

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 21 September 2005

on the implementation of aid scheme N192/1997 by Italy — Autonomous Province of Bolzano

(notified under document number C(2005) 2723)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2006/945/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having regard to decision C(2003) 517 final by which the Commission decided to initiate the procedure provided for in Article 88(2) of the Treaty in respect of aid C18/2003 (ex NN01/2003) ⁽¹⁾,

Having called on interested parties to submit their comments pursuant to those provisions,

Whereas:

2002 and A/36773 of 18 September 2002. The text of the new implementing criteria for Law No 4/97, which were adopted by Resolutions of the Provincial Executive Nos 4732 of 11 December 2000 and 4607 of 17 December 2001, was attached to the second letter.

(3) By letter SG(2003)D/228597 of 21 February 2003, the Commission notified the Italian authorities of its decision to initiate the procedure laid down in Article 88(2) of the Treaty in respect of this aid.

(4) The Commission decision to initiate the procedure was published in the *Official Journal of the European Union* ⁽²⁾. The Commission invited interested parties to submit their comments on this aid.

(5) The Commission received no comments from interested parties.

(6) Two meetings between the Italian authorities and the Commission departments took place in Brussels on 9 April and 5 August 2003.

(7) Several draft replies accompanied by the text of new implementation criteria for the scheme were sent informally to the Commission. They were followed by exchanges of emails. On 22 October 2003 and 27 February 2004 Italy was invited to submit its own comments formally.

I. PROCEDURE

(1) By letter registered as received on 11 February 2002 (CAB (02)A/410), a complaint was lodged in respect of two provincial laws of the Autonomous Province of Bolzano, Law No 4 of 13 February 1997, Chapters II and III, and Law No 9 of 15 April 1991.

(2) Additional information was requested by letters D/50813 of 25 February 2002 and D/53149 of 18 June 2002. The Italian authorities replied by letters A/32982 of 22 April

⁽¹⁾ OJ C 120, 22.5.2003, p. 2.

⁽²⁾ See footnote 1.

(8) Italy sent its comments by letter No 8000 of 22 June 2004, registered as received on 25 June 2004 under the number A/34747.

to restrict the application of this scheme to SMEs and to comply with all the conditions laid down by Community law on state aid.

(9) After a meeting held on 3 March 2005, the Commission requested, by letter D/52114 of 18 March 2005, additional information and undertakings from the Italian authorities, which were given in letter A/34426 of 2 June 2005.

(12) However, new criteria for granting the aid provided for by Provincial Law No 4/97 in the craft, distributive, tourism and service sectors were adopted by the Provincial Executive in Resolution (*deliberazione*) No 4607 of 17 December 2001. The resolution was not notified in advance to the Commission.

II. DETAILED DESCRIPTION OF THE AID FOLLOWING THE APPLICATION OF RESOLUTION 4607/ 2001

(10) According to the complainant, investment aid in the form of grants or subsidised loans with a maximum intensity of 40 % were granted under the above laws to enterprises in the Province of Bolzano, even though the province is not eligible for the exemptions provided for in Article 87(3)(a) and (c) of the Treaty.

(13) The basic aid intensities of 13 % and 6 % decided by the province for investment aid for small and medium-sized enterprises respectively in the craft, tourism and distributive sectors (wholesale and retail) are systematically exceeded as a result of a number of increases.

(11) The two laws of the Province of Bolzano referred to in the complaint had been approved by the Commission:

(14) These increases entail:

(a) Provincial Law No 4 of 13 February 1997 was registered as aid N192/97 and authorised by letter SG (97) D/10781 of 19 December 1997 ⁽³⁾. This law provides for various forms of aid, in particular aid for business investment (Chapter II); aid for ecological-environmental investment (Chapter III); aid for the promotion of consultancy and training services (Chapter V); aid for job creation (Chapter VI); and aid for internationalisation (Chapter VIII).

(a) an intensity of 40 % for microenterprises (for a maximum investment of EUR 2 million over three years);

(b) an intensity of 25 % for small enterprises (maximum investment of EUR 3,5 million over three years for the craft sector and EUR 2 million, again over three years, for the tourism and distributive sectors),

(c) an intensity of 22,5 % (20 % in the distributive sector) for medium-sized enterprises (the maximum investment permissible in the craft sector is EUR 4 million over three years and is EUR 3 million in other sectors).

On the basis of the above decision approving aid scheme No 192/97, any aid to large enterprises that exceeds the *de minimis* threshold must be notified individually. The Italian authorities undertook not to exceed the thresholds of 15 % and 7,5 % for investment aid to small and medium-sized enterprises respectively since the province of Bolzano is not eligible for the exemption provided for in Article 87 (3)(a) and (c) of the Treaty. However the Commission approved an aid intensity of 40 % for microenterprises not engaged in activities where there was intra-Community trade;

All these increases in respect of the basic intensity are granted, according to the Italian authorities, under the *de minimis* rule.

(b) Law No 9 of 15 April 1991, which was approved under the reference NN95/95 by letter SG(96) D/4842 of 22 May 1996 ⁽⁴⁾, establishes an economic incentive fund. The measure in question establishes only the form of the aid (loans on favourable terms) and otherwise refers to other aid measures to be introduced by subsequent measures; these were laid down in Law 4/97. The Italian authorities undertook

(15) Craft microenterprises, of whatever size and regardless of the activity they exercise, can receive an aid intensity of 40 %. In particular, struggling microenterprises employing no more than two people and engaged in activities mentioned in the resolution referred to above may enjoy this intensity even in absence of the conditions required for other enterprises.

(16) Even large enterprises in the tourism sector are eligible for investment aid under the above resolution, at a basic intensity of 6 %, apparently without any requirement for prior individual notification.

There are also increases in aid intensity of up to 22,5 % for large enterprises on the basis of the *de minimis* criterion. The maximum investment eligible for aid is EUR 3 million over three years.

⁽³⁾ Brief notice in OJ C 47, 12.2.1998, p. 4.

⁽⁴⁾ Brief notice in OJ C 188/1996, p. 1-2.

- (17) The resolution in question also provides for three forms of aid for the protection of the environment:

Aid of an intensity of 25 % is available for SMEs of any sector and for large enterprises in the tourism sector to enable them to adjust to new mandatory standards.

Aid of an intensity of 40 % is available for measures that go beyond mandatory standards.

Aid, again with an intensity of 40 %, is available for environmental audit projects.

Under the *de minimis* rule provision is made for increasing the maximum intensities up to 30 %, 40 % and 75 % respectively for the three aid headings of the measure. The maximum eligible investment, in particular in the case of aid to promote compliance with new mandatory Community standards, ranges from EUR 1 million to EUR 4 million, depending on the size of the enterprise.

- (18) Under Resolution 4607/2001 the following became eligible for employment aid: the costs of legal and tax advisory services, those incurred in setting up new enterprises or transferring enterprises, and the cost of 'tutoring' new enterprises in the first two years after their setting-up.

Also admissible are the costs of research on existing trademarks and patents and the costs of registering trademarks. Provision is made for an aid intensity of 50 %. Large tourism enterprises may also, in principle, receive such aid.

- (19) Aid for internationalisation includes aid to cover the expenses of SMEs participating in fairs and exhibitions (with an intensity of 25 % in the EU and 40 % outside); aid for studies, research and consultancy services (up to 50 % intensity); and aid for other initiatives in and outside the EU, apparently in the form of business advertising on websites (50 %).

Also admissible are the costs of guaranteeing export credits and insuring exchange-rate risks, with a maximum intensity of 50 % accorded to SMEs. There is also provision for aid to large enterprises for export credits for trade with any country outside the EU of up to 50 %, under the *de minimis* rule.

- (20) There is aid for training and consultancy services at the rate of 50 % of eligible costs. There is an increase of 30 points, under the *de minimis* rule, for the first four days of consultancy services provided directly or indirectly by a chamber of commerce or business innovation centre (BIC). Large enterprises in the tourism sector are also covered by

this aid; there is also provision in this scheme for an aid intensity of 35 % for creating web pages. Only aid intensities of over 35 % for training and 50 % for consultancy services are accorded under the *de minimis* rule, where appropriate.

- (21) There is also provision for aid intensity of 80 % for joint projects under Community programmes, including LEADER and INTERREG (but individual contributions to specific enterprises are excluded).

III. GROUNDS FOR INITIATING THE PROCEDURE

- (22) The Commission approved aid schemes N192/97 and NN69/95, which have their legal basis in Provincial Laws Nos 4/97 and 9/91 respectively (see recital 11(a) and (b)).
- (23) Examination of Resolution 4607/2001 showed that the new criteria adopted for granting aid in the craft, distributive, tourism and services sectors under Law 4/97 (also in the form of loans on favourable terms under Law 9/91) did not appear to comply with the Commission decisions that approved the schemes, and did not seem consistent with the relevant new rules guidelines and regulations for reasons that are set out below.

Investment aid for large enterprises

- (24) At the start of this procedure the Italian authorities stated in letter A/32982 that both medium-sized and large enterprises in the distributive and tourism sectors could receive aid under Resolution 4607/2001 in the form of loans at preferential rates for eligible investments of between EUR 1 million to EUR 3 million.
- (25) The tables in Resolution 4607/2001 show that large enterprises in the tourism sector may be granted a basic intensity of 6 %, possibly rising to 22 % (increase accorded under the *de minimis* rule), while large enterprises in the distributive sector may enjoy aid intensities of between 6 % and 20 %.

Only in the case of the distributive sector does the resolution specify that 'unless notification is made to the Commission "in applicable cases", aid for large enterprises may be granted only if *de minimis*'. But no limit seems to be set for large enterprises in the tourism sector.

- (26) Under Article 87(3)(a) and (c) of the Treaty large enterprises outside assisted areas should not receive investment aid. The province of Bolzano was not eligible for regional aid at the time schemes N192/97 and NN69/95 were approved, nor is it now.

Here it should be emphasised that the Commission decision on scheme N192/97 explicitly excluded large enterprises from aid other than *de minimis* aid.

(27) Aid granted in the form of loans on favourable terms under Law 9/91 is also covered by scheme NN69/95 governing the form of the aid. The Commission approved this scheme on condition that only SMEs benefited, and following the undertaking given by the Italian authorities to comply with all the rules concerning SMEs in force at the time and to notify the provincial administration of these rules in a circular setting out implementation criteria for the scheme to ensure its correct application.

(28) In spite of this, Resolution 4607/2001, which lays down the implementation criteria for scheme N192/97 (and of scheme NN69/95 in cases where aid is granted in the form of soft loans under Law 9/91), also accords investment aid to large enterprises.

(29) Accordingly, the Commission took the view that Resolution 4607/2001 constituted a misuse of aid schemes N192/97 and NN69/95 within the meaning of Article 16 of Council Regulation (EC) No 659/99⁽⁵⁾ and doubted whether investment aid granted to large enterprises on the basis of this resolution other than *de minimis* cases could be exempted from the prohibition laid down in Article 87(1) of the Treaty.

Investment aid for SMEs

(30) When the Commission appraised the dossier for scheme NN65/95 the Italian authorities undertook to comply with all the conditions laid down in Community legislation on state aid for SMEs. On notifying aid scheme N192/97 they also undertook not to grant them operating aid.

(31) It should also be emphasised that the eligible investments referred to in Resolution 4607/2001 do not correspond to the definition of initial investment in Regulation (EC) No 70/2001⁽⁶⁾, in that mere replacement investment does not appear to be excluded.

(32) Moreover, the fact that the aid recipients are only SMEs that have their registered office on the territory of the province of Bolzano appears to be an infringement of the principle of freedom of establishment of enterprises inside the European Union.

(33) Finally, the principle of the necessity of aid is not adhered to, as aid applications must as a rule be submitted within six months of the start-up of work or from the date of the first invoice for the work.

(34) The Commission doubted therefore whether the aid in question was compatible.

Aid to microenterprises deemed exempt from the prohibition of Article 87(1) of the Treaty

(35) The Italian authorities have argued that the aid intensity of 40 % was confined to struggling craft microenterprises with no more than two employees engaged in a strictly defined list of activities⁽⁷⁾ — which list was given in the letter A/36773 of 18 September 2002 — and to some microenterprises in the distributive sector.

(36) Analysis of Resolution 4607/2001 shows that the craft microenterprises referred to above can enjoy this intensity even when they do not satisfy the conditions for such an increase in intensity that apply to other microenterprises; it also shows that this intensity is extended to all craft microenterprises, regardless of their size and economic situation. Since the level of admissible investment is EUR 2 million over three years (EUR 1 million in the case of microenterprises with up to two employees), it would seem that the level of aid could reach EUR 800 000 (EUR 400 000 for microenterprises with up to two employees).

(37) Moreover, the definition of a microenterprise that is not considered to be involved in intra-Community trade, and is consequently eligible for the aid intensity of 40 % given in Resolution 4607/2001⁽⁸⁾, seems to focus on the activity being carried out by individual beneficiaries of aid not involving the establishment of economic relations with enterprises of other Member States, rather than — as would be correct — on the lack of intra-Community trade in the sector of activity of the enterprises concerned.

(38) In view of this, and considering that microenterprises are SMEs within the meaning of Recommendation 96/280/EC⁽⁹⁾ and so are not outside the application of Article 87(1) of the Treaty, the Commission expressed doubts as to whether all the aid granted to them under the measure in question could escape the definition of state aid.

⁽⁵⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 (now 88) of the EC Treaty (OJ L 83, 27.3.1999, p. 1).

⁽⁶⁾ Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises (OL L 10, 13.1.2001, p. 33).

⁽⁷⁾ This list is given in the footnote on page 3 of Table A in Annex 1 'Craft sector' to Resolution 4607/2001.

⁽⁸⁾ See point 3.1 of Annex 1 'Craft sector' to Resolution 4607/2001.

⁽⁹⁾ Commission Recommendation 96/280/EC of 3 April 1996 concerning the definition of small and medium-sized enterprises (OJ L 107, 30.4.1996, p. 4).

Aid for environmental protection

- (39) The Commission approved the environmental protection aid provided for in Provincial Law 4/97 ⁽¹⁰⁾ on the base of the previous state aid rules on environmental protection that have now been replaced by new guidelines published on 3 February 2001 (OJ C 37, p. 3).

When the new guidelines came into force, it was proposed to the Member States that they adopt appropriate measures. Having agreed to do this, Italy was obliged to implement them. In assessing the measure in question, therefore, the Commission has referred to the new rules on state aid for environmental protection.

- (40) On the basis of point 28 of the Community guidelines on state aid for environmental protection ('the guidelines') ⁽¹¹⁾, investment aid to help SMEs meet new standards may be authorised up to a maximum of 15 % of gross eligible costs for a period of three years from the adoption of new mandatory Community standards.

- (41) The Commission took the view that the aid intensity of 25 % to help SMEs adjust to the new Community standards provided for in Law 4/97 and confirmed by Resolution 4607/2001 was not consistent with the guidelines, and that the aid to help large enterprises adhere to the new mandatory environmental standards could not be exempted.

- (42) According to point 29 of the guidelines, investment aid to enable firms to improve on Community standards may be authorised up to a basic 30 % of the investment made in the absence of mandatory Community standards.

- (43) The Commission therefore considered that the 40 % intensity for investment aid to enable firms to improve on Community standards, mainly intended for large tourism enterprises, was not compliant with point 29 of the guidelines.

- (44) Finally, under point 41 of the guidelines aid may be granted to advisory/consultancy services to help SMEs with environmental protection in accordance with Regulation (EC) No 70/2001 ⁽¹²⁾.

- (45) However, under Regulation (EC) No 70/2001 aid to environmental audit projects as provided for in the resolution may be granted only to SMEs and must satisfy the conditions of Article 5(a) of that Regulation.

- (46) In the case of aid for environmental investments provided for in the first two environmental provisions of the measure, which are referred to in recitals 41 and 43, the Commission also expressed doubts in relation to points 36 and 37 of the guidelines concerning investments to be taken into account and methods of calculating eligible costs.

Employment aid

- (47) The Commission had approved employment aid for SMEs of a maximum intensity of 25 % of the wage bill under scheme N192/97.

- (48) However, the aid provided for under this heading by Resolution 4607/2001 does not create or maintain jobs, the Commission considered that it could not be defined as employment aid, though some of forms of this aid (for consultancy services) might be exempted if they satisfied the conditions of Article 5 of Regulation (EC) No 70/2001 and the recipients were exclusively SMEs.

- (49) The Commission took the view that the aid for trademark and patent searches and for registering trademarks and business products provided for in the specific measure for employment aid could not enjoy any exemption for large enterprises, as it did not appear to be linked to any research and development activity.

Aid for internationalisation

- (50) In opening the procedure the Commission noted that the aid for participation in fairs and exhibitions may be considered compatible under Article 5(b) of Regulation 70/2001 if the expenses to which the maximum aid intensity of 50 % are applied consist in the hiring, setting-up and running of the stand. Such an exemption applies only to a firm's first participation in a given fair or exhibition.

⁽¹⁰⁾ OJ C 72, 10.3.1994, p. 3.

⁽¹¹⁾ OJ C 37, 3.2.2001, p. 3.

⁽¹²⁾ Commission Regulation No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises (OJ L 10, 13.1.2001, p. 33).

The consultancy services provided by external consultants should not be permanent or regular nor be linked to the firm's normal running costs, such as advertising.

Finally, aid for export-related activities ⁽¹³⁾ is not covered by Regulation 70/2001, Regulation 69/2001 ⁽¹⁴⁾ or the Commission notice on *de minimis* aid of 1996 ⁽¹⁵⁾.

for checking the threshold or other conditions laid down in the *de minimis* Regulation ⁽¹⁶⁾ or the old 1996 notice on the subject ⁽¹⁷⁾.

(51) So, in the Commission's view, the aid for internationalisation provided for in Resolution 4607/2001, other than participation to fairs and exhibitions that meets the conditions of Article 5 of Regulation 70/200, could not be considered compatible, even if it was granted only to SMEs.

(52) Moreover, the Commission found that export credits, in particular those for large enterprises, which had been explicitly excluded when Law 4/97 was notified, were not entitled to any exemption, even under Regulation 69/2001.

Aid provided under Community programmes

(53) Such aid, which was not provided in scheme N192/97, was not considered state aid in Resolution 4607/2001.

(54) However, the Commission had doubts as to whether enterprises do not derive a competitive advantage from involvement in joint projects under the Community programmes Leader and Interreg, which are accorded an intensity of 80 %.

Consultancy services

(55) The definition of consultancy service needs to be clarified. On the basis of the current definition the Commission thinks that no aid to large enterprises for consultancy services can be exempted other than in cases where the consultancy is an eligible cost of a training-aid project within the meaning of Article 4(7)(e) of Commission Regulation No 68/2001 of 12 January 2001 on training aid.

Application of the *de minimis* rule

(56) According to the Italian authorities, in the case of investment aid, any increase in the basic aid intensity rates of 13 % and 6 % for small and medium-sized enterprises respectively was granted under the *de minimis* rule.

(57) Neither Law 4/1997 nor the text of Resolution 4607/2002 adopted on 17 December 2001, i.e. after the entry into force of Regulation 69/2001, make reference to procedures

(58) In view of the amount of eligible investment (EUR 3,5 million and EUR 4 million over three years for small and medium-sized enterprises respectively) and the maximum intensity provided for in Resolution 4607/2001 (25 % and 22,5 %, of which 12 and 16,5 percentage points under the *de minimis* rule for small and medium-sized enterprises respectively), the Commission doubted whether the EUR 100 000 threshold over three years laid down in the *de minimis* Regulation was adhered to.

(59) In a broader perspective the Commission had doubts about Resolution 4607/2001's provision for very extensive use of the *de minimis* rule with the aim of systematically exceeding maximum permissible intensities for SMEs and the granting of a maximum aid intensity of 22,5 % to large enterprises outside assisted areas, also given the high level of eligible investment.

IV. COMMENTS FROM INTERESTED THIRD PARTIES

(60) No comment has been submitted by either interested third parties or the complainant, who was notified by letter D/51908 of 24 March 2003 of the opening of the procedure and the possibility of supplementing the comments made in the original complaint in response to the letter.

V. COMMENTS FROM ITALY

(61) Following two meetings between representatives of the Province of Bolzano and DG COMP, Italy's comments were set out in letter A/34747 of 25 June 2004.

In this letter the Italian authorities made the following points.

V.1. Investment aid for large enterprises

(62) Resolution 4607/2001 did not explicitly exclude large tourism enterprises, as it did enterprises in the distributive sector, because of a clerical error.

(63) However, no large enterprise in the tourism sector had received aid either under scheme N192/1997 (Provincial Law 4/97) or scheme NN69/1995 (Provincial Law 9/91). In

⁽¹³⁾ I.e. aid directly related to the quantity of exports, the setting-up and operation of a distribution network, and other export-related routine expenditure.

⁽¹⁴⁾ Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid (OJ L 10, 13.1.2001, p. 30).

⁽¹⁵⁾ OJ C 68, 6.3.1996, p. 9.

⁽¹⁶⁾ See footnote 14.

⁽¹⁷⁾ Commission notice on the *de minimis* rule for State aid (OJ C 68, 6.3.1996, p. 9).

the distributive sector large enterprises were already excluded from aid other than *de minimis* aid under Resolution 4607/01.

opened this case. Moreover, enterprises that possess only an operating unit in the Province of Bolzano can now benefit from the scheme in question.

(64) The Italian authorities undertook to exclude large enterprises more explicitly from aid in the form of loans on favourable terms under scheme NN69/95, even though none had received any such aid other than *de minimis*.

V.2.3. *The necessity of aid principle*

(71) This principle was already applied in accordance with the second indent of Article 7 of Regulation 70/2001 in that the conditions for granting aid were so objective that the Province had no possibility of using discretionary powers.

(65) Subsequently, in answer to a specific question from the Commission, it was explained in a letter of 2 June 2005 that no aid had been granted to large enterprises in any sector, and also that enterprises whose main activity was in the transport sector were excluded from aid.

(72) However, the Italian authorities have undertaken to require that the request be introduced before the start of work on the project for which the aid is granted.

(66) Furthermore, the draft new implementation criteria explicitly excluded all large enterprises from aid other than *de minimis* aid, in accordance with Regulation 69/2001.

V.2.4. *Aid for microenterprises*

(73) Henceforth, the only provision for any increase of more than 15 % in the intensity of investment aid for microenterprises in general is under the *de minimis* rule

V.2. **Aid for SMEs**

V.2.1. *Failure to exclude replacement investment from eligible costs*

(67) Although not explicitly excluded from the implementation criteria, the Italian authorities said no aid had been granted for replacement investment.

(74) Aid of an intensity of 40 % not falling within the scope of Article 87(1) of the Treaty and not even classed *de minimis*, is now reserved exclusively for some local activities, notably small-scale traditional trades threatened with extinction and small distributive businesses, which are listed exhaustively in the new criteria.

(68) Specifically, what was eligible for aid was investment in tangible assets complying with the definition in Article 2(c) of Regulation 70/2001, namely the creation of a new establishment and investment in diversification or modernisation that involved a fundamental change in the product or production process of an existing establishment. Relatively high minimum investment thresholds had been set in relation to the average size of the enterprises concerned.

(75) In any case, a survey carried out by the Italian authorities revealed that no aid exceeding both the 15 % intensity and the *de minimis* threshold had been granted so far.

(69) The new criteria explicitly excluded both replacement investment and maintenance costs, and the description of eligible investments was fully in compliance with Regulation 70/2001.

V.2.5. *Aid for environmental protection*

(76) The only aid intensities authorised are those of 15 % for transitional investment aid granted to SMEs to help them adapt to new Community rules and 30 % for aid for improving on Community standards or for investment carried out in the absence of mandatory Community standards.

V.2.2. *Freedom of establishment*

(70) The condition laid down in the old criteria that in order to have access to aid firms should have a registered office in the Province of Bolzano was not rigorously applied even in the past. In support of this argument a list was supplied of 16 recipients of investment aid under the scheme whose registered office was outside the Province of Bolzano (and in one case even outside Italy). In many cases (six of the 16) the aid dated back to 1998, i.e. well before the Commission

(77) Aid for environmental audits is currently confined to SMEs, by Article 5(a) of Regulation 70/2001, while large enterprises are eligible only for *de minimis* aid. The provision of Article 12(4) of Law 4/97 making large enterprises eligible would be repealed as soon as possible; in the meantime the Italian authorities have pledged not to grant it anymore.

(78) Finally, the Italian authorities undertook to comply with the conditions set out in points 36 and 37 of the guidelines concerning investments to be taken into account and methods of calculating eligible costs.

- (79) Only one request — in the craft sector — had been received on the basis of the existing criteria for the scheme in question; the aid amounted to EUR 14 719,02, which was over the authorised intensity of EUR 7 359,51. So this amount was classed as *de minimis*.

V.2.6. Contributions classed as 'employment aid'

- (80) According to the Italian authorities such aid is linked to the start-up phase of new enterprises (the first 24 months after their establishment) and, even though it takes the form of support for consultancy services and research into and/or registration of trademarks and business products, is designed to create jobs and is therefore compatible. In any case it has not been granted to any large enterprise.

- (81) However, in compliance with Chapter V of Law 4/97, the only provision now is in the form of loans on favourable terms as laid down in Chapter VI of the same law for the purpose of increasing the availability of funds on the basis, and within the limits, of the *de minimis* criterion.

V.2.7. Aid for internationalisation

- (82) Up to now only negligible amounts of such aid have been granted. Some SMEs had been accorded an aid intensity of 25 % for participation in fairs and exhibitions, plus an intensity of up to 50 % without verification whether it was their first participation in a given event; only two aid grants in the form of a contribution (50 %) to the insurance cost of export credits — for EUR 3 500 and LIT 7 million — have been accorded for countries outside the EU.
- (83) The new implementation criteria provide for aid of an intensity of 50 % only to SMEs for the cost of consultancy services supplied by external consultants and the cost of their first participation in a fair or exhibition inside or outside the Community.
- (84) Aid for the insurance of export credits is authorised only for the premium to cover risks which are not insurable on the market and which arise out of dealings with non-Community countries, excluding a number of OECD countries where such risks are marketable ('marketable countries' currently being Australia, Canada, Iceland, Japan, New Zealand, Norway, Switzerland and the United States).

V.2.8. Aid provided for under Community programmes

- (85) Aid intensity of 80 %, previously offered to some joint projects carried out under the Community programmes LEADER and INTERREG, in which enterprises also take part, is not granted anymore.

V.2.9. Application of the *de minimis* rule

- (86) According to the Italian authorities, the *de minimis* rule is adhered to. First, the relevant departments of the Bolzano provincial authorities are interconnected thanks to an intranet system. Moreover, before applicants can obtain any aid under such a scheme they must submit a declaration concerning any other such aid received over the relevant three-year period.
- (87) Another system for automatically controlling all aid, not just that granted by the Province, is being set up; this system in turn will be connected to the national network currently being established.

VI. ASSESSMENT OF THE MEASURES

VI.1. Assessment of the nature of the aid measures in question

- (88) A measure may be considered aid within the meaning of Article 87(1) of the Treaty only if it satisfies all four of the following conditions: its being granted through state resources, selectivity, likelihood of distorting competition, and effect on trade.
- (89) In this case the first condition is satisfied as the measure is financed from the budget of the Autonomous Province of Bolzano — i.e. with public resources; the second because only enterprises operating in the Province of Bolzano receive the aid; the third because the financial situation of the recipients is improved; and the fourth because the firms concerned may in fact engage in international trade, since they are in a border region that is also very active in tourism. Therefore the measures in question are liable to affect trade between Member States, subject to the assessment of the measures resulting from the application of new criteria in favour of specific microenterprises, which is dealt with in recital 116.

- (90) Furthermore, the measures which are the subject of this procedure were deemed state aid within the meaning of Article 87(1) of the Treaty when the Commission examined the dossiers for state aid measures N192/97 and NN69/95.

VI.2. Legality of the measures

- (91) Since the measures were not notified to the Commission in advance in accordance with Article 88(3) of the Treaty they are illegal on the grounds of lack of notification. Since they are implementation criteria for scheme N192/97 (and, indirectly, for NN69/95), they constitute misuse of these schemes.

VI.3. **Compatibility of the aid measures taken under Resolution 4607/2001**

VI.3.1. *Investment aid for large enterprises*

- (92) Given that the Province of Bolzano was not eligible for regional aid throughout all the period in which the measures in question were in force, no exemption can be granted for investment aid to large enterprises in the province.
- (93) The Commission's decision on case N192/97 had already explicitly excluded large enterprises from any aid under the scheme other than *de minimis*.
- (94) Aid granted in the form of loans on favourable terms under Law 9/91 also comes under scheme NN69/95. The Commission approved that scheme on condition that only SMEs were eligible and following the undertaking given by the Italian authorities to comply with all the rules on SMEs and to communicate these rules to the provincial administration to ensure that the scheme was implemented correctly.
- (95) But the implementation criteria set out in Resolution 4607/2001 for scheme N192/97 (and for NN69/95 where aid is accorded in the form of soft loans under Law 9/91) are incompatible with the common market since they provide for investment aid for large enterprises as well.
- (96) The Commission notes that, according to the information supplied by the Italian authorities, no large enterprise has in fact received such aid.

VI.3.2. *Investment aid for SMEs*

- (97) First, the Commission confirms that any aid granted for replacement investment must be considered incompatible, while noting that the Italian authorities have informed it that no aid for this type of investment has been granted under the scheme in question.
- (98) Investment aid that exceeds the threshold of 15 % for small enterprises and 7,5 % for medium-sized enterprises is also incompatible.

VI.3.3. *Microenterprises*

- (99) The Commission confirms that, on the basis of both Recommendation 96/280/EC⁽¹⁸⁾ and the new definition in force since 1 January 2005⁽¹⁹⁾, microenterprises as a

⁽¹⁸⁾ Commission Recommendation 96/280/EC of 3 April 1996 concerning the definition of small and medium-sized enterprises (OJ L 107, 30.4.1996, p. 4).

⁽¹⁹⁾ Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 136).

category of SME are not excluded as such from the application of Article 87(1) of the Treaty. It follows that investment aid granted for such enterprises, where it exceeds an intensity of 15 % and cannot be considered *de minimis*, must be deemed incompatible with the common market.

- (100) The Commission takes note of the information supplied by the Italian authorities that no aid granted to microenterprises has exceeded both the 15 % intensity and the *de minimis* threshold.

VI.3.4. *Environmental aid*

- (101) The Commission finds that the aid intensities of 25 % and 40 % for the first two types of aid under this specific measure (namely adjustment to new mandatory standards and improving on Community standards), plus the eligibility of large enterprises to receive aid for environmental audit projects, are incompatible with the common market.
- (102) On this point the Commission notes that on the basis of information supplied by Italy only one grant of aid (of an amount much lower than the *de minimis* level) has exceeded the permissible thresholds, and that application of the legal basis for the third type of aid (aid for environmental audits) has been suspended and will be repealed as soon as possible.

VI.3.5. *Contributions described as 'employment aid'*

- (103) The Commission confirms that the aid provided for under this heading in Resolution 4607/2001 does not correspond in any way to the aid authorised by the Commission decision on scheme N192/97. Furthermore, since it neither creates nor saves jobs, but it is accorded for consultancy services and activities related to trademarks and patents, it cannot be considered employment aid.
- (104) However, since most of the eligible costs under this specific measure are deemed to be made up of consultancy/advisory activities for newly-set up SMEs and for the registration of trademarks and business products that may be eligible under Articles 5 and 5c of Regulation 70/2001, such aid is incompatible only where the conditions laid down in Regulations Nos 70/2001 and 364/2004 are not met⁽²⁰⁾.
- (105) Such aid is incompatible, however, if large enterprises are also recipients.

⁽²⁰⁾ Commission Regulation (EC) No 364/2004 of 25 February 2004 amending Regulation (EC) No 70/2001 as regards the extension of its scope to include aid for research and development (OJ L 63, 28.2.2004, p. 22).

VI.3.6. Aid for internationalisation

(106) The Commission takes note of the fact that only a few aid grants of negligible amounts have been made on the basis of the implementation criteria that constituted the grounds for initiating the procedure. Furthermore, the intensity granted for participation in fairs and exhibitions is 25 %, instead of 50 % as was authorised, although it is true that there has been no verification as to whether it was the first participation in a given event. There have been five cases in total, with aid grants ranging from EUR 1 250 to EUR 8 875. There have been only two cases of aid for insuring export credits with an aid intensity of 50 %; the aid grants of EUR 3 500 and LIT 7 million (which is likewise about EUR 3 500) were restricted to the cost of the insurance premium and to countries outside the EU. These grants are compatible only on condition that they satisfy conditions of the Commission communication on short-term export-credit insurance ⁽²¹⁾.

(107) However, any aid for consultancy services for large enterprises and for export-related activities (even that for SMEs) is incompatible with the common market. Also incompatible is aid to enterprises of whatever size for consultancy services that constitute a permanent or regular activity and aid related to an enterprise's normal running costs, such as advertising.

VI.3.7. Aid under Community programmes

(108) The Commission remarks that such aid, of an intensity of 80 % as provided for in Resolution 4607/2001, was not authorised by the Commission decision on measure N192/97. Given the very high intensity, plus the fact that there seems to be no eligible objective, such aid is incompatible where Article 87(1) is applicable, in particular if persons engaged in economic activities may also benefit by participating in joint projects subsidised under the measure in question.

(109) However, the Commission notes that the sums granted under this heading to the individual projects in question are, according to the information supplied by the Italian authorities, very small, and well below the *de minimis* threshold. Hence there was no impact on intra-Community trade. These measures may therefore be considered as not constituting state aid within the meaning of Article 87 of the Treaty, provided that the Italian authorities supply the Commission with proof that all the criteria for the application of Regulation 69/2001 have been adhered to. Finally, the Commission takes note of the fact that aid to joint projects under the LEADER and INTERREG programmes in which enterprises also participate is no longer provided for in the new criteria for implementation of the scheme in question.

VI.3.8. Aid for consultancy services

(110) The Commission reiterates its opinion that no aid may be granted for consultancy/advisory services to large enterprises, except within the framework of a training project within the meaning of Article 7(7)(a) of Regulation (EC) No 68/2001 ⁽²²⁾. Aid is therefore incompatible outside this framework.

VI.3.9. Application of the *de minimis* rule

(111) The Commission takes note of the assurances given by the Italian authorities that all the conditions set out in the relevant *de minimis* provisions, currently those of Regulation (EC) No 69/2001 ⁽²³⁾, are rigorously adhered to, principally thanks to the ASTAT control system.

VI.4. Compatibility of the measures in the light of the new criteria notified by letter A/34/747 of 25 June 2004, amended and supplemented by letter A/34426 of 2 June 2005.

(112) The Commission remarks that, regarding investment aid, the new implementation criteria explicitly exclude large enterprises, other than in *de minimis* cases.

(113) In the case of investment aid for SMEs, the definition of eligible investment in the new criteria satisfies the conditions laid down in Regulation 70/2001 ⁽²⁴⁾, and replacement investment and maintenance costs are explicitly excluded.

(114) The Commission also notes that now there is formal provision for the principle of the freedom of establishment, whereas previously it was merely *de facto*, as is shown by the list notified in the course of procedure (see recital 70); it is now sufficient to have an operating unit on the territory of the Province of Bolzano to have access to the aid in question.

(115) Finally, the principle of the necessity of aid is complied with since there is now a requirement to submit an application before starting to implement the project for which aid is given

(116) Article 87(1) of the Treaty does not apply to micro-enterprises where these are merely enterprises engaged in local activities and so not in a position to affect intra-Community trade in view of their characteristics, size and location, and also because enterprises of other Member States have no interest in accessing their markets. In this case such enterprises are quite specific activities employing no more than two people in the craft sector (typically traditional trades threatened with extinction such as knife

⁽²¹⁾ OJ C 281, 17.9.1997, p. 4, as amended by communication 2001/C 217/02 (OJ C 217, 2.8.2001, p. 2).

⁽²²⁾ OJ L 10, 13.1.2001, p. 20.

⁽²³⁾ See footnote 14.

⁽²⁴⁾ See footnote 14.

grinders, coopers, carders and spinners of wool, chandlers or candle dippers, basket makers, farriers and so on) and in distributive trades (in particular, the retail sale of products in daily use, above all food products, in localities with no more than a thousand inhabitants, not in commercial centres, and in any case outside areas more developed for tourism); both the craft and distributive activities are exhaustively listed in the new implementation criteria for the scheme.

(117) Turning to environmental protection aid, the Commission finds that the transitional aid of an intensity of 15 %, confined to SMEs to help them adjust to new mandatory standards over a period of three years from their adoption, is consistent with point 28 of the Community guidelines on state aid for environmental protection ('the guidelines') ⁽²⁵⁾.

(118) Furthermore, aid of an intensity of up to 30 % to encourage enterprises of whatever size to improve on mandatory Community standards or to make investments designed to protect the environment in the absence of mandatory Community standards now satisfy the conditions of point 29 of the guidelines.

(119) Aid for advisory/consultancy activities confined to SMEs are consistent with Article 5(a) of Regulation (EC) No 70/2001 ⁽²⁶⁾, and are therefore compatible with the common market.

(120) However, this Decision does not prejudice the compatibility of Resolution 4007 of 4 November 2002, thanks to which, it is claimed, all forms of environmental aid offered by the Province of Bolzano have been adapted to the new Commission guidelines, since this resolution is not the subject of this procedure.

(121) On the issue of the supposed employment aid, the Commission notes that such aid is confined to the grant of loans to constitute liquid assets within the limits of Regulation 69/2001 on *de minimis* aid ⁽²⁷⁾.

(122) As to the aid for internationalisation, the Commission notes that the new implementation criteria notified to it provide only for aid of an intensity up to 50 % for the costs of consultancy services supplied by external consultants and for the costs incurred in a first participation in a given fair or exhibition, and that the aid is confined to SMEs. This complies with Article 5 of Regulation 70/2001 ⁽²⁸⁾.

(123) The Commission also notes that the only premiums now eligible are those for insuring credits for risks which are not insurable on the market and which arise out of dealings with non-Community countries, excluding OECD countries where such risks are marketable (these 'marketable countries' are currently Australia, Canada, Iceland, Japan, New Zealand, Norway, Switzerland and the United States). This is in accordance with the communication on short-term export-credit insurance ⁽²⁹⁾.

VII. FINAL COMMENTS

(124) The Commission deplores the fact that the implementation criteria for Provincial Law No 4/97, adopted by Resolution 4607 of 17 December 2001, were enacted by Italy (Autonomous Province of Bolzano) without prior notification to the Commission, in violation of Article 88(3) of the Treaty, and so are illegal. This was a misuse of aid scheme N192/97 (and also, indirectly, of scheme NN69/95) within the meaning of Article 16 of Regulation 659/99 ⁽³⁰⁾.

(125) For that reason the Commission decided to initiate this formal procedure to investigate the aid in question.

(126) However, during the procedure the Italian authorities explained that in most cases the provisions of Resolution 4607/2001 that were liable to be found incompatible and illegal in the light of the Commission's investigation have not been applied, or have been applied in only a very small number of cases and for insignificant amounts well below the *de minimis* threshold even in the case of SMEs.

(127) On this subject much information has been supplied, in particular regarding the number and amount of aid grants in relation to the more controversial aspects of the specific aid measures covered by the scheme. According to this information, no large enterprise has received investment aid under the scheme in question. This type of aid has in fact been reserved for SMEs, as stipulated in the Commission decision approving schemes N192/97 and NN69/95.

(128) The Italian authorities have also actively cooperated by suspending the application of a number of measures that will be repealed as soon as possible (in particular, aid for consultancy services for large enterprises) and proposing to amend the implementation criteria for the aid which is the subject of this procedure.

⁽²⁵⁾ OJ C 37, 3.2.2001, p. 3.

⁽²⁶⁾ Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to state aid to small and medium-sized enterprises (OJ L 10, 13.1.2001, p. 33).

⁽²⁷⁾ See footnote 14.

⁽²⁸⁾ See footnote 26.

⁽²⁹⁾ Communication of the Commission to Member States amending the communication pursuant to Article 93(1) of the EC Treaty applying Articles 92 and 93 of the Treaty to short-term export-credit insurance (OJ C 217, 2.8.2001, p. 2).

⁽³⁰⁾ See footnote 5.

- (129) Finally, the Commission takes note of the undertakings and assurances given by Italy concerning compliance with the *de minimis* conditions and threshold, the Commission having expressed doubts about the extensive use of *de minimis* aid when initiating the procedure.
- (130) As long as aid was not granted to excluded sectors or export-related activities, and no aid was subordinated to the preferential use of domestic rather than imported products, the *de minimis* rule could be applied to the aid in question in accordance with Regulation 69/2001, provided that the aid did not exceed the EUR 100 000 threshold for any one enterprise over the relevant three-year period. Therefore such aid does not come under article 87(1) of the Treaty.
- (131) The Commission also remarks that a decision on an aid scheme does not exclude the possibility that individual measures may not constitute state aid (if the aid grant complies, for example, with the *de minimis* rule, as explained above), or may be considered, in whole or in part, compatible with the common market because of their specific characteristics (notably on the basis of an exemption regulation).
- (132) Even though, in the light of recitals 124 to 131 and the considerations set out in Part VI.3 concerning the compatibility of the measures taken under Resolution 4607/2001, no recovery, or only a partial recovery, of aid may possibly be necessary in this specific case, it is the established practice of the Commission to require the recovery of aid that has been declared illegal and incompatible under Article 88 of the Treaty. This practice is confirmed in Article 14 of Regulation No 659/99 ⁽³¹⁾.
- (133) The Commission will therefore require Italy to take all necessary measures to recover incompatible aid from beneficiaries of the scheme, other than in individual cases that satisfy the conditions for declaring the aid compatible with the relevant rules. Within two months of notification of this Decision, Italy must order aid recipients to repay the aid, with interest.
- (134) As laid down in Article 14(2) of Regulation 659/99, the aid to be recovered is to include interest calculated in accordance with Chapter V of Commission Regulation (EC) No 794/2004 ⁽³²⁾. Interest is to be payable from the date the unlawful aid was at the disposal of the beneficiary until the date of its recovery.
- (135) The Commission requests Italy to send back the attached form concerning progress in the recovery procedure, to draw up a list of recipients subject to the recovery order and to indicate clearly what specific steps have been taken to ensure an immediate and effective recovery of the aid. An exhaustive list of all the aid measures cited in this Decision must be sent within two months of the date of notification of this Decision; for each measure there should be a breakdown of the amount granted, the amount compatible as a result of one of the cited exemptions, and the amount to be recovered.
- (136) The Commission also requests Italy to send within two months of the date of notification of this Decision documents that prove that procedures to recover illegal and incompatible aid from the recipients have been initiated (for example, circulars, repayment orders, and the like),
- (137) Lastly, the new implementation criteria, notified by letter A/34747 of 25 June 2004 and amended and supplemented by letter A/34426 of 2 June 2005, satisfy the conditions for compatibility with the common market, as is set out on a case-by-case basis in Part VI.4 (recitals 112 to 123),

HAS ADOPTED THIS DECISION:

Article 1

The implementation criteria for Provincial Law No 4/97, adopted by Resolution No 4607 of 17 December 2001, are illegal because of the failure to notify the Commission in accordance with Article 88(3) of the Treaty. This means that the implementation of aid scheme N192/1997 was unlawful, as was, indirectly, that of scheme NN69/1995.

Article 2

The following aid measures provided for in Resolution 4607/2001 are incompatible with the common market:

- a) all investment aid for large enterprises;
- b) aid for SMEs that was granted for replacement investment and the portion of any investment aid grant which is over the 15 % gross aid-intensity threshold in the case of small enterprises and the 7,5 % threshold in the case of medium-sized enterprises;
- c) investment aid for microenterprises, other than that provided for in Article 3, which is in excess of a gross aid intensity of 15 %;

⁽³¹⁾ See footnote 5.

⁽³²⁾ Commission Regulation (EC) of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 (now 88) of the EC Treaty (OJ L 140, 30.4.2004, p. 1).

d) following the entry into force of the new Community guidelines on state aid for environmental protection ⁽³³⁾ and the acceptance by the Member State ⁽³⁴⁾ of the proposal for appropriate measures to adapt the schemes previously approved in accordance with point 77 of the guidelines referred to above, namely from 1 January 2002:

i. the portion of environmental protection investment aid to help adjustment to new mandatory Community standards that have recently entered into force which is over the 15 % gross aid-intensity threshold in the case of SMEs, and without exception where the recipients are large enterprises.

ii. investment aid for environmental protection for the purpose of improving on mandatory Community standards, or in the absence of such standards, for the portion in excess of the gross aid intensity of 30 % in the case of large enterprises (40 % for SMEs);

iii. all aid for environment-related consultancy/advisory activities for large enterprises;

e) aid to enterprises for internationalisation, except aid that is confined to SMEs for an enterprise's first participation in a fair or exhibition, and aid that satisfies the criteria set out in the Commission communication on short-term export-credit insurance ⁽³⁵⁾;

f) contributions described as 'employment aid' (consisting in fact of aid for consultancy/advisory services and for the cost of registering trademarks) received by large enterprises;

g) all aid for consultancy services received by large enterprises;

h) aid of an intensity of 80 % granted for joint projects under Community programmes, the recipients of which include enterprises.

Article 3

The measures provided for in the new implementation criteria for scheme N192/97, notified by letter A/34747 of 25 June 2004, amended and supplemented by letter A/34426 of 2 June 2005 for microenterprises employing no more than two persons engaged in specific craft activities corresponding to typical

traditional trades threatened with extinction and to local activities in the distributive sector, exhaustively listed in the implementation criteria referred to above, do not constitute aid within the meaning of Article 87(1) of the Treaty.

Article 4

Measures other than those referred to in Article 3 that are provided for in the new implementation criteria for scheme N192/97, notified by letter A/34747 of 25 June 2004, amended and supplemented by letter A/34426 of 2 June 2005, are compatible with the common market.

Article 5

1. Italy shall take all necessary measures to recover from the recipients any illegal and incompatible aid referred to in Article 2.

2. Italy shall suspend all payments of incompatible aid from the date of notification of this Decision.

3. Recovery shall be effected without delay and in accordance with the procedures of national law provided that they allow the immediate and effective enforcement of this Decision.

4. The aid to be recovered shall include interest charged from the date on which it was at the disposal of the recipients until the date of its recovery.

5. Interest shall be calculated on the basis of Chapter V of Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty.

6. Within two months of the date of notification of this Decision, Italy shall order all the recipients of the aid referred to in Article 2 to repay the aid unlawfully granted with interest calculated as described above.

Article 6

Within two months of the date of notification of this Decision, Italy shall inform the Commission of the measures taken to comply with it by completing the questionnaire annexed hereto.

⁽³³⁾ Community guidelines on state aid for environmental protection (OJ C 37, 3.2.2001, p. 3).

⁽³⁴⁾ By letter No 4592 of 5 April 2001, registered as received on 6 April 2001 (A/32899).

⁽³⁵⁾ OJ C 281, 17.9.1997, p. 4, as amended by communication 2001/C 217/02 (OJ C 217, 2.8.2001, p. 2).

In particular, Italy shall, by the same deadline, send a complete list of all the aid measures referred to in this Decision, giving for each measure a breakdown of the amount granted, the amount compatible as a result of one of the cited exemptions, and the amount to be recovered.

Finally, again by the same deadline, Italy shall send all the documents demonstrating that it has initiated the procedures for recovering the unlawful aid from the recipients.

Article 7

This Decision is addressed to the Italian Republic.

Done at Brussels, 21 September 2005.

For the Commission

Neelie KROES

Member of the Commission

ANNEX

Information regarding the implementation of Commission Decision C(2005) 2723**1. Total number of recipients and total amount of aid to be recovered**

1.1. Please explain in detail how the amount of aid to be recovered from individual recipients will be calculated?

- The capital
- The interest

1.2. What is the total amount of unlawful aid granted under this scheme that is to be recovered (gross aid equivalents; prices of ...)?

1.3. What is the total number of recipients from which unlawful aid granted under this scheme is to be recovered?

2. Measures planned and already taken to recover the aid

2.1. Please describe in detail what measures are planned and what measures have already been taken to effect an immediate and effective recovery of the aid. Please also indicate where relevant the legal basis for the measures taken/planned.

2.2. By what date will the recovery of the aid be completed?

3. Information by individual recipient

3.1. Please provide details for each recipient from whom unlawful aid granted under the scheme is to be recovered in the table below:

Identify of recipient	Amount of unlawful aid granted (*) Currency:	Amounts reimbursed (**) Currency:

(*) Amount of aid put at the disposal of the recipient (in gross aid equivalents).

(**) Gross amounts reimbursed (including interest).