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**Subject: State Aid SA.101313 (2021/N) – Italy
COVID-19: Aid to companies managing aluminium waste sorting and
recycling plants**

Excellency,

1. PROCEDURE

- (1) By electronic notification of 29 December 2021, Italy notified aid in the form of limited amounts of aid “*Contributo per le società di gestione degli impianti di selezione e di riciclo di rifiuti in alluminio*” (Aid to companies managing aluminium waste sorting and recycling plants, hereafter the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the “Temporary Framework”).¹ Italy provided additional information on 14 January 2022.
- (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 1/1958² 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), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

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

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2. DESCRIPTION OF THE MEASURE

- (3) Italy considers that the COVID-19 pandemic continues to affect 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 pandemic, to ensure that the disruptions caused by the pandemic do not undermine the viability of the undertakings and thereby to preserve the continuity of economic activity during and after the pandemic.
- (4) 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.
- (5) 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

- (6) The measure provides aid in the form of direct grants.

2.2. Legal bases

- (7) The legal bases for the measure are Article 6-ter of Decree-Law no. 73 of 25 May 2021 on *emergency measures related to the covid-19 outbreak, for enterprises, work, youth, health and territorial services*³; and the draft Decree of the Minister of Ecological Transition and the Minister of Economy and Finance (the “Decree of Ministries”). Article 16(3) of the Decree of Ministries provides that the granting of aid under the measure is subject to the Commission’s approval.

2.3. Administration of the measure

- (8) The Ministry of Ecological Transition is responsible for granting the aid. It is assisted by the national agency for inward investment and economic development (Invitalia).⁴

2.4. Budget and duration of the measure

- (9) The estimated budget of the measure is EUR 6 million.
- (10) Aid may be granted under the measure as from the notification of the Commission’s decision approving the measure until no later than 30 June 2022.

2.5. Beneficiaries

- (11) The final beneficiaries of the measure are undertakings managing aluminium waste sorting and recycling plants whose activity falls under the CER⁵ code 15 01 04 (metallic packaging), irrespective of their size.

³ Published in Gazzetta Ufficiale della Repubblica Italiana. Serie generale - n. 123. 25-5-2021.

⁴ Agenzia nazionale per l'attrazione degli investimenti e lo sviluppo d'impresa S.p.A. – Invitalia, S.p.A.

- (12) Aid may not be granted under the measure to medium⁶ and large enterprises that were already in difficulty within the meaning of the GBER⁷ 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 collective insolvency procedure under national law and they have not received rescue aid⁸ or restructuring aid.⁹

2.6. Sectoral and regional scope of the measure

- (13) The measure is limited to undertakings active in the sector referred to in recital (11) above. It therefore does not apply to the financial, primary production, processing and marketing of agricultural products, fishery and aquaculture sectors. It applies to the whole territory of Italy.

2.7. Basic elements of the measure

- (14) The objective of the measure is to support the economic continuity of undertakings managing aluminium waste sorting and recycling plants. Those companies have continued to operate during the COVID-19 pandemic despite the decline in the demand for recycled material caused by it.
- (15) Undertakings are eligible, in particular, if:
- (a) they are active, duly established and registered with the Business Register¹⁰;
 - (b) they demonstrate with the tax return for the last tax period, the last balance sheet filed with the Business Register and an updated financial situation that they continued to operate despite the crisis caused by the decline in the demand for recycled material caused by the COVID-19 pandemic;
 - (c) They suffered from a decrease in revenues in 2020 compared to 2019.
- (16) Eligible beneficiaries may receive a direct grant of up to 20% of the decrease in revenue referred to in recital (15)(c), within a ceiling of EUR 200 000 per beneficiary. In any case, the Italian authorities confirm that the overall maximum aid amount per undertaking (gross, i.e. before any deduction of tax or other charge), as indicated in point 22(a) of the Temporary Framework, will be respected.

⁵ Catalogo Europeo dei Rifiuti (European List of Waste).

⁶ As defined in Annex I to 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 (“GBER”).

⁷ As defined in Article 2(18) of the GBER.

⁸ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

⁹ Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

¹⁰ Registro delle Imprese.

2.8. Cumulation

- (17) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulation¹¹ and/or the GBER provided the relevant cumulation rules of those Regulations are respected.
- (18) 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.
- (19) 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 22(a) of that framework, will be respected.

2.9. Monitoring and reporting

- (20) 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 aid above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting¹²).

3. ASSESSMENT

3.1. Lawfulness of the measure

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

3.2. Existence of State aid

- (22) 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.
- (23) The measure is imputable to the State, since it is administered by the Ministry of Ecological Transition (recital (8)) and it is based on the national legal bases referred to in recital (7). It is financed through State resources, since it is financed by public funds.

¹¹ 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).

¹² Referring to information required in Annex III to the GBER.

- (24) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus confers an advantage on those beneficiaries, which they would not have had under normal market conditions.
- (25) The advantage granted by the measure is selective, since it is awarded only to undertakings active in the sector described in recital (11).
- (26) 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.
- (27) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU.

3.3. Compatibility

- (28) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (29) 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*”.
- (30) 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*”.
- (31) The measure aims at preserving economic continuity at a time when the normal functioning of markets is severely disturbed by the COVID-19 pandemic and that pandemic is affecting the wider economy and leading to severe disturbances of the real economy of Member States.
- (32) 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. The importance of the measure to preserve economic continuity is widely accepted by economic commentators. 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.
- (33) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:
- The aid takes the form of direct grants (recital (6)).
The overall nominal value of direct grants shall not exceed EUR 200 000 per undertaking (recital (16)); all figures used must be gross, that is, before

any deduction of tax or other charges. 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 (9). The measure therefore complies with point 22(b) of the Temporary Framework.
- Aid may not be granted under the measure to medium¹³ and large enterprises that were already in difficulty on 31 December 2019 (recital (12)). 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 aid¹⁴ or restructuring aid¹⁵ (recital (12)). The measure therefore complies with point 22(c)bis of the Temporary Framework.
- Aid will be granted under the measure no later than 30 June 2022. The measure therefore complies with point 22(d) of the Temporary Framework.

(34) 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 (4)).

(35) The Italian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (20)). 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 (17) to (19)).

(36) 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.

¹³ As defined in Annex I to the GBER.

¹⁴ Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

¹⁵ Alternatively, if they have received restructuring aid, they are no longer 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