

Commission Internal



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WORKING LANGUAGE

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Subject: State aid N 573/2008 – Italy
Aid scheme for the promotion of renewables, energy saving, cogeneration and district heating (Toscana)

Dear Sir,

1. Procedure

By letter of 12 November 2008, Italy notified the Commission of an aid scheme aimed at financing projects related to the promotion of renewable energy, energy saving, cogeneration and district heating in the region of Tuscany.

The Commission asked Italy to provide further information by letter of 23 December 2008, to which Italy replied on 4 February 2009.

2. DESCRIPTION OF THE AID

Categories of measures to be financed

1. The aim of the present scheme, which is introduced by the "Decreto Dirigenziale n° 2450/2008, Decreto Dirigenziale n° 2773/2008 e Decreto Dirigenziale n° 4852/2008 " (hereinafter "the Decrees"), is to finance projects aimed at: i) fostering the adoption of renewable energies; ii) energy saving; iii) cogeneration and iv) district heating with low energy consumption.
2. The present measure provides exclusively for investment aid, which will be awarded through direct grants.
3. The overall budget is Euro 53 million. The yearly budget is Euro 10.60 million.

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4. The Italian authorities would like to finance through the present scheme investments aimed at (i) fostering the adoption of renewable energy sources; (ii) energy saving; (iii) the realisation of cogeneration and of (iv) energy efficient district heating projects.
5. Aid for renewable energy sources includes aid for the promotion of solar, hydropower and wind-powered installations, biomass, biotermic fluids, and biogases, The Italian authorities clarified that the present scheme would apply to projects which would have a maximum generation capacity of 10 MW.
6. Under the present scheme the Italian authorities intend to finance the substitution of existing equipment and installations and the adoption of the best technology available to realise energy saving. The measure will apply to a variety of industrial sectors. More particularly, the Italian authorities will finance interventions such as, for instance, investments for the recovery of heat from production processes; streamlining of the production processes; recovery and recycle of the water used in the production processes; improvement of building insulation; use of low-consumption light sources etc.
7. Investment in cogeneration will be limited to new high-efficiency cogeneration systems, which will result in primary energy savings compared to separate production as defined by Directive 2004/8/EC and Decision 2007/74/EC.
8. Finally, through the present scheme the Italian authorities intend to finance investments in district heating, which will be limited to high-efficiency systems and will result in primary energy savings compared to the separate production of heat and electricity. More particularly, the Italian authorities intend to finance district heating and cooling projects based on renewable energies such as geo-thermal energy. The Italian authorities confirmed that this will not include aid to infrastructures.
9. The Italian authorities submit that through the present scheme they expect to achieve a reduction in CO₂ emissions of 207 KT per year and the production of 155 ktonnes equivalent petrol ('ktep' hereinafter) from renewable sources by 2013.
10. The aid intensities comprised in the present measure, will vary from 50% to 80%. More particularly, they will vary, depending on the size of the beneficiaries, between 60 to 80% for energy saving, aid to renewables and cogeneration projects. The aid intensity will vary (depending on the size of the beneficiaries) between 50 and 70% for district heating projects.

3. ASSESSMENT

3.1 Procedural requirements

11. By notifying this aid scheme before it enters into force, the Italian authorities have complied with their obligation of Article 88 (3) of the EC Treaty.

3.2 Existence of State aid under Article 87(1) of the EC Treaty

12. Article 87(1) EC lays down four conditions in order for a State measure to be considered aid. First, there must be an intervention by the State or through State resources. Second, it must confer an advantage on the beneficiary, which has to be an undertaking, i.e. a public or private entity carrying out an economic activity. Third, the intervention must be likely to affect trade between Member States. Fourth, it must distort or threaten to distort competition.
13. The beneficiaries of the present aid scheme will receive a contribution to partially compensate the extra costs incurred to carry out the abovementioned type of projects in their business organisation. The abovementioned measures therefore confer an advantage on them.
14. The beneficiaries constitute a selective group of undertakings in the sense of Article 87(1) EC as the measure solely favours certain undertakings.
15. At least some of the measure's beneficiaries are engaged in sectors where trade between Member States takes place and, therefore, the measure is likely to affect trade and distort competition.
16. On the basis of the elements presented above, the Commission takes the view that all envisaged measures constitute State aid in the meaning of Article 87(1).

3.3 Compatibility

A. General Remarks

17. The Commission assessed the compliance of the scheme contained in the present notification with Article 87(3) (c) EC, in particular on the basis of the Environmental Aid Guidelines (EAG), which apply as of 2 April 2008.

- Eligible costs calculation

18. Point 80 of the EAG, setting out the general principles for eligible costs calculations, provides that: "*eligible costs must be limited to the extra investment costs necessary to achieve a higher level of environmental protection than required by the Community standards and will be calculated in two steps. First, the cost of the investment directly related to environmental protection will be established by reference to the counterfactual situation, where appropriate. Second, operating benefits will be deducted and operating costs will be added*".
19. The Commission considers that the methodology detailed in the documents submitted by the Italian authorities and the concrete examples submitted by the Italian authorities for each and every category of aid foreseen by the present scheme in the notification form and in the reply to the Commission's request for information are in line with the general principle mentioned above and with its further specifications contained in points 80 to 83 of the EAG.
20. In particular, as regards more specifically the methodology applied by the Italian authorities, the Commission notes that the Italian authorities have explained that, in line with point 81 of the guidelines, the identification of the part of the investment directly related to environmental protection is done by comparing the investment with the

counterfactual situation in the absence of State aid, i.e. with the cost of a technically comparable investment that provides a lower degree of environmental protection (corresponding to mandatory Community standards, if they exist) and that would credibly be realised without aid ('reference investment'). The Commission notes that the reference investments, provided as examples by the Italian authorities, are in line with the criteria set out by the guidelines: i.e. i) they are investments with the same production capacity and all other technical characteristics (except those directly related to the extra investment for environmental protection) of the investment under assessment and ii) constitute, from a business point of view, a credible alternative. This will ensure that no overcompensation is given to the investment financed by the present scheme.

21. Furthermore, the Italian authorities clarified that, in line with point 83 of the EAG, they will finance the cost for the acquisition of material assets and confirmed that they will deduce from such costs, as required by point 82 of the EAG, the operating net benefits realised through the financed investments in the 5 years following the realisation of the investments.
22. These principles have been applied in all the concrete examples¹ provided by the Italian authorities to the Commission to show the effect of the aid on the different kinds of measures financed. On this basis, the Commission finds that the Italian authorities have illustrated that the support granted under the measure at stake will not exceed the extra costs necessary to achieve higher environmental protection through the interventions described above.

- Cumulation

23. As regards cumulation, the Italian authorities have confirmed that such aid intensity will not exceed the amounts provided for in the relevant section of the new EAG, should the contributions payable under the present scheme be cumulated between them or with those paid under any other measure.

- Incentive effect

24. As regards the incentive effect, point 142 of the EAG sets out the general principle that: "*State aid must have an incentive effect. State aid for environmental protection must result in the aid recipient changing its behaviour so that the level of environmental protection is increased*". Point 143 of the EAG further specifies that "*The Commission considers that aid does not present an incentive effect for the beneficiary in all cases in which the project has already started prior to the aid application by the beneficiary to the national authorities*". Finally, according to point 144 of the EAG: "*If the aided project has not started before the aid application, the requirement of incentive effect is presumed to be automatically met for all categories of aid granted to an SME, except in cases where the aid must be assessed in accordance with the detailed assessment in chapter 5*".

¹

One of the examples provided related, for instance to renewable energies, and to the installations of photo-voltaic systems with a capacity of 3 MW. The eligible costs in this case were calculated by deducting from the costs of the realisation of the photo-voltaic system, the costs of the reference investment (combustible oil), and by further deducting all the benefits realised in the first 5 years (i.e. the tariff benefit for not integrated producers and the gains derived from the on-site exchange of electricity).

25. The Italian authorities have confirmed that no aid will be awarded under the present scheme to projects that have already been initiated. Therefore the aid scheme complies with point 143 of the EAG, and the incentive effect is presumed to be automatically met for all categories of aid granted to SMEs, in line with point 144 of the EAG.
26. As regards potential beneficiaries of the scheme which are not SMEs, the EAG provide (in point 145) that the Commission should require that the incentive effect is demonstrated by the notifying Member State. The Italian authorities have shown in the examples provided the necessity and the incentive effects of the present measures.
27. In addition, the Italian authorities have committed to seek from potential non –SMEs beneficiaries the necessary evidences including calculations of the net present value of the investment and showing that state aid is necessary for the beneficiary to undertake the investment, whereas it would not have been realised without the aid.

B. Compatibility of each category of aid with the new EAG

(i) - Renewable energy sources

28. Aid for renewable energy sources includes aid for the promotion of solar, hydropower and wind-powered installations, biomass, biotermic fluids, and biogases, in line with the definition of renewable energies contained in point 70(5) of the EAG.
29. The aid intensities envisaged by the present scheme (ranging from 60 to 80% depending on the size of the beneficiaries) are in line with those set in points 102-103 of the EAG. The costs calculations are also in line with points 105 (- requiring that for renewable energy, eligible investment costs must be limited to the extra investment costs borne by the beneficiary compared with a conventional power plant or with a costs conventional heating system with the same capacity in terms of the effective production of energy) and 106 (requiring that the eligible costs must be calculated net of any operating benefits and operating costs related to the extra investment for renewable sources of energy and arising during the first five years of life of the investments) of the EAG.

(ii) - Energy saving

30. Under the present scheme the Italian authorities intend to finance in different industrial sectors, the substitution of the existing equipment and installations and the adoption of the best technology available to realise energy saving. Aid for energy saving measures is in line with the EAG², in particular with point 98 of the EAG, on the identification of the extra costs directly related to energy saving and the obligation to achieve a level of energy saving higher than Community standards. Moreover, in line with point 98 (c) of the EAG, the Italian authorities confirmed that eligible costs for energy saving measures must be calculated net of any operating benefits and operating costs related to the extra investment for energy saving and arising during the first three years of the life of this investment in the case of SMEs, the first four years in the case of large undertakings that are not part of the EU CO₂ Emission Trading System and the first five years in the case of large undertakings that are part of the EU CO₂ Emission Trading System.
31. The aid intensities foreseen by this kind of measure (ranging from 60-80% depending on the size of the beneficiaries) are also in line with points 95 and 96 of the EAG.

(iii) – Cogeneration

32. Investment in cogeneration will be limited to high-efficiency cogeneration systems and will result in primary energy savings compared to separate production as defined by Directive 2004/8/EC and Decision 2007/74/EC, so that the measure is in line with the definition of cogeneration systems and the requirements provided in points 70(11) and 112 of the EAG. The present aid scheme will finance, in line with point 112 EAG, the installation of new cogeneration units, which will overall make primary energy savings compared to separate production as defined by Directive 2004/8/EC and Decision 2007/74/EC.
33. The aid intensities (ranging from 60 to 80% depending on the size of the beneficiaries) comply with points 114-115 of EAG. The calculation of eligible costs for this kind of investments is in line with the requirement contained in point 117 of the EAG that

² See Article 7 of the Draft Decree.

eligible costs must be limited to the extra investment costs necessary to realise a high-efficiency cogeneration plant as compared to the reference investment. This is also in line with point 118 EAG, providing that eligible costs must be calculated net of any operating benefits and operating costs related to the extra investment and arising during the first five years of the life of the investments.

(iv) - Energy-efficient district heating and/or cooling

34. Investment in district heating will be limited to high-efficiency systems and will result in primary energy savings, so that the measure is in line with the definitions of district heating systems contained points 70(13) and 120(a) of the EAG. Aid intensities (ranging from 50 to 70% depending on the size of the beneficiaries) comply with points 121-122 of the EAG.
35. In addition, the eligible cost calculation is in line with points 124-125 of the EAG.
36. All the "Decreets", which constitute the legal basis for the present aid scheme, specify in a clause named "Ordini di recupero pendenti" that no aid will be awarded under the present scheme to the undertakings having already received an aid declared illegal by a Commission decision and not entirely recovered.

4. DECISION

37. The Commission has concluded not to raise objections to the notified scheme N 573/2008 " Aid scheme for the promotion of renewables, energy saving, cogeneration and district heating (Toscana)" as it complies with the environmental aid guidelines (OJ C 82 of 1.4.2008, p. 1) and is therefore considered compatible with the common market in application of Article 87(3) (c) EC.
38. The Commission requests Italy to submit an annual report on the implementation of the aid enabling the Commission to verify that all conditions stipulated above were fulfilled when implementing the measure. Any change in the conditions under which the aid is granted must be notified in advance.
39. If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site:

http://ec.europa.eu/community_law/state_aids/index.htm.

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

European Commission
Directorate-General for Competition
Directorate for State Aid
State Aid Greffe
B-1049 Brussels
Fax No: (0032) 2-296.12.42

Please mention the name and number of the case in all the correspondence.

Yours faithfully,

For the Commission

Neelie KROES
Member of the Commission