectare will only be accepted for demonstrated additional costs taking into account specific circumstances. As they explained above, these measures undertaken at costs beyond EUR 200 yearly per hectare will lead to demonstrable and significant positive effects on the environment.

- (88) The contribution rate is set at an amount corresponding only to the additional costs of these activities compared with commonly used technologies. The reference value for determining the amount of support provided is the difference between the increased costs resulting from the use of green technology and the traditionally incurred costs. The Czech authorities have provided assurances that in all cases the aid will be limited up to 100 % of the difference between the costs of green and standard technologies.
- (89) The contribution rates are fixed as follows:
- (a) clearing or skidding with a cableway: the maximum contribution amounts to CZK 100/m³, the market price being approximately CZK 300/m³;
 - (b) clearing or skidding with a horse: the maximum contribution rate is set at CZK 80/m³, the market price of such a service being approximately CZK 170/m³;
 - (c) clearing or skidding with an iron horse: the maximum contribution rate is set at CZK 40/m³, the market price of such a service being approximately CZK 150/m³;
 - (d) skidding by an assortment method at the collection point without hauling wood on the surface with a machine weighing up to 6 tons: the maximum contribution rate is set at CZK 30/m³, the market price of such a service being approximately CZK 150/m³.
- (90) In all above cases, the market price for such a service carried out by the traditional method (i.e. skidder) is approximately CZK 100/m³.
- (91) The amount of aid is set in a way which reflects any movement in market prices (in order to avoid over-compensation at the level of individual recipients). It also takes into account different working conditions, in particular in relation to forest stand morphology, types of forest soils etc.
- (92) Transaction costs are not supported.

b. Measure “Maintaining a higher proportion of amelioration and stabilisation species”

woods up to 50m³/ha can be supported. This is not sufficient as the works are concentrated and have to be done in sensitive areas limited to several hectares.

- (93) The planting of amelioration and stabilisation species (broad-leaved species, firs) is a key measure in order to restore or boost non-productive forest functions, in particular ecological functions (soil, water, climate and environmental protection functions). The Czech Republic is currently facing its biggest ever recorded bark beetle infestation and one of the reasons for this is the high proportion of spruce trees in forest stands. For a long time, using legislative and financial tools, the Czech Republic has endeavoured to change the species composition of forest stands in favour of mixed forests by increasing the proportion of amelioration and stabilisation species. In most of the territory of the Czech Republic, mixed forests better ensure non-productive forest functions. They are, in particular, more resistant to natural disasters and adverse weather events. Thanks to the proportion of broad-leaved species, they have a more beneficial effect on the soil and they increase the biodiversity of forest ecosystems.
- (94) The beneficiaries of this measure take a voluntary commitment to maintain a higher proportion of amelioration and stabilisation species in forest stands aged between 7 and 40 years. "Higher proportion" means a percentage which is higher than the minimum laid down for the relevant group of stands (unit of spatial distribution of the forest) in the forest management plan or forest management scheme (cf. recital (19)). Thinning of forest stands may result in an improvement of stands thanks to economically more advantageous species (to the detriment of the proportion of amelioration and stabilisation species), to an enhanced presence of tree species that have a higher tolerance to harmful agents, to amelioration effects on the soil, and to optimal utilisation of a site's production potential. Forest stands with an appropriate species and spatial composition are better able to maintain and develop their biodiversity. For the duration of the commitment (5 years), aid beneficiaries are required to thin the group of stands covered by the measure in such a way as to maintain or increase the proportion of amelioration and stabilisation species cultivated.
- (95) The Czech authorities have explained that, under the Czech legislation, forest owners are obliged to use a minimum proportion of amelioration and stabilisation species in forest regeneration. That obligation applies at the time of forest regeneration but it no longer applies at the stage when the forest owner carries out thinning that may reduce the proportion of amelioration and stabilisation species in the stand. Hence, according to the Czech authorities, voluntary commitments under the present measures go beyond the national mandatory provisions.
- (96) The quality of the work carried out and compliance thereof with forest-management legislation must be confirmed by a qualified forest manager.
- (97) Aid is provided in the form of compensation for losses stemming from reduced economic exploitation of forests. The real age of the group of stands (storey) at the time of classification must be between 6 and 30 years. The calculated proportion of amelioration and stabilisation species in the species composition laid down for the group of stands must exceed by at least 5 % the minimum requisite proportion of such species.
- (98) The payment is calculated on the basis of annual production losses resulting from a modified species composition expressed as a different average value for growing stock ready for felling. The payment amount is the difference between the value of a forest stand (felling yield) containing the minimum proportion of amelioration and stabilisation species and a stand containing a proportion of such

species in excess of what is required. The calculation is based on the values of average spruce and beech growing stock ready for felling (these being the most important commercial tree species in the Czech Republic). The annual payment constitutes a unit loss when the proportion of amelioration and stabilisation species (beech) is increased to the detriment of spruce in absolute terms expressed in CZK/ha/year.

- (99) Aid will be granted per hectare of forest. The contribution will be made available at a rate based on expenditure incurred in the following categories, limited to a maximum annual amount of EUR 200/ha:

Category	Higher proportion of amelioration and stabilisation tree species in %	Forests outside Natura 2000 and specially protected areas (CZK/ha GFS/year)	Forests in Natura 2000 and specially protected areas ^(*) (CZK/ha GFS/year)
I.	from 5 to 15	1 106	1 382
II.	over 15 and up to 25	1 843	2 266
III.	over 25 and up to 35	2 580	3 173
IV.	over 35	2 948	3 538

() Applies to a group of forest stands (GFS) of which at least 50 % of the area lies in Natura 2000 territory or in a specially protected area.*

- (100) Transaction costs are not supported.

E. Measures notified under Section 2.8.1 of Part II of the Guidelines (“Aid for specific forest actions and interventions with the primary objective to contribute to maintaining or to restoring forest ecosystem and biodiversity or the traditional landscape”)

- (101) The Czech authorities have confirmed that no aid will be granted to forest based industries or for commercially viable extraction of timber or for transportation of timber or the processing of wood or other forestry resources into products or for energy generation, and no aid will be granted for felling the primary purpose of which is the commercially viable extraction of timber or for restocking where the felled trees are replaced by equivalent ones.
- (102) The primary objective of the aid is to conserve and restore forest ecosystems and forest biodiversity in forest stands in the Czech Republic.
- (103) The following measures are concerned:
- (a) “Natural regeneration and artificial regeneration by sowing”;
 - (b) “Artificial regeneration by planting (initial)”;
 - (c) “Artificial regeneration by planting (repeated)”;

- (d) “Conversion of forest stands that have an unsuitable species composition, and reconstruction of forest stands that have suffered other forms of damage (fire)”;
 - (e) “Protection of forest against pests”.
- (104) The Czech authorities have explained that they notified these measures under Section 2.8.1 of the Guidelines, because the related support is usually connected with a change in the species composition of forest stands (support is paid out for restoring forests using amelioration and stabilisation tree species, while individual forest management activities are reimbursed in connection with this transformation (restoration of forest stands – planting, protection and safeguarding of plantings)). All these activities are referred to in Section 2.8.1 of the Guidelines. Even if some activities could be covered by other Sections (e.g. aid to restore forest potential damaged by plant pests under Section 2.1.3 or aid to improve the resilience and environmental value of forest ecosystems under Section 2.1.4 of Part II of the Guidelines), it would only partially fulfil the aims of the present aid scheme. The primary objective of supported activities is to conserve and restore forest ecosystems and forest biodiversity. According to the Czech authorities, the objectives under Section 2.8.1 are a better fit for the all-encompassing nature of the measures carried out in forests that usually have a positive impact on several or all the non-productive functions of forests.
- (105) Aid intensity for the measures concerned (recital (103)) will amount up to 100%.
- a. Measure “Natural regeneration and artificial regeneration by sowing”¹¹
- (106) Support will be provided for the natural regeneration and regeneration by sowing of forest stands in order to support preferentially the natural regeneration processes in forests with a high-quality genetic basis.
- (107) The eligible costs of natural forest regeneration cover the removal of weeds of immediate surroundings of seedlings, preparation of the soil for sprouting seedlings, protection from weeds by cutting and removing, protections against weeds, reduction in numbers of seedlings to enhance viability. Any use of chemicals is subject to the conditions described in recital (133) below.
- (108) This support concerns measures which bring the respective forest stands into the stand's establishment, i.e. to protect them until the time of 2-10 years from the completion of the regeneration phase has passed. As explained by the Czech authorities, the reduction of excessive vegetation will be performed in order to allow and enhance the growth of forest stands.
- (109) Mechanical and biological methods, such as trampling and cutting of weeds of immediate surroundings of seedlings are given priority. These interventions are carried out up to the stabilization of seedlings in order to improve their growth conditions, in particular providing the seedling sufficient light and limiting nutrient depletion from the soil around plants. In case of deciduous trees the

¹¹ Protection against animals, which is part of that measure, is described above with other measures falling under Section 2.1.4 of Part II of the Guidelines (recitals (51) – (54)).

microclimate is influenced in order to make it less favourable for the development of fungal diseases.

- (110) The support for the natural regeneration ranges between CZK 20 000/ha (for basic tree species) and CZK 30 000/ha (for amelioration and stabilization tree species). The Czech authorities have provided calculations demonstrating that the long-term applicable market price for related activities are as follows: (i) preparation of the soil CZK 2 000 – 4000/ha, (ii) cutting the weeds CZK 6 000 – 10 000/ha, (iii) coating the seedlings with repellents CZK 8 000 – 15 000, (iv) selections CZK 3000 – 6000/ha. These activities must be performed repeatedly. It follows from the above that the maximum amount of support will always be less than 100%.
- (111) The Czech authorities have demonstrated that there is no overlap between the contributions for the regeneration and the stabilization of forest stands as these activities are performed in different phases of the growing cycle.
- (112) Aid also covers planning costs of eligible activities, up to 100%.

b. Measure “Artificial regeneration by planting (initial and repeated)”

- (113) Support will be further provided for planting of amelioration and stabilization tree species. The gradual change in the species composition of forests, mainly from spruce monocultures, to stands with an increased proportion of amelioration and stabilization species aims at increasing biodiversity and stability and helping reducing forest vulnerability to biotic (e.g. insect pests and fungal diseases) and abiotic (e.g. wind, snow, ice, pollution) factors causing forest damage.
- (114) Support will not be provided for reforestation where trees are replaced by equivalent species. The species composition of restored vegetation is defined in the forest management plan in accordance with habitat conditions. Restored vegetation can be formed only with trees that meet the requirements of Act No. 149/2003 Coll. on trade in forest reproductive material and implementing legislation, i.e. reproductive material from certified sources meeting the conditions of a specific planting site. Thus, the restoration will be carried out using genetically more suitable planting material, guaranteeing a better resistance to biotic and abiotic influences.
- (115) Due to the species and spatial composition of the stands and the choice of suitable compounds, which are based on the forest management plans (cf. recital (19)) reflecting local ecological conditions, planting of original tree species in combination with amelioration and stabilization species will be performed in line with the sustainable development, cultivation and protection of forest stands as stipulated in the forest management plans.
- (116) The eligible costs of regeneration cover the costs of soil preparation, planting, transportation of seedlings and handling.
- (117) The price per seedling ranges between CZK 2-15 (depending on species, cultivation and the seedling’s age). The price per sapling and half-grown sapling ranges between CZK 10 – 100. The costs of planting of one seedling range between CZK 2-9 (depending on the type of planting). The average total costs of planting of one seedling (including the seedling itself) are CZK 10 per seedling of

basics tree species and CZK 14 for amelioration and stabilization tree species, respectively. Planting of amelioration and stabilization species for which the support is specifically designed requires more intensive work for soil preparation, cleaning of the surrounding area and protection measures compared to the planting of native species. The support is fixed at CZK 12 per seedling of amelioration and stabilization tree species and at CZK 9 per seedling for other species. For repeated planting the support is fixed at CZK 9 per seedling of amelioration and stabilization tree species, at CZK 8 per seedling for other species, at CZK 30 per half-grown sapling and at CZK 40 per sapling.

(118) The Czech authorities confirmed that regeneration will be done respecting the requirement of biodiversity and in order to maintain and restore a healthy forest ecosystem.

(119) Aid also covers planning costs of eligible activities, up to 100%.

c. Measure “Conversion of forest stands that have an unsuitable species composition, and reconstruction of forest stands that have suffered other forms of damage”

(120) This aid aims at supporting the gradual change in the species composition of forests in areas damaged by nibbling, peeling, fire, floods etc. Damaged trees will be gradually replaced by tree species of appropriate nature given the characteristics of the site and the need for increasing the proportion of amelioration and stabilization species and improving the quality of the genetic basis. Such works aim at increasing biodiversity and stability.

(121) Eligible costs include the preparatory works on the site before reconstruction of the species composition (i.e. cutting, removal and cleaning works of the site). The Czech authorities have given their assurances that the support will not be granted for making good damages caused by improper forest management.

(122) The amount of contribution is fixed at CZK 10 000/ha. The Czech authorities have provided reference values and calculations whereas the average market price for this type of works varies around CZK 20 000/ha, demonstrating that the maximum amount of support will always be below 100%.

(123) The Czech authorities have confirmed that in areas with severe pedo-climatic conditions, the stress is laid on the proper analysing of the soil characteristics on the respective site and effects of acid rains. It will be assured that planting of specific perennial woody species suitable to the local conditions with increased amelioration effects will be preferred and supported.

(124) Aid also covers planning costs of eligible activities, up to 100%.

d. Measure “Protecting forest against pests”

(125) This measure includes the following activities:

(a) installation and sanitation of traps designed to catch insects living underneath bark;

- (b) purchase and installation of pheromone vaporisers, purchase of pheromone baits (traps);
 - (c) mechanical or chemical protection of wood (treatment of wood against insect pests through the application of an active substance or through debarking);
 - (d) treatment of wood against insect pests by means of insecticide nets.
- (126) The aid is part of the strategy to address the current bark beetle infestation in the Czech Republic. The aim is to prevent further spread of the pest (bark beetle) and further damage to forest stands and to protect forests and their primarily non-productive functions in the affected areas.
- (127) The aid is intended to help cover the costs of treating, and preventing the spread of, pest infestations - which in practice means preventive and treatment measures and the products, equipment and materials necessary for such measures.
- (128) Law No 289/1995 Coll., on forests and its implementing regulations impose certain obligations on forest owners to protect forests from pests, and recommend methods of preventing damage to trees. When an infestation occurs, the forest owner must immediately take any steps necessary to reduce the insect pest to below infestation level, to remedy damage and to limit the further spread of the pest.
- (129) The basic methods of preventing the spread of bark beetle include in particular the removal of material conducive to insect pest reproduction, which involves treating forest stands, continuous monitoring and dealing with all affected trees in a timely manner.
- (130) In forest protection, the installation of pheromone traps and trap trees (felled, healthy pruned trees or parts thereof left in forest stands attractive to the species of bark beetle in question) is the standard way of ascertaining the numbers of bark-destroying insects (bark beetles), on the basis of which, under the legislation, the population density of the pest (basic, high, infestation), and the risk of related damage to forests, can be identified, and practical steps taken to protect and defend forests against damage caused by those pests. This is thus one element of prevention and serves to determine the scale of measures needed to limit damage to forests and the further spread of pests.
- (131) Action to stop bark beetles in infested wood becoming fully developed or leaving that wood and affecting other trees is considered a timely and effective rehabilitation measure. Felled, infested trees may be decontaminated in a timely and effective manner using mechanical means (for example, mechanical bark-stripping) or chemical means (insecticides).
- (132) The Czech authorities have explained that in view of the cost of chemical methods of treating wood in normal situations, forest owners automatically favour biological, physical and other non-chemical mechanical approaches in prevention and treatment. Given the extent of the current infestation in the Czech Republic, it is at present necessary to support the use of all methods, both chemical and non-chemical, in order to at least curb the spread of the bark beetle. Rehabilitation is being set back by the bark beetle continuing to spread, which is affecting more

forest stands, causing their degradation and even wide-spread deforestation. It can therefore be considered that the use of less environmentally friendly protection methods also prevents even greater damage to forest ecosystems. After the present outbreak comes to an end, support will be restricted only to non-chemical protection methods; chemical methods will no longer be supported.

- (133) Chemical methods must be applied in accordance with the applicable legislation. Under national legislation on forest protection only approved products listed in the register kept by the Central Institute for Supervising and Testing in Agriculture¹² may be used. The use of these products is monitored by the State Phytosanitary Administration, the Czech Environmental Inspectorate, and other concerned authorities. Act No 326/2004 Coll. on plant health lays down the obligation to ensure technical expertise in the application of forest protection products by competent persons responsible for the proper handling of forest protection products. Contravention of those provisions incurs penalties.
- (134) Eligible costs include those for the acquisition and installation of pheromone traps, felling, pruning and positioning of trap trees, and their impregnation with an active substance. The contribution does not cover the costs of the regular monitoring of installed traps/trap trees.
- (135) In the event of decontamination/rehabilitation, eligible costs include those for chemical decontamination (spraying of wood in forest depots or covering of wood depots with insecticidal nets, where appropriate the removal and decontamination of wood outside the forest, sometimes including the costs of transporting the wood to storage outside the forest); in the case of mechanical decontamination, the costs of debarking are covered. The eligible costs also include those for related equipment (purchase of sprays or insecticidal nets).
- (136) The contribution may be provided as a share of actual costs incurred (based on supporting accounting documents) or on a rate basis (based on selected unit of calculation: per insect trap, per protected tree etc.).
- (137) The aid intensity cannot exceed 100 % of the costs of the measures taken.

F. Measures notified under Section 2.8.2 of Part II of the Guidelines (“Aid for maintaining and improving the soil quality and ensuring a balanced and healthy tree growth in the forestry sector”)

- (138) This aid is part of the strategy to address the current bark beetle infestation in the Czech Republic. The objective of the aid is maintaining and improving the soil quality and ensuring a balanced and healthy tree growth in the forest. The measures aim in particular at soil protection and maintaining hydrological and ecological conditions.
- (139) The Czech authorities have explained that they notified the measures under Section 2.8.2 of the Guidelines, because the related support involves the tending of forest stands, the objective of which is to achieve greater resistance of forest stands, in particular to negative abiotic factors, treatment of the soil through fertilising in areas affected by air pollution and also putting nutrients back by

¹² <http://eagri.cz/public/web/ukzuz/portal/pripravky-na-ot/>

leaving chippings on the land after harvesting forest stands. Such activities are referred to in Section 2.8.2 of Part II of the Guidelines. Even if some activities could be covered by other Sections (e.g. aid to restore forest potential damaged by plant pests under Section 2.1.3 or aid to improve the resilience and environmental value of forest ecosystems under Section 2.1.4 of Part II of the Guidelines), it would only partially fulfil the aims of the present aid scheme. The primary objective of supported activities is to maintain and improve the soil quality and ensure a balanced and healthy tree growth in the forest. According to the Czech authorities, the objectives under Section 2.8.2 are a better fit for the all-encompassing nature of the measures carried out in forests that usually have a positive impact on several or all the non-productive functions of forests.

- (140) The following measures are concerned:
- (a) “Disposal of brushwood by chipping or crushing before the regeneration of forest through dissemination of matter”;
 - (b) “Removal of damaged coniferous wood species with leaving a portion of the resulting wood chips on the forest floor”;
 - (c) “Improvement of forest-soil quality – fertiliser to be applied to individual seedlings when they are planted out”;
 - (d) “Tending of forest stands up to the age of 40 years (clearing and intermediate intentional felling - thinning)”.
- (141) The Czech authorities have demonstrated that there is no overlap with the contributions for the regeneration and stabilization of forest stands as these activities are performed in different phases of the growing cycle.
- (142) The Czech authorities also gave their assurance that under no circumstances these activities will lead to a reduction of biodiversity, cause nutrient leaching or adversely affect natural water ecosystems or water protection zones. Controls will be conducted to verify the quality of the works done.
- (143) The Czech authorities have confirmed that no aid will be granted to forest based industries or for commercially viable extraction of timber or for transportation of timber or the processing of wood or other forestry resources into products or for energy generation, and no aid will be granted for felling the primary purpose of which is the commercially viable extraction of timber or for restocking where the felled trees are replaced by equivalent ones.
- (144) Aid intensity for the measures concerned (recital (140)) will amount up to 100%.
- a. Measure “Disposal of brushwood by chipping or crushing before the regeneration of forest through dissemination of matter”
- (145) This measure aims at preventing the development of bark and wood-destroying insects. It creates the essentials for a better quality and easy restocking of forest stands after harvesting (suppression of weed growth on deforested areas), in order to ensure the return of nutrients from retained biomass to the land.

- (146) Compared to other conventional methods of treatment of brushwood (i.e. insecticide spraying or burning), no chemical products are applied and all necessary nutrients and elements contained in the residual biomass are returned to the soil. A side effect is also the suppression of weed growth on sites designated for afforestation. This type of measure excludes any negative impact on biodiversity, aquatic ecosystems and water protection zones: it is only a question of leaving biomass on the stand after felling, with a view in fact to protecting and improving forest soil quality.
- (147) Eligible costs are related to the transport of the machinery to the forest stands, manipulating the machinery and related works.
- (148) The aid will be paid up to CZK 18 000 per hectare of forest stand, which is considered an appropriate incentive to forest owners to leave chippings on the forest stand instead of selling forest residues for energy generation. The Czech authorities have provided reference values and calculations whereas the average market price for such works ranges between CZK 21 000/ha and 30 000/ha. It is therefore ensured that the aid intensity will not exceed 100%.
- b. Measure “Removal of damaged coniferous wood species with leaving a portion of the resulting wood chips on the forest floor”
- (149) The principle behind the measure “Disposal of brushwood by chipping or crushing” and the present measure is the same. In the first case, it is a question of activities within the framework of current planned felling (of stands of more than 80 years of age) and the chipping of the residues, the aim of which is to improve and maintain the quality of forest soil. In the second case, the objective is the same, and at the same time the measure concerns the bark beetle infestation and how to remove affected young trees, which are chipped in their entirety (rather than just the residues being chipped).
- (150) The support is intended to make it easier for forest owners to dispose of forest stands less than forty years old that have to be removed on account of the bark beetle infestation. The root cause of the current infestation (exceptionally long-term drought) is also giving rise to infestation in young, otherwise healthy stands. When they are chipped and a portion of the chippings are left on the forest floor, this prevents nutrients being lost from the soil and facilitates forest regeneration. This maintains in particular the forests’ soil protection function; chippings left on the ground also have a greater potential for retaining moisture, thus providing a better environment for reproductive material. This is an ecological way of using damaged trees that have been removed (felling of stands of up to 40 years of age which would not be allowed under normal conditions and which brings no economic benefit for forest owners if the chippings are not used for energy generation). This type of measure excludes any negative impact on biodiversity, aquatic ecosystems and water protection zones: it is only a question of leaving biomass on the stand after felling, with a view in fact to protecting and improving forest soil quality.
- (151) The aid is provided at the rate of CZK 26 000/ha. The Czech authorities have provided reference values and calculations whereas the average market price for such works, including the removal of the stands, is always more than CZK 30 000

per hectare. It is therefore ensured that the aid intensity will not exceed 100% of the costs.

(152) Aid also covers planning costs of eligible activities, up to 100%.

c. Measure “Improvement of forest-soil quality – fertiliser to be applied to individual seedlings when they are planted out”

(153) The aid will be provided for fertilising and liming before planting with mineral fertilizers. No support will be provided for global fertilising.¹³ The aim is to rectify the degraded nutrients of forest stands caused by a change in the chemical makeup of the soil over a long period caused by air pollution in the past. This concerns fertilising using mineral fertilisers in the planting holes during planting, rather than blanket fertilising of forest stands. The fertilizers will be put into the planting hole before planting. The fertilizers, in the form of tablets or granules, will then be covered with soil and become part thereof. Nutrients are being released gradually over a few years. This type of fertilizers does not lead to losing nutrients by splashing out. In particular, fertilizers of Silvamix are used. These fertilizers are suitable for usage in forestry for nourishing perennial plants and intended mainly for additionally fertilising plantings of tree species in areas that are bare due to air pollution and outbreaks of pests, or under otherwise impaired conditions for restoring forests. They are ecologically friendly and do not adversely affect aquatic ecosystems and have no long-term impact on biodiversity.

(154) The Czech authorities gave their assurances that under no circumstances this activity will lead to a reduction of biodiversity, cause nutrient leaching or adversely affect natural water ecosystems or water protection zones. Controls will be conducted to verify the quality of the works done. Law No. 156/1998 Coll. on fertilizers [*zákon č. 156/1998 Sb., o hnojivech*] provides for the registration of used fertilizers. The use of products is controlled by the Central Institute for Supervising and Testing in Agriculture of the Czech Republic [*Ústřední kontrolní a zkušební ústav zemědělský*]. Violations against the law are sanctioned.

(155) Eligible costs include the purchase, transport and application of mineral fertilizers and lime during planting of the respective seedlings.

(156) The amount of support is fixed at CZK 2 000/ha. The Czech authorities have provided reference values and calculations whereas the average market price for this type of works ranges between CZK 3 000/ha and 50 000/ha depending on the used material and applied technology. Therefore, they demonstrated that the maximum amount of support will always be below 100 %.

d. Measure “Tending of forest stands up to the age of 40 years (clearing and intermediate intentional felling - thinning)”

¹³ Fertilising by aircraft or by heavy machinery performed globally on large areas and not individually to treat each of the plants separately.

- (157) The Czech authorities have explained that the aid aims at ensuring a balanced and healthy tree growth in the forest. The purpose of the measure is to ensure the resilience and stability of the stands; failure to do this may result in thinner growth of the stands, putting them at risk of damage by abiotic factors (wind, snow). This measure will result in more stable stands which are better able to ensure the protective function of the forests and their overall health.
- (158) Support will be provided for cleanings and selections focusing on the selection and removal of non-viable stands. These cultivation measures in young forest stands in the age of up to 40 years are of particular importance for the future stability and resistance of forest stands. Such measures would not be that effective if performed at a later stage.
- (159) The amount of contribution for cleanings and selections is fixed at CZK 6 000/ha. The rate of the contribution for tending forest stands will always represent a maximum of 100 % of the real costs of the activity, which are between CZK 6 000 and CZK 20 000/ha, depending on the intensity of the thinning and the age of the stand.
- (160) Aid also covers planning costs of eligible activities, up to 100%.

Coherence with the Rural Development Programme 2014 – 2020 of the Czech Republic ('RDP')

- (161) The Czech authorities have explained that the present aid scheme is in line with the objectives and priorities of Rural Development, in particular objective 2 “Ensuring the sustainable management of natural resources and climate action” and priority 4 “Restoring, preserving and enhancing ecosystems related to agriculture and forestry”.
- (162) The Czech authorities have also provided assurances that coherence with the Czech RDP will be ensured and any overlapping will be avoided. They have provided the following clarifications.
- (163) None of the measures supported under the present aid scheme is included in the Czech RDP. The present aid scheme complements the Czech RDP as a pure State aid in particular in respect of the following types of operation:
- (a) type of operation 4.3.2 “Forest infrastructure” (measure “Anti-erosion measures for category L3 and L4 forest roads”);
 - (b) type of operation 8.4.1 “Regeneration of forest stands after disasters” (measures relating to regeneration of forests stands);
 - (c) type of operation 8.5.1 “Investments in the protection of amelioration and stabilising tree species” (measure “Maintaining a higher proportion of amelioration and stabilisation species”);
 - (d) type of operation 8.5.3 “Conversion of forest stands” (measures relating to regeneration, stabilization and tending of forests stands);
 - (e) type of operation 8.6.1 “Forest technologies” (measure “Purchase of small items of forestry equipment”).

- (164) According to the Czech authorities, the corresponding measures under the present aid scheme have different eligible costs than the measures included in the Czech RDP and double funding will be excluded because of different project content and orientation.
- (165) In addition, the Czech authorities have explained that the support provided under the measure “Maintaining a higher proportion of amelioration and stabilisation species” of the present aid scheme was previously included in the Czech Rural Development Programme 2007-2013 (as measure II.2.3 “Forest-environmental payments”) and the relevant RDP subsidy is still being paid. The Subsidy Framework (recital (9)(e)) therefore provides that support for “Maintaining a higher proportion of amelioration and stabilisation species” is not available for groups of forest stands included in measure II.2.3 “Forest-environmental payments” of the Czech RDP 2007-2013.
- (166) The Czech authorities have explained that the Ministry of Agriculture, which coordinates the granting of aid under both the present aid scheme and the Czech RDP, will in any case ensure that no double funding occurs.

Processing of the aid application

- (167) The Czech authorities have explained that aid under this aid scheme will have an incentive effect in that:
- (a) the granting of aid will be conditioned by the submission of an application prior to the start of an activity and before granting the aid;
 - (b) the aid application must 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;
 - (c) large undertakings will have to describe in the aid application the hypothetical situation which would occur if no aid had been granted. This analysis has to be accompanied by verifiable technical documentation. The granting authority will carry out a credibility check of the counterfactual scenario in case of large enterprises and confirm that the aid will have the required incentive effect.
- (168) In addition, in case of investment aid for large undertakings notified under Sections 2.1.4 and 2.1.6 of the Guidelines, the granting authority will ensure that the aid amount is limited to the minimum on the basis of a ‘net-extra cost approach’. The aid amount should not exceed the minimum necessary to render the project sufficiently profitable and thus it should not lead to an increase of its internal rate of return beyond the normal rates of return applied by the undertaking concerned in other investment projects of a similar kind or, if these rates are not available, to an increase of its internal rate of return beyond the cost of capital of the undertaking as a whole or beyond the rates of return commonly observed in the sector concerned. Furthermore, the granting authority will ensure that the aid amount corresponds to the net extra costs of implementing the investment in the area concerned, compared to the counterfactual scenario in the absence of aid. The method explained will be used together with maximum aid intensities as a cap.

- (169) The aid intensity and amount will be calculated by the granting authority when granting the aid. The eligible costs must be supported by documentary evidence which should be clear, specific and contemporary. For the purposes of calculating the aid intensity and the eligible costs, all figures used will be taken before any deduction of tax or other charge.
- (170) Value added tax (VAT) will not be eligible for aid, except where it is not recoverable under the national VAT rules.

Cumulation

- (171) The Czech authorities have confirmed that the aid under the notified scheme will not be cumulated with any other public aid in respect of the same eligible costs.

Other commitments

- (172) The Czech authorities have informed the Commission that in order to comply with the transparency requirement the publication of the aid scheme and the individual aid awards above EUR 500 000 will be done through the following web page:

<https://webgate.ec.europa.eu/competition/transparency/public/search/home/>.

3. ASSESSMENT

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

- (173) According to Article 107(1) TFEU, "[s]ave as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market".
- (174) The qualification of a measure as aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the measure must be imputable to the State and financed through State resources; (ii) it must confer an advantage on its recipient; (iii) that advantage must be selective; and (iv) the measure must distort or threaten to distort competition and affect trade between Member States.
- (175) The scheme in question is imputable to the State and financed through State resources (recitals (9) and (11)). The notified scheme is selective because other undertakings in a comparable legal and factual situation, in the light of the objective pursued by the scheme, within the forestry sector or other sectors, are not eligible for aid and thus will not receive the same advantage. The notified scheme therefore gives only certain undertakings (recital (13)) a selective economic advantage, by strengthening their competitive position on the market. 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.¹⁴

- (176) 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 trade¹⁵. The beneficiaries of aid operate in the forestry sector where intra-EU trade takes place. In 2017, the EU-28 produced a total of 470.3 million m³ of roundwood, of which the Czech Republic produced 19.4 million m³. That same year the Czech Republic exported 6.8 million m³ of roundwood to other Member States and imported 1.9 million m³ from them.¹⁶ The sector concerned is 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.
- (177) In light of the above, the conditions of Article 107(1) TFEU are fulfilled. It can therefore be concluded that the proposed scheme constitutes State aid within the meaning of that Article. The aid may only be considered compatible with the internal market if it can benefit from one of the derogations provided for in the TFEU.

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

- (178) The aid scheme was notified to the Commission on 15 April 2019. It has not been implemented yet. Therefore, the Czech Republic has complied with its obligation under Article 108(3) TFEU.

3.3. Compatibility of the aid

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

- (179) 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.
- (180) For this derogation to be applicable, the aid must comply with the relevant Union State aid rules.

3.3.2. Application of the Guidelines

- (181) As regards the notified aid scheme, the following Sections in Part II of the Guidelines are applicable:
- (a) 2.1.4 (“Aid for investments improving the resilience and environmental value of forest ecosystems”);

¹⁴ Judgment of the Court of 17 September 1980 in Case 730/79 *Philip Morris Holland BV v Commission of the European Communities*, ECLI:EU:C:1980:209.

¹⁵ See in particular the judgment of the Court of 13 July 1988 in Case 102/87 *French Republic v Commission of the European Communities*, ECLI:EU:C:1988:391.

¹⁶ EUROSTAT: Forestry database - Roundwood production and trade.

- (b) 2.1.5 (“Aid for investments in forestry technologies and in processing, in mobilising and in marketing of forest products”);
- (c) 2.1.6 (“Aid for investments in infrastructure related to the development, modernisation or adaptation of forestry”);
- (d) 2.3 (“Aid for forest-environment and climate services and forest conservation”);
- (e) 2.8.1 (“Aid for specific forest actions and interventions with the primary objective to contribute to maintaining or to restoring forest ecosystem and biodiversity or the traditional landscape”);
- (f) 2.8.2 (“Aid for maintaining and improving the soil quality and ensuring a balanced and healthy tree growth in the forestry sector”).

3.3.2.1. Specific assessment according to the category of aid

Common conditions under Chapter 2 of Part II of the Guidelines

- (182) Under the present scheme, no aid will be granted to forest based industries (recital (16)), which is in line with point 495 of the Guidelines.
- (183) It follows from point 498 of the Guidelines that there are specific restrictions as to the scope of aid beneficiaries, which stem from the Regulation (EU) No 1305/2013 and which apply to co-financed measures in the forestry sector. Such restrictions, in line with the same point, do not apply to rural development like forestry measures, which are funded exclusively from national resources, nor to the specific aid measures of Section 2.8 of Part II of these Guidelines, which is the case for the present aid scheme (recitals (11) and (181)). However, under point 498 of the Guidelines, the limitations as to the size of eligible beneficiaries always apply to investments in forestry referred to in Section 2.1.5 of the Guidelines in accordance with in Article 26 of Regulation (EU) No 1305/2013. The scope of beneficiaries is assessed below, separately for each concerned type of aid.

Common conditions under Section 2.1 of Part II of the Guidelines concerning investments in the forestry sector

- (184) The present aid scheme covers types of aid listed in point 500 of the Guidelines (recital (181)(a)-(181)(c)).
- (185) Points 501 and 503 of the Guidelines do not apply in the present case, because aid under the present aid scheme is funded exclusively from the national budget (recital (11)).
- (186) Point 502 of the Guidelines lists common eligible costs for investments in the forestry sector. They are assessed below, under each concerned type of aid.

Measures under Section 2.1.4 of the Guidelines (“Aid for investments improving the resilience and environmental value of forest ecosystems”)

- (187) Concerned are the following measures of the present aid scheme:

- (a) “Protection of young forest stands until established (protection against weeds, animals, weevils and rodents)”;
 - (b) “Stabilisation of forest stands within the statutory period”;
 - (c) “Individual protection of seedlings against animals”;
 - (d) “Establishment of new enclosures in order to secure forest stands or part thereof (min. 160 cm) with a proportion of ameliorative and strengthening forest species (of at least 30%)”;
 - (e) “Forest protection measures against browsing and bark-peeling by animals”;
 - (f) Protection against animals under the measure “Natural regeneration and artificial regeneration by sowing”.
- (188) According to point 613 of the Guidelines, preventive measures against damage done by animals in forests fall into the scope of aid for investments improving the resilience and environmental value of forest ecosystems. This is thus the case for the measures listed above.
- (189) According to point 529 of the Guidelines, the Commission will consider aid for investments improving the resilience and environmental value of forest ecosystems compatible with the internal market under Art. 107(3)(c) TFEU if it complies with the common assessment principles of the Guidelines and with the specific conditions laid down in Section 2.1.4 of the Guidelines.
- (190) Point 530 of the Guidelines stipulates the potential aid beneficiaries. According to point 498 of the Guidelines, the restrictions as to the scope of beneficiaries do not apply to the aid granted solely from national funds, which is the case for the present aid scheme (recital (11)). Therefore, beneficiaries of the aid, as defined in recital (13), are in line with points 498 and 530 of the Guidelines.
- (191) Investments under the concerned measures of the present aid scheme aim at strengthening non-productive functions of the forest by reducing excessive vegetation, by protecting trees from damage done by animals and at increasing the resilience and the ecological value of forest ecosystems (recitals (31), (40) and (47)). Furthermore, preventive measures against damage done by animals in forests constitute protection of habitats and biodiversity-related actions, in line with point 613 of the Guidelines. Therefore, the investments are aimed at the enhancement of the public amenity value of forests and woodland in the area concerned or the improvement of the climate change mitigation potential of ecosystems, without excluding economic benefits in the long term (recital (28)), in line with point 531 of the Guidelines.
- (192) The eligible costs encompass costs of materials and works (recitals (34), (41), (50) and (51)) as well as costs of establishing related forest management plans and their equivalent instruments (recitals (39), (43), (46), (51) and (55)), which matches the costs referred to in point 502 (a)-(c) and (e) of the Guidelines. Costs connected to leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges as well as working capital are not eligible for aid (recital (29)). Point 502 of the Guidelines is therefore complied with.

- (193) Aid will be granted up to 100% of eligible costs (recitals (38), (39), (42), (43), (45), (46), (50), (51), (54) and (55)), which is in line with point 532 of the Guidelines.
- (194) It can be concluded that the conditions of Section 2.1.4 of the Guidelines are fulfilled.
- Measure under Section 2.1.5 of the Guidelines (“Aid for investments in forestry technologies and in processing, in mobilising and in marketing of forest products”)
- (195) Concerned is the following measure of the present aid scheme: “Contribution to small items of forestry equipment”.
- (196) According to point 533 of the Guidelines, the Commission will consider aid for investments enhancing forestry potential or relating to processing, mobilising and marketing adding value to forest products compatible with the internal market under Art. 107(3)(c) TFEU if it complies with the common assessment principles of the Guidelines and with the specific conditions of Section 2.1.5 of the Guidelines.
- (197) Points 534 to 536a of the Guidelines are not applicable, since the Czech authorities declared they would not provide aid for investments in renewable energy infrastructure, electricity production from biomass and for bioenergy projects (recital (65)).
- (198) Point 537 of the Guidelines regulates potential aid beneficiaries. According to point 498 of the Guidelines, the restrictions stemming from the Regulation (EU) Nr. 1305/2013 and relating to the size of the beneficiaries also apply in case of not co-financed forestry aid when it comes to investments in forestry technologies and in processing, in mobilising and in marketing of forest products. The present measure applies to private forest holders and SMEs (recital (14)). Therefore, points 498 and 537 of the Guidelines are respected.
- (199) The eligible costs encompass purchase of small forestry equipment (recital (62)), which matches the costs referred to in point 502 (b) of the Guidelines. Costs connected to leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges as well as working capital are not eligible for aid (recital (63)). Point 502 of the Guidelines is therefore complied with.
- (200) The eligible costs are also in line with points 538 and 539 of the Guidelines, as the investments aim at enhancing forestry potential and preserving forest stands on small forest estates (recitals (57)-(58)).
- (201) It follows from recital (60) that the condition of limiting investments related to the use of wood as a raw material to working operations prior to industrial precessing (point 540 of the Guidelines) is met as well.
- (202) Aid is allowed up to 50% of the eligible investment costs (recital (64)) and, therefore, point 541(c) of the Guidelines is complied with.
- (203) It can be concluded that the conditions of Section 2.1.5 of the Guidelines are fulfilled.

Measure under Section 2.1.6 of the Guidelines (“Aid for investments in infrastructure related to the development, modernisation or adaptation of forestry”)

- (204) According to point 542 of the Guidelines, the Commission will consider aid for investments in infrastructure related to the development, modernisation or adaptation of forestry compatible with the internal market under Art. 107(3)(c) TFEU if it complies with the common assessment principles of these Guidelines and with the specific conditions of Section 2.1.6 of the Guidelines.
- (205) Concerned is the following measure: “Anti-erosion measures on forest roads — water channelling and infiltration”.
- (206) Beneficiaries of the measure can be all forest holders (recital (13)). It is in line with Section 2.1.6 of the Guidelines, which provides no specific restrictions as to the potential beneficiaries.
- (207) Eligible costs encompass costs of materials and works (recital (72)-(73)), which matches the costs referred to in point 502 (a)-(b) of the Guidelines. Costs connected to leasing contracts, such as lessor's margin, interest refinancing costs, overheads and insurance charges as well as working capital are not eligible for aid (recital (74)). Point 502 of the Guidelines is therefore complied with.
- (208) Aid covers investment in tangible assets, which concern infrastructure related to the adaptation of forests, in particular the access to forest land (recitals (68)-(70)), therefore the conditions of point 543 of the Guidelines are met.
- (209) Aid covers investments for forest roads, which are open to the public free of charge and which serve the multifunctional aspects of forest (recital (71)) and the aid intensity is limited to 100% of eligible costs (recital (75)), in line with point 544 of the Guidelines.
- (210) It can be concluded that the conditions of Section 2.1.6 are fulfilled.

Measures under Section 2.3 of the Guidelines (“Aid for forest-environment and climate services and forest conservation”)

- (211) Concerned are the following measures of the present aid scheme: “Use of environmentally friendly technologies” and “Maintaining a higher proportion of amelioration and stabilisation species”.
- (212) According to point 551 of the Guidelines, the Commission will consider aid for forest-environment and climate services and forest conservation compatible with the internal market under Art. 107(3)(c) TFEU if it complies with the common assessment principles of these Guidelines and with the specific conditions of the Section 2.3 of the Guidelines.
- (213) According to point 552 of the Guidelines, aid must be granted per hectare of forest and for forest holdings above a certain threshold and the aid must be conditional on the presentation of relevant information from a forest management plan. As described in recital (19), the granting authority has access to the relevant information from a forest management plan or equivalent instrument. The aid will be paid per hectare in case of the measure “Maintaining a higher proportion of

amelioration and stabilisation species” (recital (99)). As regards the measure “Use of environmentally friendly technologies”, the rate of aid is fixed per one cubic meter of skidded wood (recital (86)). Point 91 of the Guidelines provides for a possibility to calculate payments under Section 2.3 of Part II of the Guidelines on the basis of units other than hectares. In such cases, the Member States must ensure that the maximum amounts per year are complied with. According to point 562 of the Guidelines, aid must be limited to the maximum amount of EUR 200/ha/year. This amount is respected in case of the measure “Maintaining a higher proportion of amelioration and stabilisation species” (recital (99)). According to point 562 of the Guidelines, the maximum amount may however be increased in duly substantiated cases taking into account specific circumstances to be justified in the notification to the Commission. For the measure “Use of environmentally friendly technologies”, the Czech authorities have provided detailed justification for the additional aid exceeding the maximum amounts linked to the fact that aid will be channelled to specific sensitive forest areas (recital (87)). In such cases, the Czech authorities calculated that payments of EUR 300/ha/year are necessary, whereby over-compensation will be avoided (recital (87)). Taking into account the specific circumstances and the provided justifications, the Commission considers that the condition concerning the increase of certain aid amounts is fulfilled. Based on the above, the Commission considers that the present aid scheme complies with points 552 and 562 of the Guidelines.

- (214) In line with point 553 of the Guidelines, the Czech authorities have demonstrated that support will be granted for voluntary commitments (recitals (82) and (95)). Since there are no relevant obligations in the EU or national legislation, it can be concluded that those voluntary commitments go beyond the relevant mandatory requirements (recitals (82) and (95)).
- (215) According to point 554 of the Guidelines, commitments must be undertaken for a period of five to seven years. Pursuant to recitals (82) and (94), this condition is complied with.
- (216) The rules for area related payments laid down in Article 47 of Regulation (EU) No 1305/2013 and the relevant provisions of its delegated act will be complied with (recital (79)), as required in point 555 of the Guidelines.
- (217) Point 556 of the Guidelines stipulates the potential aid beneficiaries. According to point 498 of the Guidelines, the restrictions as to the scope of the beneficiaries do not apply to the aid granted solely from national funds, which is the case for the present aid scheme (recital (11)). Therefore, the beneficiaries of the aid, as defined in recital (13), are in line with points 498 and 556 of the Guidelines.
- (218) Points 557, 559, 560, 561 and 563 of the Guidelines are not applicable in the present case, as the aid does not concern the conservation and promotion of forest genetic resources or environmental conservation.
- (219) Pursuant to recitals (88) and (97), the aid under the measures concerned will compensate beneficiaries for all or part of the additional costs and income foregone resulting from the commitments made and therefore point 558 of the Guidelines is complied with.

- (220) It can be concluded that the conditions of Section 2.3 of the Guidelines are fulfilled.

Common conditions under Chapter 2.8 of Part II of the Guidelines

- (221) It follows from recitals (102) and (138) that the concerned measures aim at maintaining and restoring non-productive functions of forests, protecting plant health and maintaining and restoring healthy forest ecosystem and biodiversity. Therefore, points 589 and 590 of the Guidelines are complied with.
- (222) Pursuant to recitals (101) and (143), point 591 of the Guidelines is complied with and, accordingly, no aid will be granted to forest based industries or for commercially viable extraction of timber or for transportation of timber or the processing of wood or other forestry resources into products or for energy generation, nor for felling the primary purpose of which is the commercially viable extraction of timber or for restocking where the felled trees are replaced by equivalent ones.
- (223) According to point 592 of the Guidelines, aid may be granted up to 100 % of the eligible costs. It follows from recitals (105) and (144) that the present aid scheme is in line with that provision.
- (224) According to point 593 of the Guidelines, aid may be granted to undertakings active in the forestry sector. This condition is fulfilled (recital (13)).
- (225) It can be concluded that the requirements of the common provisions applicable to Chapter 2.8 of Part II of the Guidelines are met.

Measures under Section 2.8.1 of the Guidelines (“Aid for specific forest actions and interventions with the primary objective to contribute to maintaining or to restoring forest ecosystem and biodiversity or the traditional landscape”)

- (226) Concerned are the following measures of the present aid scheme:
- (a) “Natural regeneration and artificial regeneration by sowing”;
 - (b) “Artificial regeneration by planting (initial)”;
 - (c) “Artificial regeneration by planting (repeated)”;
 - (d) “Conversion of forest stands that have an unsuitable species composition, and reconstruction of forest stands that have suffered other forms of damage (fire)”;
 - (e) “Protection of forest against pests”.
- (227) According to point 594 of the Guidelines, the Commission will consider aid for planting, pruning, thinning and felling of trees and other vegetation in existing forests, the removal of fallen trees, and the planning costs of such measures and aid for the costs of treating and preventing the spreading of pests and tree diseases compatible with the internal market under Article 107(3)(c) TFEU if the aid complies with the common assessment principles and the common provisions applicable to Section 2.8 of Part II of the Guidelines, and where the primary

objective of such measures is to contribute to maintaining or to restoring forest ecosystem and biodiversity or the traditional landscape.

- (228) The common provisions applicable to Section 2.8 of the Guidelines are complied with (recital (225)).
- (229) The primary objective of the measures concerned is to conserve and restore forest ecosystems and forest biodiversity in forest stands in the Czech Republic (recital (102)). Therefore, point 594 of the Guidelines is complied with.
- (230) The eligible costs (recitals (107), (116), (121), (134) and (135)) include planting, pruning, thinning and felling of trees and other vegetation in forests as well as treating and preventing the spreading of pests, in line with point 594 of the Guidelines. In addition, costs under the measure “Protection of forest against pests” match those listed under point 594(a) of the Guidelines. In this context, as required in point 594(a) of the Guidelines, given the extent of the current bark beetle calamity, the use of non-chemical prevention methods alone can be considered as not sufficient to provide satisfactory control over the mentioned pest (recitals (8) and (132)). Furthermore, planning costs of the eligible operations are also eligible for aid (recitals (112), (119) and (124)), which is in line with point 594 of the Guidelines.
- (231) It can be concluded that the requirements of Section 2.8.1 of Part II of the Guidelines are fulfilled.

Measures under Section 2.8.2 of the Guidelines (“Aid for maintaining and improving the soil quality and ensuring a balanced and healthy tree growth in the forestry sector”)

- (232) Concerned are the following measures of the present aid scheme:
- (a) “Disposal of brushwood by chipping or crushing”;
 - (b) “Removal of damaged coniferous wood species with leaving a portion of the resulting wood chips on the forest floor”;
 - (c) “Improvement of forest-soil quality – fertiliser to be applied to individual seedlings when they are planted out”;
 - (d) “Tending of forest stands up to the age of 40 years”.
- (233) According to point 595 of the Guidelines, the Commission will consider aid for maintaining and improving the soil quality and ensuring a balanced and healthy tree growth in the forestry sector compatible with the internal market under Article 107(3)(c) TFEU if it complies with the common assessment principles of the Guidelines, the common provisions applicable to Section 2.8 of Part II of these Guidelines and with the specific conditions of the Section 2.8.2 of the Guidelines.
- (234) According to point 596 of the Guidelines, aid can be granted for maintaining and improving the soil quality in forests and ensuring a balanced and healthy tree growth. The activities supported under measures concerning disposal of brushwood, removal of damaged coniferous wood species and improvement of

forest-soil quality aim at improving the forest-soil quality (recital (138)), while the measure relating to tending of forest stands primarily aims at ensuring a balanced and healthy tree growth (recital (157)). The conditions set out in point 596 of the Guidelines are therefore met.

- (235) According to point 597 of the Guidelines, measures may include soil improvement by fertilisation and other treatments. This is the case for activities relating to disposal of brushwood (recital (146)), removal of damaged coniferous wood species (recital (150)) and improvement of forest-soil quality (recital (153)). Furthermore, according to the same point of the Guidelines, Member States should demonstrate that such measures do not reduce biodiversity, cause nutrient leaching or adversely affect natural water ecosystems or water protection zones. The Czech authorities have demonstrated that this condition is complied with (recitals (142), (146) and (154)).
- (236) Planning costs of the eligible operations are also eligible for aid (recitals (152) and (160)), as allowed under point 598 of the Guidelines.
- (237) It can be concluded that the requirements of Section 2.8.2 of Part II of the Guidelines are fulfilled.

3.3.2.2. Common Assessment Principles

Contribution to a common objective

- (238) The scheme contributes to a common objective in line with points 43 and 44 of the Guidelines. As described in recitals (6) and (7) above, the objective of the present aid scheme is to ensure sustainable forest management and preserve all the non-productive functions of the forest ecosystems. The objective of the scheme thus relates to the efficient and sustainable use of resources in order to achieve intelligent and sustainable growth. By its nature, the present aid is closely related to the Common Agricultural Policy, as it aims at sustainable management of natural resources and climate action. It does not interfere with the mechanisms of the common organisation of the markets in agricultural products. As shown in recitals (161)-(166), the present aid scheme is not part of the Czech RDP and it fits into and is consistent with the rural development framework. On this basis, it can be concluded that the conditions of points 47 and 58 of the Guidelines are met. In accordance with point 48 of the Guidelines, the Commission considers that the principle of contribution to the objectives of rural development is met regarding the aid measures falling under Section 2.8 of Part II of the Guidelines, which are outside the scope of rural development, since the Commission has gained sufficient experience as to the contribution of those measures to the rural development objectives.
- (239) Taking into account the objective of the aid scheme, no negative impact on the environment within the meaning of point 52 of the Guidelines has been identified (recital (8)).

Need for State intervention

- (240) As provided for in 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. The aid scheme fulfils the specific conditions laid down in Sections 2.1.4 (recital (194)), 2.1.5 (recital (203)), 2.1.6 (recital (210)), 2.3 (recital (220)), 2.8.1 (recital (231)) and 2.8.2 (recital (237)) of Part II of the Guidelines. Therefore, in line with point 55 the Commission considers that there is a need for State intervention.

Appropriateness of aid

- (241) According to point 57 of the Guidelines, the Commission considers that aid granted in the agricultural and forestry sectors and in rural areas, which fulfil the specific conditions laid down in the relevant Sections of Part II of the Guidelines, is an appropriate policy instrument. The scheme fulfils the specific conditions laid down in Sections 2.1.4 (recital (194)), 2.1.5 (recital (203)), 2.1.6 (recital (210)), 2.3 (recital (220)), 2.8.1 (recital (231)) and 2.8.2 (recital (237)) of Part II of the Guidelines, and therefore the requirements under point 57 of the Guidelines are complied with.
- (242) Points 59-65 of the Guidelines require that the Member States grant aid in a form, which can be considered as appropriate aid instrument. In the present case, based on the information submitted by the Czech authorities, the form of direct grant constitutes an appropriate aid instrument (recitals (20)-(25)).
- (243) In line with point 63 of the Guidelines, the Czech authorities have demonstrated for the measures notified under Sections 2.8.1 and 2.8.2 of the Guidelines that the ecological, protective and recreational objectives they are aiming for, cannot be achieved with the rural development like forestry measures in Sections 2.1 to 2.7 of Part II of the Guidelines (recitals (104) and (139)).

Incentive effect and need for aid

- (244) The beneficiaries under the present aid scheme will have to submit the application for aid prior to the start of activities (recital (167)(a)). Thus, point 70 of the Guidelines is complied with. The application must contain the data specified in point 71 of the Guidelines (recital (167)(b)). In compliance with point 72 of the Guidelines, in order to strengthen the incentive effect of the aid, large enterprises are required to submit a description of the situation without the aid (counterfactual scenario) and, in assessing the application, the granting authority will carry out a credibility check of the counterfactual scenario and confirm that the aid has an incentive effect (recital (167)(c)).

Proportionality of the aid

- (245) As described above (recitals (194), (203), (210), (225), (231) and (237)), the eligible costs and aid intensities respect the requirements set out in the applicable provisions of the applicable Sections of Part II of the Guidelines. It is ensured that overcompensation will be excluded (recitals (21)-(24)). In line with point 85 of the Guidelines, aid intensity and amount will be calculated by the granting authority when granting the aid and the eligible costs will be supported by clear, contemporary documentary evidence (recital (169)). For the purposes of calculating the aid amount and the eligible costs, all figures used will be taken before any deduction of tax or other charge (recital (169)). Value added tax will not be eligible for aid, except where it is not recoverable under the national VAT rules (recital (170)), which complies with point 86 of the Guidelines.

- (246) As indicated in recital (171), the aid scheme does not allow for a cumulation of the aid under the present scheme with any other aid to cover the same eligible costs.
- (247) The aid amounts relating to support notified under Section 2.3 of the Guidelines are fixed on the basis of standard assumptions of the additional costs and the income foregone (recital (21)). All elements contained are verifiable, based on figures established by appropriate expertise indicating clearly the source, are differentiated to take account of regional or local site conditions and actual land use, and do not contain investment costs (recital (21)), which respects the requirements of point 93 of the Guidelines.
- (248) According to points 95-97 of the Guidelines concerning additional conditions for investment aid granted to large enterprises under notified schemes, Member States have to ensure that the aid amount is limited to the minimum on the basis of a 'net-extra cost approach'. The aid amount should not exceed the minimum necessary to render the project sufficiently profitable, for example, it should not lead to an increase of its internal rate of return beyond the normal rates of return applied by the undertaking concerned in other investment projects of a similar kind or, if these rates are not available, to an increase of its internal rate of return beyond the cost of capital of the undertaking as a whole or beyond the rates of return commonly observed in the sector concerned. Furthermore, the Member State must ensure that the aid amount corresponds to the net extra costs of implementing the investment in the area concerned, compared to the counterfactual scenario in the absence of aid. The method explained in this recital must be used together with maximum aid intensities as a cap. Based on the information submitted by the Czech authorities (recital (168)), the Commission considers that the said conditions are fulfilled.
- (249) Hence the criterion of proportionality is fulfilled.

Avoidance of undue negative effects on competition and trade

- (250) The Czech authorities have analysed the risk of distortion of competition and trade when implementing the present aid scheme.
- (251) Since the aid scheme fulfils the conditions laid down in Sections 2.3 (recital (220)), 2.8.1 (recital (231)) and 2.8.2 (recital (237)) of Part II of the Guidelines and does not exceed the relevant maximum aid intensities (recital (245)), the Commission considers, in line with point 113 of the Guidelines, that the negative effect on competition and trade of the support concerned is limited to the minimum.
- (252) As regards investment aid in the forestry sector, points 115 and 116 of the Guidelines apply and the Member States must demonstrate that any negative effect on competition and trade will be limited to the minimum. The relevant conditions and the relevant maximum aid intensities laid down in the concerned Sections 2.1.4 (recital (194)), 2.1.5 (recital (203)) and 2.1.6 (recital (210)) of Part II of the Guidelines are respected. In addition, the Czech authorities have demonstrated that: (a) the support will be provided for very small-scale measures (recitals (30) and (65)) or smaller-scale measures (recital (76)) intended for strengthening non-productive forest functions that benefit wider society; (b) the absolute amount of support will be so low that even cumulative aid amounts

should not lead to negative effects on economy and trade (recitals (30), (66) and (76)); and (c) given the position of forestry sector and its relationships with the other sectors of economy it is not likely that the aid intended for non-productive forest functions would have negative effects on other sectors (recitals (30), (66) and (76)). It can therefore be concluded that no significant distortion of competition and trade can be identified in line with points 115 and 116 of the Guidelines.

Transparency

(253) The transparency requirement is complied with as shown in recital (172).

3.3.2.3. Other commitments

(254) The Commission notes that no aid will be granted to undertakings in difficulty (recital (17)), in line with point 26 of the Guidelines.

(255) The Commission notes that the Czech Republic will 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, in line with point 27 of the Guidelines (recital (18)).

(256) The Commission notes that the Czech authorities committed to adapt the aid scheme to the new rules, which will be in force after 2020 (recital (10)).

(257) As regards aid notified under Section 2.3 of the Guidelines, revision clauses as required in points 724-726 of the Guidelines will be included in all agreements for aid under the present aid scheme (recital (78)).

(258) The Commission furthermore notes that the Czech authorities accepted that the decision is adopted in the English language, due to urgency (recital (4)).

3.3.2.4. Duration

(259) Pursuant to point 719 of the Guidelines, the Commission only authorizes schemes of limited duration. Aid schemes other than those benefiting from co-financing under Regulation (EU) No 1305/2013 and its implementing regulation should not apply for more than seven years. It follows from recital (10) that this condition is fulfilled.

4. CONCLUSION

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

If any parts of this letter are covered by the obligation of professional secrecy according to the Commission communication on professional secrecy in State aid decisions¹⁷ and should not be published, please inform the Commission within fifteen working days of notification of this letter. If the Commission does not receive a reasoned request by that

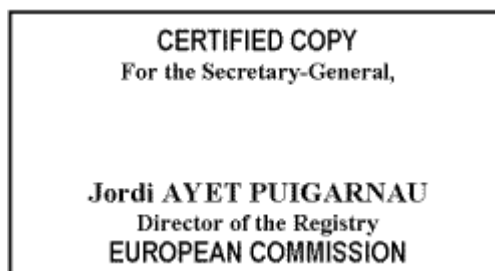
¹⁷ Commission communication C(2003) 4582 of 1 December 2003 on professional secrecy in State aid decisions, OJ C 297, 9.12.2003, p. 6.

deadline, the Czech Republic will be deemed to agree to the publication of the full text of this letter. If the Czech Republic wishes certain information to be covered by the obligation of professional secrecy please indicate the parts and provide a justification in respect of each part for which non-disclosure is requested.

Your request should be sent electronically via the secured e-mail system Public Key Infrastructure (PKI) in accordance with Article 3(3) of Commission Regulation (EC) No 794/2004¹⁸, to the following address: agri-state-aids-notifications@ec.europa.eu.

For the Commission

Phil HOGAN
Member of the Commission



¹⁸ Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).