EUROPEAN COMMISSION

Brussels, 18.5.2021
C(2021) 3590 final

PUBLIC VERSION

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**Subject: State Aid SA.62503 (2021/N) – Italy**
**COVID-19: Aid to companies managing passenger port terminals**

Excellency,

## 1. PROCEDURE

(1) By electronic notification of 26 March 2021, Italy notified a scheme in favour of companies managing passenger terminals in Italian ports (the "measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the "Temporary Framework").[1]

(2) Italy exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union ("TFEU"), in conjunction with Article 3 of Regulation 1/1958[2] and to have this Decision adopted and notified in English.

[1] Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1) and C(2021) 564 (OJ C 34, 1.2.2021, p. 6).

[2] Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

S.E On. Luigi DI MAIO
Ministro degli affari esteri e della cooperazione internazionale
P.le della Farnesina 1
I - 00194 Roma

## 2. DESCRIPTION OF THE MEASURE

(3) Italy considers that the COVID-19 outbreak affects the real economy. The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the outbreak, to ensure that the disruptions caused by the outbreak do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the outbreak.

(4) The Italian authorities submitted that Italy was the first country within the European Union hit by the COVID-19 outbreak and the first country, which declared a state of emergency, with Resolution of the Council of Ministers of 31 January 2020, until 31 July 2020. The state of emergency was then extended to 15 October 2020, then to 31 January 2021 and finally to 30 April 2021.

(5) Since the declaration of the state of emergency, various measures, including Law Decrees, Decrees of the President of the Council of Ministers, Ordinances of the Minister of Health and Ordinances of the Italian Department for Civil Protection, have been enacted by Italy to prevent the spread of the virus. Those measures entailed, among other things, restrictions on mobility and transport of passengers and cruises in the maritime transport sector, affecting the economic operators in that sector.

(6) In particular, the Italian authorities explained that between March and July 2020, maritime traffic recorded a sharp decline in the passenger and tourist sectors, while the cruise sector came to a halt. In this respect, the Italian authorities highlighted that in that period passenger traffic, compared to the same period in 2019, suffered a drop in demand of 58 % for ferries and 96 % for cruises. This decrease in traffic led to lower revenues for companies managing port terminals, which are used for embarking and disembarking of passengers.

(7) The aim of the measure is to allow companies managing port terminals in Italy to benefit from a EUR 20 million fund set up to compensate for the damages suffered by those entities as a consequence of the COVID-19 outbreak.

(8) Italy confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.

(9) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

### 2.1. The nature and form of aid

(10) The measure constitutes a scheme providing aid in the form of direct grants.

### 2.2. Legal basis

(11) The legal basis for the measure is laid down in Article 1, paragraphs 666 and 667, of the law of 30 December 2020, n. 178. That provision sets out the establishment by the Ministry of Sustainable Infrastructure and Mobility of a fund of EUR 20 million, which aims to compensate eligible beneficiaries for loss of revenue due to the COVID-19 outbreak.

(12) In addition, the Italian authorities submit a Draft Implementing Decree of the Minister for Sustainable Infrastructure and Mobility, which is subject to the Commission's approval of the measure and includes all conditions for benefitting from it in line with section 3.1 of the Temporary Framework.

### 2.3. Administration of the measure

(13) The Ministry of Sustainable Infrastructure and Mobility (Directorate-General for Supervision of Port Authorities, Port Infrastructures, Maritime Transport and Inland Waterways) is responsible for granting and administering the measure.

### 2.4. Budget and duration of the measure

(14) Support is granted under the measure on the basis of a scheme with an estimated budget of EUR 20 million. The measure will be financed from the general budget of the State.

(15) Aid may be granted under the measure as from the notification of the Commission's approval until no later than 31 December 2021.

### 2.5. Beneficiaries

(16) The beneficiaries of the measure are companies holding State-owned concessions, which manage passenger port terminals, irrespective of their size. Financial institutions are excluded as eligible beneficiaries.

(17) Aid may not be granted under the measure to medium and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[3] on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to a collective insolvency procedure under national law and they have not received rescue aid[4] or restructuring aid[5].

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3 As defined in 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).

4 Alternatively, if they have received rescue aid, they must have reimbursed the rescue loan or terminated the rescue guarantee at the moment of granting of the aid under the notified measure.

5 Alternatively, if they have received restructuring aid, they must no longer be subject to a restructuring plan at the moment of granting of the aid under the notified measure.

### 2.6. Sectoral and regional scope of the measure

(18) The measure is open to companies in the maritime and water transport sector, in particular companies managing port terminals, which are used for embarking and disembarking of passengers (recital (16)). The measure does not apply to companies operating in the financial sector.

(19) The measure applies to the whole Italian territory.

### 2.7. Basic elements of the measure

(20) The measure aims to compensate companies managing passenger port terminals (as set out in recital (16)), which have suffered a reduction of revenues in the period between 23 February 2020 and 31 December 2020 as compared to the average revenues recorded in the same period of the previous two years.

(21) The measure provides support in form of direct grants. The compensation under the scheme is equal to the reduction in gross revenues which results from the restrictive measures adopted by the Italian authorities due to the COVID-19 outbreak. The maximum aid amount is EUR 1.8 million per undertaking. All figures used must be gross, that is, before any deduction of tax or other charges.

(22) In order to apply for aid under the measure, beneficiaries must submit an application to the Directorate-General for Supervision of Port Authorities, Port Infrastructure, Maritime Transport and Inland Waterways of the Ministry of Sustainable Infrastructure and Mobility within 30 days of the publication of the Decree described in recital (12).

(23) Applications submitted may also cover limited periods or non-continuous periods, provided that they fall within the eligible timeframe set out in recital (20).

(24) For the purpose of granting the support, beneficiaries have to demonstrate that the decrease in revenues suffered in the period between 23 February 2020 and 31 December 2020 relates to mandatory restrictions adopted by the Italian authorities to contain the COVID-19 outbreak. In calculating the drop of revenues, account should be taken of additional costs incurred as a result of reduction of services, hygienisation and sanitation of terminal equipment, the purchase of personal protective equipment and other costs directly related to the containment measures.

(25) The application must be accompanied by a report prepared by an independent expert registered as statutory auditor describing the casual link between the damage suffered and the COVID-19 outbreak, and must include a declaration signed by the applicant's legal representative stating, under his/her own responsibility, that all data included in the application is correct, and in particular that:

- the revenue decrease during the eligible period is not linked to events that are independent or unrelated to the COVID-19 outbreak;

- the eligible beneficiary did not receive other European, national or regional compensations of the same type as those set out by the scheme which may lead to overcompensation;

- the eligible beneficiary (if not a micro or small undertaking) is not an undertaking in difficulty; and

- the eligible beneficiary (in case of micro or small undertaking in difficulty on 31 December 2019) is not subject to a collective insolvency procedure under national law and has not received rescue or restructuring aid.

(26) The applications together with all the required documents attached are examined by the Directorate-General for Supervision of Port Authorities, Port Infrastructure, Maritime Transport and Inland Waterways. If approved, the aid should be paid within 20 days of completing the examination.

### 2.8. Cumulation

(27) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under *de minimis* Regulations[6] or the GBER[7] provided the provisions and cumulation rules of those Regulations are respected.

(28) The Italian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.

(29) The Italian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure or aid under other measures approved by the Commission under section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in point(s) 22(a) of that framework, will be respected. Aid granted under the measure and/or other measures approved by the Commission under section 3.1 of the Temporary Framework which has been reimbursed before 31 December 2021 shall not be taken into account in determining whether the relevant ceiling is exceeded.

### 2.9. Monitoring and reporting

(30) The Italian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual

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6 Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24.12.2013, p. 1) and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (OJ L 114, 26.4.2012, p. 8).

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 of 26.6.2014, p. 1).

aid above EUR 100 000 granted under the measure on the comprehensive national State aid website or the Commission's IT tool within 12 months from the moment of granting[8]).

## 3. ASSESSMENT

### 3.1. Existence of State aid

(31) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.

(32) The measure is imputable to the State, since it is administered by the Ministry of Sustainable Infrastructure and Mobility (recital (13)) and it is based on Article 1, paragraphs 666 and 667, of the law of 30 December 2020, n. 178 (recital (11)). It is financed through State resources, since the fund is financed directly from the general budget of the State.

(33) The measure consists in direct grants (see recital (10)). Such measures constitute non-repayable funds that are not available on financial markets. The measure thus confers an advantage on the beneficiaries, which they would not have had under normal market conditions.

(34) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in the maritime and water transport sector, excluding the financial sector (recital (16)).

(35) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.

(36) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

### 3.2. Lawfulness of the measure

(37) By notifying the measure before putting it into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU.

### 3.3. Compatibility

(38) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to assess whether that measure is compatible with the internal market.

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8 Referring to information required in Annex III to Commission Regulation (EU) No 651/2014.

(39) 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*".

(40) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in 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*".

(41) The measure aims to provide liquidity support to the beneficiary undertakings at a time when the normal functioning of markets is severely disturbed by the COVID-19 outbreak and that outbreak is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(42) The measure is one of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy due to COVID-19 outbreak. Furthermore, the measure has been designed to meet the requirements of a specific category of aid ("*Limited amounts of aid*") described in section 3.1 of the Temporary Framework.

(43) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State. Moreover, the measure meets all applicable conditions of the Temporary Framework. In particular:

- The aid takes the form of direct grants (recital (10)). The overall nominal value of the direct grants does not exceed EUR 1.8 million per undertaking; all figures used must be gross, that is, before any deduction of tax or other charges (recital (21)). The measure therefore complies with point 22(a) of the Temporary Framework.

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (14). The measure therefore complies with point 22(b) of the Temporary Framework.

- Aid may not be granted under the measure to medium[9] and large enterprises that were already in difficulty on 31 December 2019 (recital (17)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid[10] or restructuring aid[11]

[9] As defined in Annex I to Commission Regulation (EU) No 651/2014.

[10] Alternatively, if they have received rescue aid, they must have reimbursed the rescue loan or terminated the rescue guarantee at the moment of granting of the aid under the notified measure.

(recital (17)). The measure therefore complies with point 22(c)bis of the Temporary Framework.

- Aid will be granted under the measure no later than 31 December 2021 (recital (15)). The measure therefore complies with point 22(d) of the Temporary Framework.

(44) The Italian authorities confirm that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA (recital (8)).

(45) The Italian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (30)). The Italian authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework and the cumulation rules of the relevant Regulations are respected (recitals (27) to (29)).

(46) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of the Temporary Framework.

[11] Alternatively, if they have received restructuring aid, they must no longer be subject to a restructuring plan at the moment of granting of the aid under the notified measure.

## 4. CONCLUSION

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

The decision is based on non-confidential information and is therefore published in full on the Internet site: http://ec.europa.eu/competition/elojade/isef/index.cfm.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION