

# COMMISSION

## COMMISSION DECISION

of 5 March 2003

on the aid scheme which Italy (the Region of Sicily) is planning to implement for the internationalisation of enterprises

(notified under document number C(2003) 650)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2003/519/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 Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 88 of the Treaty <sup>(1)</sup>,

Having called on interested parties to submit their comments pursuant to the provisions cited above,

Whereas:

### 1. PROCEDURE

- (1) By letter from the Italian Permanent Representation to the European Union dated 10 May 2001, registered by the Commission on 14 May 2001 under A/33813, the Italian authorities notified the aid scheme in question pursuant to Article 88(3) of the Treaty.
- (2) By letter SG (2002) D/228170 of 15 January 2002, the Commission informed Italy that it had decided to initiate the procedure laid down in Article 88(2) of the Treaty in respect of the scheme.
- (3) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* <sup>(2)</sup>. The Commission invited interested parties to submit their comments.
- (4) The Commission received no comments on the scheme either from Italy or from interested parties. The only letter from the Italian authorities was dated 10 January

2003 and related exclusively to one aspect of the decision to initiate the procedure (point 38, concerning the *de minimis* rule).

### 2. DETAILED DESCRIPTION OF THE AID

#### 2.1. Title and legal basis

- (5) The aid would be granted by the Region of Sicily under the scheme set up by Article 26 of Regional Law No 32 of 23 December 2000 laying down provisions for implementing the Regional Operational Programme (POR) 2000-2006 for Sicily <sup>(3)</sup> (Regional Law 32/2000) and the Decree of 22 June 2001 <sup>(4)</sup>. Articles 13 and 15 of Regional Law 32/2000 contain general provisions applicable to the scheme, while Article 198 suspends its implementation pending the adoption of a decision by the Commission on completion of the notification procedure.

#### 2.2. Objective of the scheme

- (6) The scheme is intended to promote the internationalisation of the regional economy by granting aid to independent or affiliated SMEs, consortia of SMEs and companies set up by consortia of SMEs operating in the Region of Sicily.

#### 2.3. Scope

- (7) In order to attain the objectives pursued, the scheme makes provision for the following forms of aid:
  - contributions to investment costs of projects designed to secure a permanent presence on one or more foreign markets (exhibition centres, show-rooms, agents' offices);

<sup>(1)</sup> OJ L 83, 27.3.1999, p. 1.

<sup>(2)</sup> OJ C 132, 4.6.2002, p. 11.

<sup>(3)</sup> *Gazzetta ufficiale della Regione siciliana*, No 61, 23.12.2000.

<sup>(4)</sup> *Gazzetta ufficiale della Regione siciliana*, Part I, No 37, 27.7.2001.

- contributions to the establishment and start-up of consortia of SMEs to carry out cooperation projects as part of promotional activities on an international scale.
- (8) The Decree of 22 June 2001 provides for other aid to be granted in accordance with 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 <sup>(5)</sup>.
- (9) As regards the aid referred to in the first indent of recital 7 above, the Decree of 22 June 2001 stipulates that expenditure falling within the definition of investment (including intangible investments) given in the relevant Community legislation is eligible for assistance: expenditure on the purchase or rental of premises, on the purchase of equipment and on intangible investments. On the form submitted with the notification (prior to the amendments made in the course of the investigation), the Italian authorities quoted quality certification, environmental protection, technical innovation and the purchase of management software as examples of intangible investments. Tangible investment is defined in Article 13 of Regional Law 32/2000, which also provides that:
- expenditure on intangible investments and studies and consultancy work may not exceed 25 % of eligible expenditure,
  - replacement investments are excluded,
  - the recipient must undertake to maintain the investment for a period of five years,
  - aid to intangible investment is granted on condition that the recipient undertakes to use it exclusively in its own establishment for a period of five years,
  - requests for aid must be submitted before implementation of the project begins.
- (10) As far as the aid referred to in the second indent of recital 7 above is concerned, the Decree of 22 June 2001 stipulates that all expenditure involved in the establishment, start-up and operation of the consortium for a period of five years is eligible for assistance: the legal costs of setting up the consortium and the overheads and staff costs incurred during start-up and operation and on which the success of the initiative directly depends. The following items of expenditure are specified:
- staff costs and tax liabilities,
  - rent for premises assigned to the activities of consortia or associations,
  - purchase, including by means of leasing agreements, of movables (equipment and furniture),
  - promotion and advertising of the products of the member firms and the services provided by the consortium.
- (11) In the absence of clarifications from the Italian authorities, the Commission is unable to identify in more detail the assistance and eligible expenditure referred to in recitals 8 to 10 above.

#### 2.4. Budget and duration of the scheme

- (12) The scheme is to enter into force on completion of the notification procedure and operate until 31 December 2006. The annual budget has not been clearly specified. On the notification form submitted by letter of 26 September 2001, the Italian authorities indicated a budget of ‘... lire approximately 98 billion euros for the aid scheme referred to in Articles 26-36 and 39 of Regional Law 32/2000 ...’. The Commission assumes that the amount is given in Italian lire. Furthermore, the notification in question relates only to the aid scheme set up by Article 26 of that law. Article 26(2) provides for a budget of not more than ITL 120 billion.

#### 2.5. Recipients

- (13) The scheme is open to individual and affiliated SMEs. Consortia of SMEs and companies set up by consortia of SMEs, including those in cooperative form, are also eligible. Aid recipients must be registered in the register of businesses kept by chambers of commerce and, in the case of craft businesses, in the register of craft businesses. For the definition of SMEs, the provisions governing the scheme refer to the Community rules. However, the Italian authorities have not made it clear whether this means the definition of SMEs given in Commission Recommendation 96/280/EC <sup>(6)</sup>. There are also doubts as to the definition of SMEs applied to consortia and companies set up by consortia.

<sup>(5)</sup> OJ L 10, 13.1.2001, p. 30.

<sup>(6)</sup> OJ L 107, 30.4.1996, p. 4. The same definition is reproduced in Annex I to 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).

(14) In the original notification, the notification form stated that the scheme excluded activities related to the production, processing or marketing of the products listed in Annex I to the EC Treaty and to the transport, steel, shipbuilding, synthetic fibres and motor-vehicle sectors. Article 15 of Regional Law 32/2000 nevertheless provides that the provisions on aid laid down in the Law apply to those sectors. The most recent documents submitted and the notification form for the amended provisions do not state any more clearly whether the above sectors are excluded. There are also doubts as to whether aid for rescuing and restructuring firms in difficulty <sup>(7)</sup> and aid for the financial restructuring of firms in difficulty is excluded. There is likewise doubt regarding the exclusion of investments in fixed capital involving the takeover of an establishment which has closed or which would have closed had it not been taken over. These contradictory indications do not make it possible to determine whether or not the scheme applies to the above sectors, firms and establishments.

## 2.6. Form and intensity of the aid

(15) The scheme awards aid in the form of grants.

(16) For the contributions to investment costs of projects designed to secure a permanent presence on one or more foreign markets (exhibition centres, showrooms, agents' offices), the maximum intensities are 35 % net grant equivalent plus 15 percentage points gross grant equivalent.

(17) For the contributions to the establishment and start-up of consortia of SMEs to carry out cooperation projects as part of promotional activities on an international scale, the scheme provides for aid intensity that decreases over the first five years, with ceilings of 70 %, 60 %, 50 %, 40 % and 30 %.

## 3. DOUBTS RAISED BY THE COMMISSION WHEN IT DECIDED TO INITIATE THE PROCEDURE LAID DOWN IN ARTICLE 88(2) OF THE TREATY

(18) The doubts raised by the Commission when it decided to initiate the procedure laid down in Article 88(2) of the Treaty focused on two specific aspects: aid for internationalisation and operating aid.

<sup>(7)</sup> As defined by the Community guidelines on State aid for rescuing and restructuring firms in difficulty (OJ C 288, 9.10.1999, p. 2).

(19) As regards the aid for internationalisation, in its preliminary assessment and on the basis of the information at its disposal, the Commission drew attention to the following points in particular <sup>(8)</sup>:

— this aid appeared to be linked to the creation and operation of a distribution network or to other export-related current expenditure and as such was not compatible with the common market (see in particular Regulation (EC) No 70/2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises <sup>(9)</sup>);

— even if this aid could be regarded as investment aid, it did not qualify for the regional exemptions provided for in Article 87(3)(a) and (c). The regional exemptions could be granted only in respect of investments made within the areas eligible for regional aid. The Italian authorities considered that they could apply the intensities allowed for Sicily, as a region eligible for the exemption in Article 87(3)(a), by the Italian regional aid map <sup>(10)</sup>, but the measure in question related to the creation of structures outside that region.

(20) As far as the operating aid is concerned, in its preliminary assessment and on the basis of the information at its disposal, the Commission drew attention to the following points in particular <sup>(11)</sup>:

— the measure was limited in time, since it was to apply until 2006, and provided for decreasing maximum aid intensities;

— however, the Italian authorities had failed to demonstrate that the operating aid was proportional to the handicaps it sought to alleviate. Neither had they provided information clarifying the nature of the regional handicaps to be overcome. They had not even described or quantified those handicaps or shown that the aid was justified in terms of its contribution to regional development;

— operating aid intended to promote exports between Member States was not allowed <sup>(12)</sup>.

<sup>(8)</sup> For further details, see points 28 to 30 of the decision to initiate the procedure (see footnote 2).

<sup>(9)</sup> OJ L 10, 13.1.2001, p. 33.

<sup>(10)</sup> OJ L 105, 20.4.2002, p. 1.

<sup>(11)</sup> For further details, see points 31 to 36 of the decision to initiate the procedure (see footnote 2).

<sup>(12)</sup> Point 4.17 of the Guidelines on national regional aid (OJ C 74, 10.3.1998, p. 9, as amended by the Commission communication published in OJ C 258, 9.9.2000, p. 5).

(21) In the decision initiating the procedure the Commission furthermore expressed doubts as to the compatibility with the common market of two more specific aspects of the scheme <sup>(13)</sup>:

- the scheme required recipients to be registered in the register of businesses kept by chambers of commerce and, in the case of craft businesses, in the register of craft businesses. Such a requirement possibly infringed the Community rules on the right of establishment and the principle of non-discrimination on grounds of nationality (Article 12 of the Treaty);
- on the aid to be granted under the Decree of 22 June 2001 in accordance with the *de minimis* rule, the Commission noted that the provision at the end of Article 15(3) of Regional Law 32/2000, which formed an integral part of the notification, did not appear to take account of the three-year period referred to in Article 2(2) of Regulation (EC) No 69/2001 <sup>(14)</sup>. Under that provision of the Regional Law, recipients had to declare any *de minimis* aid received after 1 January 2000. However, the reference period in Article 2(2) of Regulation No 69/2001 was mobile, as is indicated in recital 5 to the Regulation.

#### 4. COMMENTS FROM THE ITALIAN AUTHORITIES

- (22) The Italian authorities did not submit any comments on the planned aid scheme.
- (23) They did, however, transmit clarifications concerning the provision on aid to be granted under the *de minimis* rule, i.e. the provision about which the Commission raised doubts in recital 38 of the Decision initiating the procedure.
- (24) In that letter the Italian authorities stated that no aid had been granted and that, on completion of the administrative procedure for examining requests for aid, the regional authorities would pay out the aid in accordance with the indications given in recital 38 of the decision initiating the procedure and in compliance with Regulation (EC) No 69/2001 <sup>(15)</sup>. The Italian authorities also stressed that the provision at the end of Article 15(3) of Regional Law 32/2000 did not provide for the grant of aid under the *de minimis* rule and was confined to organising the creation of a regional database.

#### 5. ASSESSMENT OF THE AID

##### 5.1. Existence of aid within the meaning of Article 87(1) of the Treaty

- (25) In order to assess whether the measures provided for in the scheme constitute State aid within the meaning of Article 87(1) of the Treaty, it has to be determined whether they confer an advantage on the recipients, whether that advantage derives from State resources, whether they distort competition and whether they are liable to affect trade between Member States.
- (26) The first requirement for the applicability of Article 87(1) of the Treaty is that the measure must confer an advantage on certain specific undertakings. It has to be determined whether the recipients receive an economic advantage they would not have obtained under normal market conditions, or whether they avoid costs which they would normally have had to bear out of their own financial resources, and whether this advantage is conferred on a specific category of undertaking. The award of grants and contributions towards the operating costs of firms located in the Region of Sicily confers economic advantages on the recipients since it reduces the costs of carrying out eligible projects and relieves them of some of the current expenditure which they would normally have incurred. The scheme is available only to SMEs operating in the Region of Sicily, which are favoured since the aid is not granted to firms outside that area or to firms in Sicily which are not SMEs, consortia of SMEs or companies set up by consortia of SMEs.
- (27) The second requirement for the applicability of Article 87 is that the aid must be granted by the State or out of State resources. In the present case the use of State resources is shown by the fact that the cost of the measure is borne by the public budget of a region.
- (28) The third condition for the applicability of Article 87(1) of the Treaty is that the aid must distort or threaten to distort competition. The measures at issue here do threaten to distort competition, because they strengthen the financial position and freedom of action of the recipient firms as compared with competitors who do not qualify.
- (29) The fourth condition for the applicability of Article 87(1) of the Treaty is that the aid must affect or be liable to affect intra-Community trade. It should be pointed out here that the scheme concerns the internationalisation of the regional economy and comprises measures intended precisely to assist undertakings in achieving that objective. The aid scheme under examination

<sup>(13)</sup> For further details, see points 37 to 38 of the Decision to initiate the procedure (see footnote 2).

<sup>(14)</sup> See footnote 5.

<sup>(15)</sup> Ibid.

therefore concerns undertakings carrying on their business in sectors exposed to international competition and can by definition be regarded as relating to economic operators involved in international trade.

- (30) For the above reasons, the Commission finds that the scheme under examination constitutes State aid within the meaning of Article 87(1) of the Treaty which can therefore be considered to be compatible with the common market only if it qualifies for one of the exemptions laid down in the Treaty.

### 5.2. Lawfulness of the scheme

- (31) Since under the suspensive clause (Article 198 of Regional Law 32/2000) the scheme has not yet entered into force, the Commission finds that the Italian authorities have complied with the obligation to notify laid down in Article 88(3) of the Treaty.

### 5.3. Applicability of the exemptions

- (32) After determining that the measures under examination constitute State aid caught by Article 87(1) of the Treaty, the Commission has to consider whether they can be declared compatible with the common market in accordance with Article 87(2) and (3).
- (33) The Commission takes the view that the aid does not qualify for the exemptions in Article 87(2): it is not aid having a social character of the kind referred to in Article 87(2)(a), nor is it aid intended to make good the damage caused by natural disasters or exceptional occurrences of the kind referred to in Article 87(2)(b), nor does it satisfy the tests of Article 87(2)(c). For obvious reasons the exemptions in Article 87(3)(b) and (d) are not applicable either. The Commission therefore has to consider whether it qualifies for exemption under Article 87(3)(a) and (c).

### 5.4. Compatibility of the aid and doubts raised by the Commission

- (34) In the decision to initiate the formal investigation procedure, the Commission took the view that the aid in the form of contributions to investment costs of projects designed to secure a permanent presence on one or more foreign markets (exhibition centres, showrooms, agents' offices) <sup>(16)</sup> applied particularly to export-related activities. This aid appeared to be linked to the creation and operation of a distribution network or to other export-related current expenditure. Export aid is not compatible with Regulation (EC) No 70/2001 <sup>(17)</sup>. The Commission has long been opposed to export aid <sup>(18)</sup>. In point 242 of the Seventh Report on Competition Policy (1977), the Commission stated that export aids applied to intra-Community trade 'cannot qualify for derogation whatever their intensity, form, grounds or purpose'. The formal investigation procedure has not dispelled the Commission's doubts, and the possibility that the scheme under examination may constitute export aid incompatible with the common market cannot be ruled out. Clearly, aid towards the costs of studies and consultancy services could be compatible if it complies with the conditions laid down in Article 5 of Regulation (EC) No 70/2001. However, in the absence of specific commitments from Italy and clarifications and more precise definitions, the Commission cannot authorise such aid. In this particular respect, Italy is nevertheless free to implement the measure under the Exemption Regulation in accordance with the conditions laid down therein.
- (35) During the preliminary examination phase, the Italian authorities disputed the classification of the measures as export aid on the grounds that they were not directly linked to the export of goods or to the creation or operation of distribution and marketing networks. But they did not adduce any evidence in support of these claims. They confined themselves to pointing out that the aid would have beneficial effects on regional development in Sicily and arguing that the scheme should be classed as regional aid. The Italian authorities also stated that they were prepared to exclude from the scheme any structure comprising a warehouse, store or distribution centre for goods and anything connected with marketing and distribution. Nevertheless, in the decision initiating the formal investigation procedure, the Commission also expressed doubts as to whether the scheme could be classed as investment aid for the purposes of Article 2 of Regulation (EC) No 70/2001. Its doubts have not been dispelled, and the question whether the measures can be classed as export aid or investment aid remains unresolved.

<sup>(16)</sup> See the first indent of recital 7.

<sup>(17)</sup> See footnote 9. See in particular Article 1(2)(b) of the Regulation and recital 16 thereto.

<sup>(18)</sup> See Commission Decision 73/263/EEC of 25 July 1973 on the tax concessions granted, pursuant to Article 34 of French law No 65-566 of 12 July 1965 and to the circular of 24 March 1967, to French undertakings setting up businesses abroad (OJ L 253, 10.9.1973, p. 10).

- (36) In the Decision to initiate the formal investigation procedure, the Commission furthermore took the view that, even if the aid could be classed as investment aid, it did not qualify for the regional exemptions in Article 87(3)(a) and (c). Those exemptions may be applied only to investments made within eligible areas. However, Article 4(1) of Regulation (EC) No 70/2001 provides that 'aid for investment [...] inside or outside the Community shall be compatible with the common market within the meaning of Article 87(3) of the Treaty [...]', and the Regulation therefore applies to investments outside eligible areas. Nevertheless, all the established conditions must be met. In particular, Article 4(2) provides that the gross aid intensity may not exceed 15 % in the case of small enterprises and 7,5 % in the case of medium-sized enterprises. Only where the investment is carried out in an assisted area does Article 4(3) allow the average intensity to reach the ceiling for regional investment aid. It follows that the aid ceilings envisaged by the Region of Sicily may be applied only where the investment is carried out inside that region. The Italian authorities took the view, however, that the intensities envisaged by the Region of Sicily could be applied since the region was recognised as eligible for the derogation in Article 87(3)(a) by the Italian regional aid map. But the scheme under examination relates to the creation of structures outside that region. During the formal investigation procedure the Italian authorities confined themselves to advancing questionable interpretations of Article 4 of Regulation (EC) No 70/2001 in support of their argument that the maximum intensities allowed for the Region of Sicily could be applied. The formal investigation has not dispelled the Commission's doubts, and the possibility that the scheme under examination may constitute investment aid incompatible with the common market cannot be ruled out.
- (37) In the decision to initiate the formal investigation procedure, the Commission took the view that the aid in the form of contributions to the establishment and start-up of consortia of SMEs to carry out cooperation projects as part of promotional activities on an international scale<sup>(19)</sup> did not fulfil the conditions laid down in Regulation (EC) No 70/2001 and that the aid constituted operating aid. The acquisition of movables is an eligible cost for the purposes of aid for productive investments, even where it takes place outside the Community, provided that all the other conditions laid down in Regulation (EC) No 70/2001 are fulfilled. In the absence of specific commitments from Italy and clarifications and more precise definitions, the Commission cannot authorise aid for the acquisition of immovable property for productive investments. In this particular respect, Italy is nevertheless free to implement the measure under the Exemption Regulation in accordance with the conditions laid down therein. All the conditions laid down in that Regulation will nevertheless have to be met. This is the case, for example, of the aid intensities<sup>(20)</sup>, on which the Commission has already stated its position<sup>(21)</sup>.
- (38) The Region of Sicily qualifies for exemption under Article 87(3)(a) of the Treaty in accordance with the abovementioned Italian regional aid map.
- (39) In accordance with the guidelines on national regional aid, aid aimed at reducing a firm's current expenses (operating aid) is normally prohibited. Exceptionally, however, such aid may be granted in regions eligible under the derogation in Article 87(3)(a), provided that it is justified in terms of its contribution to regional development and its nature, and provided its level is proportional to the handicaps it seeks to alleviate. It is for the Member State to demonstrate the existence of any handicaps and gauge their importance. Operating aid must be limited in time and progressively reduced<sup>(22)</sup>.
- (40) The Commission noted that the measure was limited in time, since it was to apply until 2006, and provided for decreasing maximum aid intensities.
- (41) The Commission nevertheless pointed out that the provisions governing the scheme did not make it clear whether the aid intensity was expressed in terms of gross or net grant equivalent and that the initial ceiling of 70 % appeared to be rather high. The Italian authorities had failed to explain how the nature and duration of the aid were such as to compensate for the handicaps it sought to alleviate, and they had not demonstrated that the operating aid was proportional to those handicaps. Neither had they provided information clarifying the nature of the regional handicaps to be overcome; they had not described or quantified those handicaps or shown that the aid was justified in terms of its contribution to regional development.
- (42) The Commission also stressed that operating aid intended to promote exports between Member States was not allowed<sup>(23)</sup>.

<sup>(20)</sup> See recital 36.

<sup>(21)</sup> See Commission Decision 97/257/EC of 5 June 1996 concerning guarantees of the *Land Brandenburg* (Germany) for investment projects in Poland (OJ L 102, 19.4.1997, p. 36); Commission Decision 97/240/EC of 5 June 1996 concerning aid that the Republic of Austria intends to grant under the ERP internationalisation scheme (OJ L 96, 11.4.1997, p. 15); and Commission Decision 97/241/EC of 5 June 1996 concerning aid that the Republic of Austria intends to grant pursuant to the ERP Eastern Europe programme (OJ L 96, 11.4.1997, p. 23).

<sup>(22)</sup> Points 4.15 to 4.17 of the Guidelines on national regional aid (see footnote 12).

<sup>(23)</sup> Point 4.17 of the Guidelines on national regional aid (see footnote 12).

<sup>(19)</sup> See the second indent of recital 7.

- (43) The formal investigation has not dispelled the Commission's doubts, and the possibility that the scheme under examination may constitute operating aid incompatible with the common market cannot be ruled out.
- (44) In the Decision to initiate the formal investigation procedure, the Commission pointed out that the provision requiring recipients to be registered in the register of businesses kept by chambers of commerce and, in the case of craft businesses, in the register of craft businesses possibly infringed the Community rules on the right of establishment and the principle of non-discrimination on grounds of nationality (Article 12 of the Treaty). Those doubts have not been dispelled. In the absence of reactions and clarifications from Italy, the Commission is unable to reach a decision on this question. There is no need for it to do so, however, since the formal investigation procedure has led it to conclude that the aid scheme under examination is incompatible with the common market. It should also be stressed that, as indicated in the preceding points, if Italy were to decide to put certain measures into effect pursuant to Regulation (EC) No 70/2001, it would have to do so in compliance with the provisions of the Treaty.
- (45) On the aid to be granted in accordance with the *de minimis* rule, the Commission takes note of the Italian authorities' statement that no aid has been granted and that they will comply with the provisions of Regulation (EC) No 69/2001<sup>(24)</sup>. Since the Italian authorities have made it clear that the provision at the end of Article 15(3) of Regional Law 32/2000 does not provide for the grant of aid under the *de minimis* rule and is confined to organising the creation of a regional database, no amendment of that provision is necessary.

## 6. CONCLUSIONS

- (46) In the light of the assessment set out in section IV of this Decision, the Commission finds that the aid scheme to promote the internationalisation of enterprises in the Region of Sicily is incompatible with the common market,

HAS ADOPTED THIS DECISION:

### *Article 1*

The State aid which Italy is planning to implement for the internationalisation of enterprises in the Region of Sicily pursuant to Article 26 of Sicilian Regional Law No 32 of 23 December 2000 and the Decree of 22 June 2001<sup>(25)</sup> is incompatible with the common market.

The aid may accordingly not be implemented.

### *Article 2*

Italy shall inform the Commission, within two months of notification of this Decision, of the measures taken to comply with it.

### *Article 3*

This Decision is addressed to the Italian Republic.

Done at Brussels, 5 March 2003.

*For the Commission*

Mario MONTI

*Member of the Commission*

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<sup>(24)</sup> See footnote 5.

<sup>(25)</sup> See footnote 4.