



EUROPEAN COMMISSION

Brussels, 22.3.2020

C(2020) 1887 final

PUBLIC VERSION

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Subject: State Aid SA.56786(2020/N) – IT – Production of medical equipment and masks

Dear Sir,

1. PROCEDURE

- (1) By electronic notification on 20 March 2020, registered by the Commission the next day, the Italian Republic notified the above-mentioned temporary support scheme ("the scheme"), in accordance with Article 108(3) TFEU.
- (2) By letter of 21 March 2020, Italy agreed to a language waiver, allowing the decision to be adopted and notified in the English language.

2. DETAILED DESCRIPTION OF THE MEASURE

2.1. Objective of the scheme

- (3) The Italian authorities notified the scheme in the context of the COVID-19 pandemic, which is severely affecting the health and well-being of the Italian population and causing a serious disturbance in the Italian economy.
- (4) The scheme aims at supporting the production and supply of medical devices (for example ventilators) and personal protection equipment (such as masks, goggles, gowns, safety suits, shoes) by undertakings of all sizes located in Italy or with an establishment or branch in Italy, which are necessary to cope with the spread of the COVID-19 virus and to provide medical treatment to those infected by the virus.

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2.2. Duration

- (5) The scheme enters into force on the day of the publication of the Order of the Special COVID-19 Commissioner¹ (see recital (10) below) in the Official Journal of the Italian Republic and lasts until 31 December 2020.

2.3. Budget

- (6) The budget of the scheme is EUR 50 million. This amount is allocated by the Italian Treasury to the Special COVID-19 Commissioner. The National Agency for Inward Investment and Economic Development - Invitalia (Agenzia Nazionale per l'Attrazione degli Investimenti e lo sviluppo d'Impresa SpA, "Invitalia") shall manage the scheme and grant the aid on behalf of the Special COVID-19 Commissioner.

2.4. Beneficiaries

- (7) The beneficiaries of the scheme are all undertakings (small and medium-sized enterprises, large undertakings) which set up new facilities for the production of equipment and devices described in recital (4), expand the production of their existing structures producing such equipment, or convert their production line to that effect, by means of rapid investment programmes (the maximum duration of this programme has been set at 180 days from the date of the granting of the individual aid).
- (8) The new facilities referred to in recital (7) shall be set out in an investment programme to be submitted to Invitalia.
- (9) Undertakings, which were in difficulty² on 31 December 2019 cannot benefit from the scheme. Consequently, it can benefit undertakings that are not in difficulty and/or undertakings that were not in difficulty on 31 December 2019, but that faced difficulties or entered into difficulty thereafter as a result of the COVID-19 outbreak.

2.5. Legal basis

- (10) The legal basis for the scheme is Article 5 of Decree-law No. 18 of 17 March 2020 "Measures to strengthen the National Health Service and provide economic support for families, workers and firms linked to the COVID-19 epidemiological emergency"³ implemented by an order issued by the Special COVID-19 Commissioner (in draft form as of the adoption of the present decision) ready to be adopted by Italy after the Commission issues its decision approving the scheme. The aid cannot be granted before the Commission decision declaring the scheme to be compatible with the internal market.

¹ The Special Commissioner for the implementation and coordination of the measures required for containing and combating the COVID-19 epidemiological emergency ("Special COVID-19 Commissioner") is appointed under Article 112 of Decree-law No. 18 of 17 March 2020.

² In accordance with Article 2 (18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

³ Decreto-legge 17 marzo 2020, n. 18 recante "Misure di potenziamento del servizio sanitario nazionale e di sostegno economico per famiglie, lavoratori e imprese connesse all'emergenza epidemiologica da COVID-19", OJ of the Italian Republic No. 70, 17.03.2020.

- (11) The applications for support under the scheme, including the investment programme, must be submitted to Invitalia on a "first come, first served" basis for applicants (*procedura a sportello*) from the fifth day after the publication in the Official Journal of the Italian Republic of the order issued by the Special COVID-19 Commissioner. The last date on which individual aid may be granted under the scheme is 31 December 2020.
- (12) The Italian authorities commit to comply with all the monitoring and reporting provisions laid down in section 4 of Temporary Framework on 19 March 2020⁴ ("TF COVID-19").

2.6. Aid instrument, aid intensity and eligible costs

- (13) The aid, in the form of repayable advances and direct grants, cannot exceed EUR 800 000 per undertaking. The maximum aid intensity is 75% of the eligible costs.
- (14) The repayable advances provided for in the scheme will be granted in two instalments and are to be repaid by the beneficiary without interest, according to a eight-year amortisation plan. The repayable advances are considered general preferential debt (*assistiti da privilegio*) within the meaning of Article 24(33) of Law No 449 of 27 December 1997⁵.
- (15) The gross grant equivalent of the repayable advances is to be calculated in accordance with the methodology set out in the Communication from the Commission on the revision of the method for setting the reference and discount rates⁶.
- (16) The repayable grants shall be converted into direct grants if the beneficiaries manage to supply to the Special COVID-19 Commissioner the equipment and devices referred to in recital (4) above, in an expedited manner, according the following mechanism:
- (a) if a beneficiary successfully executes its investment plan and makes the equipment and devices available within 15 days from the granting of the aid, 100 % of the repayable advances shall be converted into a direct grant;
 - (b) if a beneficiary successfully executes its investment plan and makes the equipment and devices available within 30 days from the granting of the aid, 50 % of the repayable advances shall be converted into a direct grant;
 - (c) if a beneficiary successfully executes its investment plan and makes the equipment and devices available within 60 days from the granting of the aid, 25 % of the repayable advances shall be converted into a direct grant.
- (17) The aid application to Invitalia must contain the necessary information enabling Invitalia to assess the eligible costs, the investment programme, a technical report

⁴ Communication from the Commission C(2020) 1863 final of 19 March 2020 on the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak. https://ec.europa.eu/competition/state_aid/what_is_new/sa_covid19_temporary-framework.pdf ; not yet published in the OJ.

⁵ Law No 449 of 27 December 1997 "Measures to stabilise public finances" (Misure per la stabilizzazione della finanza pubblica), OJ of the Italian Republic No. 302, 30.12.1997;

⁶ Commission Communication No 14/2008 on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p. 6).

on the new facilities to be built and the commitment of the beneficiary to make the products available to the Special COVID-19 Commissioner at the market rates as of 31 December 2019.

- (18) The eligible costs of the investment programmes are:
- (a) the structural works strictly necessary for the installation and/or operation of machinery or equipment for the production of the equipment and devices referred to in recital (4) above;
 - (b) various machinery, installations and equipment commensurate with the needs of the production cycle for such equipment and devices;
 - (c) software tailored to the production and operating needs of the beneficiary.
- (19) Working capital up to a maximum of 20% of the total expenditure listed in points (a) to (c) of recital (18) above can be deemed an eligible cost if justified by evidence showing its appropriateness and proportionality with the investment programme concerned.

2.7. Cumulation and transparency

- (20) Italy confirmed that aid under the scheme cannot be cumulated in respect of the same eligible costs with other aid.
- (21) Italy will publish the information required in Annex III of Commission Regulation (EU) No. 651/2014 of 17 June 2014⁷ on the comprehensive State aid website for each individual aid within 6 months from the moment of granting.

3. ASSESSMENT OF THE AID MEASURE

3.1. Legality of the aid measure

- (22) The Italian authorities have fulfilled their obligation according to Article 108(3) TFEU by notifying the scheme before putting it into effect.

3.2. Existence of aid

- (23) Article 107(1) TFEU defines State aid as "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 [...], in so far as it affects trade between Member States".
- (24) The qualification of a measure as aid within the meaning of this provision therefore requires that the following cumulative conditions 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.

⁷ Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187 26.6.2014, p. 1).

- (25) The scheme envisaged by the Italian authorities is provided through State resources within the meaning of Article 107(1) TFEU since it will be paid from the State budget. The scheme is moreover imputable to the State as provided for by Decree-Law No 18 of 17 March 2020. Since the support will relieve the beneficiaries from costs they would otherwise have had to bear to produce and supply the equipment and devices referred to in recital (4) above and will not be granted to operators in all sectors, the scheme is selective and confers an advantage, which may distort or threaten to distort competition. The advantage corresponds to the amount of support granted under the scheme. As the scheme covers sectors and undertakings involved in trade between Member States, there is a risk that the aid could affect such trade.
- (26) In view of the above, the Commission considers that the scheme constitutes State aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

3.3. Compatibility

- (27) Having established that the scheme involves State aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether it can be found compatible with the internal market.
- (28) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid "*to remedy a serious disturbance in the economy of a Member State*".
- (29) By adopting TF COVID-19, the Commission acknowledged (section 2) that "*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*". The Commission concluded that "*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*".
- (30) The scheme is aimed at remedying the shortage of medical devices and personal protection equipment, by increasing the market output of such devices and equipment which has proved to be insufficient as a result of the peak demand arising from the COVID-19 pandemic and seeks to provide the undertakings producing and supplying such devices and equipment with adequate financial support during a period of sudden liquidity shortage.
- (31) As such, it supports the implementation of investment programmes which are achievable within a limited period of time and that, therefore, may be able to place on the market an adequate quantity of those products to meet both current and future demand.
- (32) The scheme supports undertakings of all sizes, which set up new facilities for the production of equipment and devices described in recital (4), expand the production of their existing structures producing such equipment, or convert their production line to that effect, by means of rapid investment programmes.
- (33) In particular, the scheme incentivises the rapid production and supply of those devices and that equipment to the Special COVID-19 Commissioner at market prices as of 31 December 2019, by converting all or part of the repayable grants into direct grants based on how quickly the beneficiaries manage to supply such devices and equipment (see recital (16) above).

(34) The measure notified by Italy meets all the conditions set in section 3.1 TF COVID-19 for "temporary limited amounts of aid" in the form of repayable advances and direct grants:

- The maximum aid amount per undertaking in the scheme (EUR 800 000) will not exceed the cash equivalent of EUR 800 000 as laid down in paragraph 22(a) TF COVID-19 (see recital (13) above);
- The measure is granted on the basis of an aid scheme with a budget of EUR 50 million (see recital (6) above);
- Pursuant to paragraph 22(c) TF COVID-19, the aid will only be granted to undertakings which were not in difficulty on 31 December 2019 (see recital (9) above);
- Pursuant to paragraph 22(e) TF COVID-19, since the scheme is open to those beneficiaries active or potentially active in the production of medical equipment, consequently, it excludes firms active in the fisheries sector and active in the primary production of agricultural products (see recital (7) above);
- Pursuant to paragraph 22(d) TF COVID-19, the aid will be granted no later than 31 December 2020 (see recital (11) above);
- The Italian authorities commit to comply with all the monitoring and reporting provisions laid down in section 4 TF COVID-19 (see recital (12) above).

(35) The Commission considers therefore that by respecting these conditions, the scheme is necessary, appropriate and proportionate to remedy the serious disturbance in the Italian economy caused by the COVID-19 outbreak and the urgent need for medical equipment. As the conditions of TF COVID-19 are complied with, the scheme is compatible with the internal market.

4. CONCLUSION

For these reasons, the Commission has decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

