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<u>Notice No</u>	Contents	Page
	I <i>Information</i>	
	Council	
2006/C 146/01	Council Conclusions on Common values and principles in European Union Health Systems	1
2006/C 146/02	Council conclusions on women's health	4
	Commission	
2006/C 146/03	Euro exchange rates	6
2006/C 146/04	Publication of decisions by Member States to grant or revoke operating licenses pursuant to Article 13(4) of Council Regulation No. 2407/92 on licensing of air carriers ⁽¹⁾	7
2006/C 146/05	Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty — Cases where the Commission raises no objections ⁽¹⁾	8
2006/C 146/06	Administrative commission on social security for migrant workers	9
2006/C 146/07	Prior notification of a concentration (Case COMP/M.4260 — Advent/RWE Solutions) — Candidate case for simplified procedure ⁽¹⁾	14
2006/C 146/08	Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty — Cases where the Commission raises no objections	15
2006/C 146/09	State aid — Italy — State aid No C 18/2006 (ex N 524/2005) — Merger incentive — Invitation to submit comments pursuant to Article 88(2) of the EC Treaty ⁽¹⁾	18
2006/C 146/10	Non-opposition to a notified concentration (Case COMP/M.4220 — Food Service Project/Tele Pizza) ⁽¹⁾	22

Notice

EN

I

(Information)

COUNCIL**Council Conclusions on Common values and principles in European Union Health Systems**

(2006/C 146/01)

THE COUNCIL OF THE EUROPEAN UNION:

1. NOTES that the European Commission in its amended proposal for a Directive of the European Parliament and of the Council on services in the internal market has decided to remove healthcare services from the scope of the Directive, thereby incorporating amendments proposed by the European Parliament.
 2. NOTES that the European Commission has stated that it will develop a Community framework for safe, high quality and efficient health services, by reinforcing cooperation between Member States and providing clarity and certainty over the application of Community law to health services and healthcare.
 3. RECOGNIZES that recent judgements in the European Court of Justice have highlighted the need to clarify the interaction between the EC Treaty provisions, particularly on the free movement of services and the health services provided by national health systems.
 4. CONSIDERS that health systems are a central part of Europe's high levels of social protection and make a major contribution to social cohesion and social justice.
 5. RECALLS the overarching values of universality, access to good quality care, equity and solidarity.
 6. ENDORSES the attached Statement on common values and principles that underpin the health systems in the Member States of the European Union (Annex).
 7. INVITES the European Commission to ensure that common values and principles contained in the Statement are respected when drafting specific proposals concerning health services.
 8. INVITES the Institutions of the European Union to ensure that common values and principles contained in the Statement are respected in their work.
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ANNEX

Statement on common values and principles

This is a statement by the 25 Health Ministers of the European Union, about the common values and principles that underpin Europe's health systems. We believe such a statement is important in providing clarity for our citizens, and timely, because of the recent vote of the Parliament and the revised proposal of the Commission to remove healthcare from the proposed Directive on Services in the Internal Market. We strongly believe that developments in this area should result from political consensus, and not solely from case law.

We also believe that it will be important to safeguard the common values and principles outlined below as regards the application of competition rules on the systems that implement them.

This statement builds on discussions that have taken place in the Council and with the Commission as part of the Open Method of Coordination, and the High Level Process of Reflection on Patient Mobility and healthcare development in the EU. It also takes into account the legal instruments at European or international level which have an impact in the field of health.

This statement sets out the common values and principles that are shared across the European Union about how health systems respond to the needs of the populations and patients that they serve. It also explains that the practical ways in which these values and principles become a reality in the health systems of the EU vary significantly between Member States, and will continue to do so. In particular, decisions about the basket of healthcare to which citizens are entitled and the mechanisms used to finance and deliver that healthcare, such as the extent to which it is appropriate to rely on market mechanisms and competitive pressures to manage health systems must be taken in the national context.

Common Values and Principles

The health systems of the European Union are a central part of Europe's high levels of social protection, and contribute to social cohesion and social justice as well as to sustainable development.

The overarching **values** of *universality, access to good quality care, equity, and solidarity* have been widely accepted in the work of the different EU institutions. Together they constitute a set of values that are shared across Europe. Universality means that no-one is barred access to health care; solidarity is closely linked to the financial arrangement of our national health systems and the need to ensure accessibility to all; equity relates to equal access according to need, regardless of ethnicity, gender, age, social status or ability to pay. EU health systems also aim to reduce the gap in health inequalities, which is a concern of EU Member States; closely linked to this is the work in the Member States' systems on the prevention of illness and disease by inter alia the promotion of healthy lifestyles

All health systems in the EU aim to make provision, which is patient-centred and responsive to individual need.

However, different Member States have different approaches to making a practical reality of these values: they have, for example, different approaches to questions such as whether individuals should pay a personal contribution towards the cost of elements of their health care, or whether there is a general contribution, and whether this is paid for from supplementary insurance. Member States have implemented different provisions to ensure equity: some have chosen to express it in terms of the rights of patients; others in terms of the obligations of healthcare providers. Enforcement is also carried out differently — in some Member States it is through the courts, in others through boards, ombudsmen etc.

It is an essential feature of all our systems that we aim to make them financially sustainable in a way which safeguards these values into the future.

To adopt an approach that shift focus towards preventive measures is an integral part of Member States strategy to reduce the economic burden on the national health care systems as prevention significantly contributes to cost reduction in healthcare and therefore to financial sustainability by avoiding disease and therefore follow up costs.

Beneath these overarching values, there is also a set of **operating principles** that are shared across the European Union, in the sense that all EU citizens would expect to find them, and structures to support them in a health system anywhere in the EU. These include:

— *Quality:*

All EU health systems strive to provide good quality care. This is achieved in particular through the obligation to continuous training of healthcare staff based on clearly defined national standards and ensuring that staff have access to advice about best practice in quality, stimulating innovation and spreading good practice, developing systems to ensure good clinical governance, and through monitoring quality in the health system. An important part of this agenda also relates to the principle of safety.

— *Safety:*

Patients can expect each EU health system to secure a systematic approach to ensuring patient safety, including the monitoring of risk factors and adequate, training for health professionals, and protection against misleading advertising of health products and treatments.

— *Care that is based on evidence and ethics:*

Demographic challenges and new medical technologies can give rise to difficult questions (of ethics and affordability), which all EU Member States must answer. Ensuring that care systems are evidence-based is essential, both for providing high-quality treatment, and ensuring sustainability over the long term. All systems have to deal with the challenge of prioritising health care in a way that balances the needs of individual patients with the financial resources available to treat the whole population

— *Patient Involvement:*

All EU health systems aim to be patient-centred. This means they aim to involve patients in their treatment, to be transparent with them, and to offer them choices where this is possible, e.g. a choice between different health care service providers. Each system aims to offer individuals information about their health status, and the right to be fully informed about the treatment being offered to them, and to consent to such treatment. All systems should also be publicly accountable and ensure good governance and transparency.

— *Redress:*

Patients should have a right to redress if things go wrong. This includes having a transparent and fair complaints procedure, and clear information about liabilities and specific forms of redress determined by the health system in question (eg. compensation).

— *Privacy and confidentiality:*

The right of all EU citizens to confidentiality of personal information is recognised in EU and national legislation.

As Health Ministers, we note increasing interest in the question of the role of market mechanisms (including competitive pressure) in the management of health systems. There are many policy developments in this area under way in the health systems of the European Union which are aimed at encouraging plurality and choice and making most efficient use of resources. We can learn from each other's policy developments in this area, but it is for individual member states to determine their own approach with specific interventions tailored to the health system concerned.

Whilst it is not appropriate to try to standardise health systems at an EU level, there is immense value in work at a European level on health care. Member States are committed to working together to share experiences and information about approaches and good practice, for example through the Commission's High Level Group on Health Services and Medical Care, or through the ongoing Open Method of Coordination on healthcare and long-term care, in order to achieve the shared goal of promoting more efficient and accessible high-quality healthcare in Europe. We believe there is particular value in any appropriate initiative on health services ensuring clarity for European citizens about their rights and entitlements when they move from one EU Member State to another and in enshrining these values and principles in a legal framework in order to ensure legal certainty.

In conclusion, our health systems are a fundamental part of Europe's social infrastructure. We do not under-estimate the challenges that lie ahead in reconciling individual needs with the available finances, as the population of Europe ages, as expectations rise, and as medicine advances. In discussing future strategies, our shared concern should be to protect the values and principles that underpin the health systems of the EU. As Health Ministers in the 25 Member States of the European Union, we invite the European Institutions to ensure that their work will protect these values as work develops to explore the implications of the European Union on health systems as well as the integration of health aspects in all policies.

Council conclusions on women's health

(2006/C 146/02)

THE COUNCIL OF THE EUROPEAN UNION

1. NOTES that the citizens of the European Union, more than half of them being women, attach great importance to the highest possible levels of human health and consider it to be an essential prerequisite to a high quality of life.
2. RECALLS THAT:
 - Article 3(2) of the EC Treaty and Article 23 of the Charter of Fundamental Rights of the European Union state that equality between women and men shall be ensured in all policy areas;
 - Article 152 of the EC Treaty states that a high level of human health protection shall be ensured in the definition and implementation of all Community policies and activities, and provides that Community action is to complement national policies and be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to human health;
 - On 4 December 1997, the Council adopted a Resolution concerning the report ⁽¹⁾ on the state of women's health in the European Community ⁽²⁾;
 - On 9 March 1997, the European Parliament adopted a Resolution on the report of the Commission on the state of women's health in the European Community ⁽³⁾;
 - On 28 April 2005, the European Parliament adopted a Resolution on modernising social protection and developing good quality healthcare, calling on the Commission to submit a new report on the health situation of women in the European Union ⁽⁴⁾.
3. RECALLS the report on the progress made within the European Union as regards the implementation of the Beijing Platform for Action established in January 2005 by the Luxembourg Presidency that underlined that women's health is still an area of concern and stressed the importance of the collection of relevant data.
4. RECALLS the Strategic Action Plan for the Health of Women in Europe endorsed at the WHO meeting in Copenhagen, on 5-7 February 2001.
5. ACKNOWLEDGES that social and health determinants, clinical manifestations, therapeutical approaches, effectiveness and side effects of treatment of disease and disorders may differ between women and men.
6. STRESSES the importance of raising awareness amongst the general public but also health care professionals that gender is a key determinant of health.
7. RECOGNISES the importance of addressing inequalities that may exist within and between Member States, by tackling social and economic health determinants.
8. WELCOMES the Commission Communication: A Roadmap for equality between women and men (2006-2010) ⁽⁵⁾ recognising the gender dimension in health, inter alia, aiming at strengthening gender mainstreaming in health policies.
9. NOTES that the Programme of Community Action in the Field of Public Health (2003-2008) ⁽⁶⁾ aims to protect human health and improve public health, thereby contributing towards tackling inequalities in health.
10. WELCOMES the fact that the proposal for a Council Decision concerning the Specific Programme 'Cooperation' implementing the 7th Framework Programme (2007-2013) of the European Community for research, technological development and demonstration activities ⁽⁷⁾ intends to integrate gender aspects in health research.
11. ACKNOWLEDGES the need for gender-related biomedical research as well as research on socio-economic determinants.
12. RECOGNISES that although women live longer than men, they suffer a greater burden of unhealthy life years. The incidence and prevalence of certain diseases like osteoporosis are higher in women. Others such as cardiovascular disease, cancer and mental health problems affect men and women differently. Some diseases related to birth and reproductive organs like endometriosis and cervical cancer affect women exclusively.
13. EMPHASISES that cardiovascular disease is a major cause of death and of reduced quality of life for women in the European Union, despite still being perceived as predominantly male disease in some Member States.
14. NOTES WITH CONCERN that the rise in smoking among females in some Member States is causing a substantially increased risk of lung cancer and cardiovascular diseases.

⁽¹⁾ Doc. 8537/97; COM(97) 224 final

⁽²⁾ OJ C 394 of 30.12.1997, p 1.

⁽³⁾ OJ C 175 of 21.6.1999, p 68.

⁽⁴⁾ A6-0085/2005

⁽⁵⁾ OJ Doc. 7034/06; COM(2006) 92 final

⁽⁶⁾ OJ L 271 of 9.10.2002, p. 1.

⁽⁷⁾ Doc. 12736/05

15. NOTES WITH CONCERN that depression is predicted in some Member States to be the major burden of disease for women by 2020. Mental ill health has an impact on quality of life and can therefore influence morbidity and mortality.
 16. RECOGNISES the major impact of unhealthy lifestyles on a significant number of diseases and therefore the potential which the promotion of inter alia healthy diets and physical activity has for reducing cardiovascular diseases and certain forms of cancer.
 17. AGREES that gender sensitive prevention measures, health promotion and treatment contribute towards reducing morbidity and mortality from major diseases among women and consequently improve their quality of life.
 18. NOTES that reliable, compatible, comparable data on the status of women's health is essential to improve information to the public and develop appropriate strategies, policies and actions to ensure a high level of health protection, and that gender-specific data and reporting are essential for policy making.
 19. UNDERLINES that after almost a decade a new report on the health status of women in the enlarged European Union is needed.
 20. INVITES the Member States to:
 - Collect gender-specific data on health, and to break down and analyse statistics by gender;
 - Take initiatives to enhance general and health professionals' knowledge on the relationship between gender and health;
 - Promote health and prevent disease taking into account where appropriate gender difference;
 - Promote research into the different effects of medicines on women and men, and gender-specific health research;
 - Encourage gender mainstreaming in healthcare;
 - Examine and tackle health inequalities which may exist accordingly in order to reduce the health gap and ensure equality of treatment and access to care.
 21. INVITES the European Commission to:
 - Integrate gender aspects in health research;
 - Support the exchange of information and experience on good practice in gender-sensitive health promotion and prevention;
 - Assist Member States in developing effective strategies to reduce health inequalities with a gender dimension;
 - Promote and strengthen the comparability and compatibility of gender-specific information on health across Member States and at Community level through the development of appropriate data;
 - Present a second report on the state of women's health in the European Union.
 22. INVITES the European Commission to draw on the expertise of EUROSTAT and of the future European Institute for Gender Equality in order to contribute to data collection and analysis and the sharing of best practice.
 23. INVITES the European Commission to continue to cooperate with the relevant international and intergovernmental organisations, in particular the WHO and OECD, to ensure effective coordination of activities.
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COMMISSION

Euro exchange rates ⁽¹⁾

21 June 2006

(2006/C 146/03)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,2632	SIT	Slovenian tolar	239,64
JPY	Japanese yen	145,22	SKK	Slovak koruna	38,530
DKK	Danish krone	7,4534	TRY	Turkish lira	2,1075
GBP	Pound sterling	0,68550	AUD	Australian dollar	1,7181
SEK	Swedish krona	9,2023	CAD	Canadian dollar	1,4051
CHF	Swiss franc	1,5618	HKD	Hong Kong dollar	9,8112
ISK	Iceland króna	94,21	NZD	New Zealand dollar	2,0474
NOK	Norwegian krone	7,9140	SGD	Singapore dollar	2,0112
BGN	Bulgarian lev	1,9558	KRW	South Korean won	1 207,37
CYP	Cyprus pound	0,5750	ZAR	South African rand	9,1011
CZK	Czech koruna	28,563	CNY	Chinese yuan renminbi	10,1043
EEK	Estonian kroon	15,6466	HRK	Croatian kuna	7,2550
HUF	Hungarian forint	279,26	IDR	Indonesian rupiah	11 826,71
LTL	Lithuanian litas	3,4528	MYR	Malaysian ringgit	4,632
LVL	Latvian lats	0,6959	PHP	Philippine peso	67,202
MTL	Maltese lira	0,4293	RUB	Russian rouble	34,1130
PLN	Polish zloty	4,0965	THB	Thai baht	48,488
RON	Romanian leu	3,5855			

(¹) Source: reference exchange rate published by the ECB.

Publication of decisions by Member States to grant or revoke operating licences pursuant to Article 13(4) of Council Regulation No. 2407/92 on licensing of air carriers ⁽¹⁾ ⁽²⁾

(2006/C 146/04)

(Text with EEA relevance)

GERMANY

Operating licences granted

Category B: Operating licences including the restriction of Article 5(7)(a) of Regulation No. 2407/92

Name of air carrier	Address of air carrier	Permitted to carry	Decision effective since
Ing. Robert Baumann Luftfahrt-gesellschaft m.b.H.	9073 Klagenfurt-Viktring Georg-Buchergasse 4	passengers, mail, cargo	10.5.2006

DENMARK

Operating licences granted

Category B: Operating licences including the restriction of Article 5(7)(a) of Regulation No. 2407/92

Name of air carrier	Address of air carrier	Permitted to carry	Decision effective since
FlexFlight ApS	FlexFlight ApS Lufthavnsvej 50 DK-4000 Roskilde	passengers, mail, cargo	9.6.2006

⁽¹⁾ OJ L 240, 24.8.1992, p. 1.

⁽²⁾ Communicated to the European Commission before 31.8.2005

Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty**Cases where the Commission raises no objections**

(2006/C 146/05)

(Text with EEA relevance)

Date of adoption of the decision: 5.10.2005**Member State:** United Kingdom (Northern Ireland)**Aid No:** N 190a/2005**Title:** Modification of the Climate Change Levy (C18/2001)**Objective:** The measure enlarges the right to conclude voluntary climate change agreements (and thus to benefit from the existing system of climate change tax reduction) to the companies of all sectors

- with an at least 12 % energy intensity, or
- with an energy intensity of 3 % to 12 % if the import penetration ratio of the sector is of at least 50 % or the export to production ratio of the sector is of at least 30 %.

In that framework, the decision covers the new climate change agreements with the British Compressed Gases Association and the Kaolin and Ball Clay Association.

Legal basis: Finance Act 2000**Budget:** Around GBP 25 million/year**Duration:** Until 31 March 2011

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision: 20.4.2004**Member State:** Belgium**Aid No:** N 604/03**Title:** Aid for the reclassification of employees made redundant by firms undergoing restructuring**Objective:** Promotion of an active reclassification policy**Legal basis:** Loi-programme du 22 décembre 2003/Program-mawet van 22 december 2003**Budget:** EUR 25 million in 2004, EUR 50 million in 2005**Aid intensity or amount:** Maximum repayment of reclassification costs of EUR 1 800 per employee; maximum reduction in employees' contributions of EUR 1 200 per employee; maximum reduction in employers' contributions of EUR 1 200 per employee;**Duration:** Pilot project

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

ADMINISTRATIVE COMMISSION ON SOCIAL SECURITY FOR MIGRANT WORKERS

(2006/C 146/06)

The annual average costs do not take into account the reduction of 20 % provided for in Articles 94(2) and 95(2) of Regulation (EEC) No 574/72.

The net monthly average costs have been reduced by 20 %.

AVERAGE COSTS OF BENEFITS IN KIND — 1996 ⁽¹⁾

I. Application of Article 94 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to the benefits in kind provided in 1996 to members of the family as referred to in Article 19 (2) of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net Monthly
Liechtenstein	Not requested	Not requested

II. Application of Article 95 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to benefits in kind provided in 1996 under Articles 28 and 28a of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net Monthly
Liechtenstein		
— per family	CHF 5 710,08	CHF 380,67

AVERAGE COSTS OF BENEFITS IN KIND — 1997 ⁽²⁾

I. Application of Article 94 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to the benefits in kind provided in 1997 to members of the family as referred to in Article 19 (2) of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net Monthly
Liechtenstein	Not requested	Not requested

⁽¹⁾ Average costs 1996:

Spain and Luxembourg (OJ C 303 of 2.10.1998).
 Belgium, Ireland, the Netherlands and Portugal (OJ C 56 of 26.2.1999).
 Germany, Austria and United Kingdom (OJ C 228 of 11.8.1999).
 Greece, France and Sweden (OJ C 27 of 29.1.2000).
 Italy (OJ C 211 of 28.7.2001).
 Norway (OJ C 182 of 31.7.2002).

⁽²⁾ Average costs 1997:

Spain (OJ C 228 of 11.8.1999).
 Belgium, Greece, Ireland, Luxembourg, United Kingdom, the Netherlands, Portugal (OJ C 27 of 29.1.2000).
 Germany, France, Austria (OJ C 207 of 20.7.2000).
 Sweden (OJ C 76 of 8.3.2001).
 Italy (OJ C 211 of 28.7.2001).
 Norway (OJ C 182 of 31.7.2002).

II. Application of Article 95 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to benefits in kind provided in 1997 under Articles 28 and 28a of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net Monthly
Liechtenstein — per family	CHF 6 116,94	CHF 407,80

AVERAGE COSTS OF BENEFITS IN KIND — 1998 ⁽³⁾

I. Application of Article 94 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to the benefits in kind provided in 1998 to members of the family as referred to in Article 19 (2) of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net Monthly
Liechtenstein	Not requested	Not requested

II. Application of Article 95 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to benefits in kind provided in 1998 under Articles 28 and 28a of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net Monthly
Liechtenstein — per family	CHF 6 693,41	CHF 446,23
— per person	CHF 6 255,52	CHF 417,03

AVERAGE COSTS OF BENEFITS IN KIND — 1999 ⁽⁴⁾

I. Application of Article 94 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to the benefits in kind provided in 1999 to members of the family as referred to in Article 19 (2) of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net Monthly
Liechtenstein	Not requested	Not requested

⁽³⁾ Average costs 1998:

Spain and Luxembourg (OJ C 27 of 29.1.2000).
The Netherlands and Austria (OJ C 207 of 20.7.2000).
Belgium, Germany and Portugal (OJ C 76 of 8.3.2001).
United Kingdom (OJ C 211 of 28.7.2001).
Greece, France and Sweden (OJ C 20 of 23.1.2002), OJ C 34 of 7.2.2002 (rectification)
Italy (OJ C 182 of 31.7.2002).
Ireland (OJ C 3 of 8.1.2003).
Norway (OJ C 163 of 12.7.2003).

⁽⁴⁾ Average costs 1999:

Spain and Austria (OJ C 76 of 8.3.2001)
Germany (OJ C 211 of 28.7.2001)
Belgium, Greece, France, Luxembourg, the Netherlands, Portugal, United Kingdom (OJ C 20 of 23.1.2002), (OJ C 34 of 7.2.2002 rectification)
Italy and Sweden (OJ C 182 of 31.7.2002)
Ireland and Norway (OJ C 163 of 12.7.2003)

II. Application of Article 95 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to benefits in kind provided in 1999 under Articles 28 and 28a of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net Monthly
Liechtenstein		
— per family	CHF 7 055,38	CHF 470,36
— per person	CHF 6 656,02	CHF 443,73

AVERAGE COSTS OF BENEFITS IN KIND — 2000 ⁽⁵⁾

I. Application of Article 94 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to the benefits in kind provided in 2000 to members of the family as referred to in Article 19 (2) of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net Monthly
Liechtenstein	Not requested	Not requested

II. Application of Article 95 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to benefits in kind provided in 2000 under Articles 28 and 28a of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net Monthly
Liechtenstein		
— per family	CHF 7 428,71	CHF 495,25
— per person	CHF 6 942,72	CHF 462,85

AVERAGE COSTS OF BENEFITS IN KIND — 2002 ⁽⁶⁾

I. Application of Article 94 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to the benefits in kind provided in 2002 **to members of the family** as referred to in Article 19 (2) of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net Monthly
Greece	EUR 670,52	EUR 44,70
Norway	NOK 26 668	NOK 1 778

⁽⁵⁾ Average costs 2000:

Spain and Luxembourg (OJ C 20 of 23.1.2002)
 Belgium, Germany, the Netherlands and Austria (OJ C 182 of 31.7.2002)
 Italy, Portugal and Sweden (OJ C 3 of 8.1.2003)
 Norway and United Kingdom (OJ C 163 of 12.7.2003)
 Greece, France and Ireland (OJ C 37 of 11.2.2004)

⁽⁶⁾ Average costs 2002:

Luxembourg and Austria (OJ C 37 of 11.2.2004)
 Belgium, France, Portugal, Sweden (OJ C 27 of 3.2.2005, p.4)
 Germany, Italy, United Kingdom (OJ C 232 of 21.9.2005, p.3)
 Liechtenstein (OJ C 17 of 24.1.2006)

II. Application of Article 95 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to benefits in kind provided in 2002 under Articles 28 and 28a of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs (**only per capita** from 2002):

	Annual	Net Monthly
Greece	EUR 1 276,62	EUR 85,11
Norway	NOK 48 745	NOK 3 250

AVERAGE COSTS OF BENEFITS IN KIND — 2003 ⁽⁷⁾

I. Application of Article 94 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to the benefits in kind provided in 2003 **to members of the family** as referred to in Article 19 (2) of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

	Annual	Net Monthly
Luxembourg	EUR 2 234,06	EUR 148,94
Greece	EUR 766,13	EUR 51,08
United Kingdom	GBP 1 724,50	GBP 114,97

II. Application of Article 95 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to benefits in kind provided in 2003 under Articles 28 and 28a of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs (**only per capita** from 2002):

	Annual	Net Monthly
Luxembourg	EUR 6 019,65	EUR 401,31
Greece	EUR 1 490,78	EUR 99,39
United Kingdom	GBP 2 605,81	GBP 173,72

AVERAGE COSTS OF BENEFITS IN KIND — 2004 ⁽⁸⁾

I. Application of Article 94 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to the benefits in kind provided in 2004 **to members of the family** as referred to in Article 19 (2) of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs:

⁽⁷⁾ Average costs 2003:
Austria, Spain and Switzerland (OJ C 27 of 3.2.2005, p. 4)
Germany, France, the Netherlands (OJ C 232 of 21.9.2005, p.3)
Belgium, Portugal, Sweden and Liechtenstein (OJ C 17 of 24.1.2006)

⁽⁸⁾ Average costs 2004:
Latvia: (OJ C 232 of 21.9.2005)
Spain, Austria, Switzerland and Slovenia (OJ C 17 of 24.1.2006)

	Annual	Net Monthly
Czech Republic — insured persons and pensioners younger than 65 years of age	CZK 11 398,00	CZK 759,85
Luxembourg	EUR 2 362,70	EUR 157,51
Germany — per person	EUR 1 034,73	EUR 68,98
Liechtenstein	CHF 3 607,62	CHF 240,51
Sweden	SEK 14 557,99	SEK 970,53
Slovak Republic — insured persons and pensioners younger than 65 years of age	SKK 8 721,33	SKK 581,42
France	EUR 1 834,34	EUR 122,29
Malta	MTL 230,25	MTL 15,35

II. Application of Article 95 of Council Regulation (EEC) No 574/72

The amounts to be refunded with regard to benefits in kind provided in 2004 under Articles 28 and 28a of Council Regulation (EEC) No 1408/71 will be determined on the basis of the following average costs (**only per capita** from 2002):

	Annual	Net Monthly
Czech Republic — pensioners and members of pensioners' families aged 65 and over	CZK 36 037,41	CZK 2 402,49
Luxembourg	EUR 7 161,42	EUR 477,43
Germany — per person	EUR 4 184,79	EUR 278,99
Liechtenstein	CHF 7 812,50	CHF 520,83
Sweden	SEK 39 006,75	SEK 2 600,45
Slovak Republic — pensioners and members of pensioners' families aged 65 and over	SKK 25 653,29	SKK 1 710,22
France	EUR 4 621,96	EUR 308,13
Malta	MTL 595,48	MTL 39,70

Prior notification of a concentration
(Case COMP/M.4260 — Advent/RWE Solutions)
Candidate case for simplified procedure

(2006/C 146/07)

(Text with EEA relevance)

1. On 12 June 2006, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertaking Advent International Corporation ('Advent', USA) acquires through several funds control within the meaning of Article 3(1)(b) of the Council Regulation of the German RWE Solutions AG ('RWE Solutions', Germany) by way of purchase of shares. Advent intends to acquire sole control of RWE Solutions' subsidiaries SAG Holding GmbH, Nukem Holding GmbH, Lahmeyer International GmbH, RWE Space Solar Power GmbH, RWE Solutions France SAS and RWE Solutions Ibérica S.L., and, together with RWE AG ('RWE', Germany), joint control over RWE Industrielösungen GmbH ('RWE Industrial Solutions', Germany).

2. The business activities of the undertakings concerned are:

— Advent: Private equity company;

— RWE AG: Energy, water, industrial services, crude oil and printing systems;

— RWE Solutions AG:

(i) SAG Holding GmbH: activities in energy-related infrastructure industry;

(ii) Nukem Holding GmbH: decommissioning of nuclear facilities;

(iii) Lahmeyer International GmbH: engineering consulting for energy, hydropower and water infrastructure;

(iv) RWE Space Solar Power GmbH: solar cells for satellites;

(v) RWE Solutions France SAS construction and operation of cogeneration plants;

(vi) RWE Solutions Ibérica S.L.: construction and operation of combined heat and power plants;

(vii) RWE Industrial Solutions: engineering, procurement and construction services.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of Regulation (EC) No 139/2004. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004 ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax ((32-2) 2964301 or 2967244) or by post, under reference number COMP/M.4260 — Advent/RWE Solutions, to the following address:

European Commission
Directorate-General for Competition,
Merger Registry
J-70
B-1049 Bruxelles/Brussel

⁽¹⁾ OJ L 24, 29.1.2004 p. 1.

⁽²⁾ OJ C 56, 5.3.2005 p. 32.

Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty

Cases where the Commission raises no objections

(2006/C 146/08)

Date of adoption of the decision: 4.4.2006

Member State: Germany (Rhineland-Palatinate)

Aid No: N 470/2005

Title: Land guarantee programme

Objective: To supplement and extend investment guarantees in accordance with that of agrarian investment aid programme (AFP) of the framework plan of the joint task 'improvement of the agrarian structures and coastal protection'

Legal basis: Verwaltungsvorschrift des rheinland-pfälzischen Ministers der Finanzen 'Übernahme von Bürgschaften zur Förderung der Landwirtschaft'

Budget: Guarantee line of EUR 20 million

Aid intensity or amount: 0,225 % gross aid equivalent

Duration: Until 31 December 2006

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision: 26.4.2006

Member State: Spain

Aid No: N 476/2005

Title: Aid for high-quality agri-food products (MAPA)

Objective: To develop the quality policy for agri-food products by creating and expanding bodies for the protection of distinctive quality marks

Legal basis: Orden APA/.../2005, de ... de ..., por la que se establecen las bases reguladoras para la concesión de subvenciones para potenciar la creación, funcionamiento y desarrollo de las estructuras de los productos agroalimentarios protegidos con signos de calidad diferenciada

Budget: EUR 205 000

Aid intensity or amount: The maximum amount of the aid will not exceed 70 % of the total costs of each of the projected measures

Duration: 2005

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision: 22.3.2006

Member State: Ireland

No of the aid: Aid No N 486/05

Title: Scheme of Investment Aid for Farm Waste Management

Objective: Investment aid to help ensure compliance of farmers with Action Programme measures to be introduced under the Nitrates Directive

Legal basis: Approved programme under Title II, Chapter I, of Council Regulation (EC) No 1257/1999 on support for rural development from the European Guidance and Guarantee Fund (EAGGF)

Budget: EUR 248 million

Aid intensity or amount: Maximum aid intensity of 75 % in less favoured areas, 60 % in other areas

Duration: 2006-2008. Applications will be accepted until 31.12.2006

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision: 12.4.2006

Member State: Italy (Lombardy)

No of the aid: N 514/05

Title: Regional measures for the support of poultry breeding and games farms affected by avian influenza — compensation for lost income. Regional Decree 470 of 4.8.2005

Objective: Compensation for loss of income in favour of the breeders of poultry and game affected by avian flu

Legal basis: Deliberazione della Giunta Regionale della Regione Lombardia n. 470 del 4.8.2005, riguardante: Legge Regionale n. 7/2000 — «Misure regionali di sostegno a favore degli allevatori avicoli e fauna selvatica colpiti dall'influenza aviaria» — Indennizzi per mancato reddito

Budget: Approximately EUR 1 800 000 per year

Aid intensity or amount: Up to 100 % of the losses

Duration: 6 years

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision: 12.4.2006

Member State: The Republic of Lithuania

No of the aid: N 571/2005

Title: State aid for partial compensation for adverse weather events in the agriculture sector

Objective: Bad weather compensation

Legal basis:

— 2002 m. birželio 25 d. Lietuvos Respublikos žemės ūkio ir kaimo plėtros įstatymas Nr. IX-987 (Valstybės žinios, Nr. 72-3009).

— Lietuvos Respublikos žemės ūkio ministro 2005 m. spalio 19 d. įsakymas Nr. 3D-491 „Dėl pagalbos žemės ūkio subjektams, patyrusiems nuostolius dėl hidrometeorologinių reiškinių nukentėjusiose teritorijose laikotarpiu nuo 2005 m. liepos 30 d. iki rugpjūčio 15 d., teikimo taisyklių patvirtinimo“

Budget: Total budget: LTL 11 250 000 (approximately EUR 3 260 000)

Aid intensity or amount: Up to 100 %

Duration: 1 year

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision: 26.4.2006

Member State: The Republic of Lithuania

No of the aid: N586/2005

Title: Support for procurement of breeding animals

Objective: Investment aid for purchase of animals of higher genetic quality

Legal basis:

— Žemės ūkio ir kaimo plėtros įstatymas (Valstybės žinios, 2002, Nr. 73–3009)

— Gyvulių veislininkystės įstatymas (Valstybės žinios, 1994, Nr. 14–226; 1998, Nr. 110–3023)

— Žemės ūkio ministro įsakymas dėl veislininkystės rėmimo taisyklių ir paramos 2005 m. veisliniams gyvūnams įsigyti teikimo taisyklių patvirtinimo (Valstybės žinios, 2005, Nr. 50–1656)

Budget: Annual: LTL 6 200 000 (approximately EUR 1 800 000)

Aid intensity or amount: 50 %

Duration: Unlimited

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision: 26.4.2006

Member State: Austria

No of the aid: N 600/2005

Title: Modification of the national directive concerning the provision of services (*Dienstleistungsrichtlinie*)

Objective: Aid for the provision of services to the agriculture sector

Legal basis: Sonderrichtlinie für die Förderung von nicht-investiven Maßnahmen in der Landwirtschaft (*Dienstleistungsrichtlinie*)

Budget: According to the Austrian authorities the modifications have no budgetary impact

Aid intensity or amount: Variable

Duration: The measures according to point 2.6.2.2 of the *Dienstleistungsrichtlinie* expire on 31.12.2010. The other measures are of indefinite duration

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision: 27.4.2006

Member State: Spain (Castile-Leon)

Aid No: N 655/2005

Title: Aid for the development of job creation in rural areas

Objective: To develop and consolidate the jobs and income of the working population in the farm sector through the reinforcement of associations, with a view to maintaining and stimulating the economic activity of a region whose rural areas are characterised by an employment rate of less than 50.5 % and a strong trend towards a decline in village populations

Legal basis: Orden AYG/.../2005 de ... de ..., por la que se establece un régimen de ayudas para fomentar la creación de empleo en el medio rural en la Comunidad autónoma de Castilla y León

Budget: EUR 500 000

Aid intensity or amount: Maximum of EUR 12 000 per worker recruited — maximum intensity of 50 % of eligible costs (60 % for disabled workers)

Duration: One year

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision: 12.4.2006

Member State: Germany (Hamburg)

Aid No: NN 45/2005 (ex N 109/2005)

Title: Removal and disposal of fallen stock in Hamburg

Objective: Aid for the removal and disposal of fallen stock: 100 % of costs up to 2003, 75 % of costs from 2004 onwards. In 2004, 25 % of costs are paid as *de minimis*-aid

Legal basis:

- Gesetz über die Beseitigung von Tierkörpern, Tierkörperteilen und tierischen Erzeugnissen (Tierkörperbeseitigungsgesetz) in der jeweils gültigen Fassung: BGBl. I 1975, S. 2313, BGBl. I 1975, S. 2610 (Änderung), BGBl. I 2001, S. 226 (Änderung), BGBl. I 2001, S. 524 (Neufassung), BGBl. I 2001, S. 1215 (Änderung).
- Gesetz zur Durchführung gemeinschaftsrechtlicher Vorschriften über die Verarbeitung und Beseitigung von nicht für den menschlichen Verkehr bestimmten tierischen Nebenprodukten (Tierische Nebenprodukte-Beseitigungsgesetz), BGBl. I 2004, S. 82.
- Gebührengesetz, Gebührenordnung für das öffentliche Gesundheitswesen und Hamburgisches Gesetz zur Ausführung des Viehseuchengesetzes, jeweils in der geltenden Fassung

Budget: EUR 727 985,11

Aid intensity or amount: Up to 100 %

Duration: 1994 to 2013

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision: 24.3.2006

Member State: Germany (Schleswig-Holstein)

Aid No: NN 46/04

Title: combat of TSE (sheep and goats)

Objective: good animal health

Legal basis: TSE-Beihilfe Richtlinien

Budget: EUR 40 000 (2002), EUR 12 310 (2003), EUR 12 310 (2004), EUR 5 200 (2005), EUR 2 600 (as of 2006)

Aid intensity: max. 100 %

Duration: 1.1.2003 — 31.12.2013

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

Date of adoption of the decision: 12.4.2006

Member State: Germany (Berlin)

Aid No: NN 74/2004 (ex N 437/2004)

Title: Removal and disposal of fallen stock in Berlin

Objective: Aid for the removal and disposal of fallen stock: 100 % of costs up to 2003, 50 % of costs from 2004 onwards

Legal basis: Gesetz über die Beseitigung von Tierkörpern, Tierkörperteilen und tierischen Erzeugnissen; Verordnung über Tierkörperbeseitigungsanstalten und Sammelstellen, Gesetz zur Ausführung des Tierkörperbeseitigungsgesetzes (Berlin), Verordnung über die Erhebung von Entgelten für die Inanspruchnahme von Leistungen im Rahmen der Tierkörperbeseitigung

Budget: EUR 41 404 512

Aid intensity or amount: Variable

Duration: 1993 to 2013

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/

STATE AID — ITALY**State aid No C 18/2006 (ex N 524/2005) — Merger incentive****Invitation to submit comments pursuant to Article 88(2) of the EC Treaty**

(2006/C 146/09)

(Text with EEA relevance)

By means of the letter dated 16 May 2006 reproduced in the authentic language on the pages following this summary, the Commission notified Italy of its decision to initiate the procedure laid down in Article 88(2) of the EC Treaty concerning the abovementioned measure.

Interested parties may submit their comments within one month of the date of publication of this summary and the following letter, to:

European Commission
Directorate
General for Competition
B-1049 Brussels
Fax No: (32-2) 296 12 42

These comments will be communicated to Italy. Confidential treatment of the identity of the interested party submitting the comments may be requested in writing, stating the reasons for the request.

TEXT OF SUMMARY

1. Procedure

The measure was notified on 18 October 2005. After a request for supplementary information, Italy submitted its latest information on 27 March 2006.

2. Description of the measure in respect of which the Commission is initiating the procedure

The legal basis of the measure is article 2 of the Decreto Legge n. 106 of 17 June 2005, converted into Law n. 156 of 31 July 2005. The legal basis contains a standstill clause. The measure is a 10 % tax credit (based on Irap) granted to micro and small enterprises from the same sector for their consolidation by merger or acquisition. The merger or acquisition has to last at least three years. The budget foreseen for the notified measure is EUR 120 million for 2006, EUR 242 million for 2007, and EUR 122 million for 2008. Concerning cumulation, the Italian authorities have indicated that the measure can be cumulated with other aid measures. Since it is a fiscal scheme, there are no eligible costs.

3. Assessment of the measure:

The Commission finds that, as indicated also by the Italian authorities, the measure constitutes aid within the meaning of Article 87(1) of the EC Treaty. The measure involves State resources. It is selective as it favours only small and micro enterprises which can take an advantage from the tax credit. These firms are or can be active in sectors where there is trade between Member States. The measure distorts or threatens to distort competition.

First, the promotion of the development of small and enterprises is recognised among the objectives, as it is recognised by

the adoption of specific rules for aid in favour to SMEs, in particular of Regulation n. 70/2001. While recognising that SME growth is an objective that may be supported by Member States through aid, the Regulation sets the conditions which ensure that the aid does not distort competition in a way contrary to the common interest. In particular, the Regulation allows aid for growth of SMEs through investments or through job creation, rather than through external acquisitions. Therefore the Commission doubts that the measure under stake can be considered compatible on the ground that it fosters growth of SMEs.

Second, the information submitted by Italy points to a number of causes which limit the size of Italian firms. These causes are mainly depending on 'regulatory failures'. The Commission therefore doubts that a temporary fiscal measure is necessary and appropriate to solve the structural difficulties in question.

Third, the Commission has doubts about the proportionality of the tax reduction. The incentive is not linked to the costs incurred in the operation and it may potentially bring windfall gains for the beneficiaries, in particular when the enterprise results from the aggregation of many different enterprises.

Fourth, the Commission has doubts on the measure, as it may be cumulated with other aid. Finally, the Commission considers at this stage that it cannot approve the merger incentive scheme if the latter applies automatically to undertakings that must repay previous illegal and incompatible aid, even if such aid has been granted under a scheme, in particular in those cases where the recovery procedure has not yet started and Italy has been brought to the Court for failure to act. Any such automatic application would make it impossible for the Commission to take into account the cumulated distortion arising from the old aid and the new aid.

TEXT OF LETTER

1. La Commissione desidera informarLa che intende iniziare, riguardo al provvedimento in oggetto, la procedura d'indagine di cui all'articolo 88, paragrafo 2 del trattato CE.

Procedimento

2. Le autorità italiane hanno notificato il provvedimento in oggetto con lettera del 18 ottobre 2005, alla quale la Commissione ha inviato una prima risposta il 10 novembre. Le autorità italiane hanno fornito altre informazioni, in particolare studi economici di supporto, con lettera del 20 dicembre 2005, protocollata presso la Commissione il 22 dicembre (A/40729). La Commissione ha chiesto raggugli supplementari con lettera dell'8 febbraio 2006 e le autorità italiane hanno risposto con due lettere, rispettivamente del 13 marzo (A/31911) e del 27 marzo 2006 (A/32302).

Descrizione

3. Scopo del provvedimento è favorire la crescita di micro-imprese e di piccole imprese mediante un processo di consolidamento (concentrazione o aggregazione di micro-imprese e piccole imprese).
4. La base giuridica del provvedimento è l'articolo 2 del decreto-legge 17 giugno 2005, n. 106, convertito dalla legge 31 luglio 2005, n. 156. Tale base giuridica comprende una clausola di sospensione.
5. Il provvedimento consiste in un credito d'imposta, da accordare a microimprese e piccole imprese del medesimo settore che si consolidano mediante concentrazione o aggregazione. Il credito d'imposta è pari al 10 % della differenza tra il valore della produzione dell'impresa risultante dal processo di concentrazione e il valore della produzione dell'impresa più grande tra quelle partecipanti a tale processo. Il valore della produzione è la base imponibile ai fini dell'imposta regionale sulle attività produttive (IRAP). Tale credito può essere utilizzato come compensazione dei pagamenti di varie imposte societarie o di contributi sociali. Benché vi sia un nesso con il processo di consolidamento, l'importo del credito d'imposta non viene calcolato sulla base degli investimenti o dei costi.
6. L'Italia ha già applicato un provvedimento analogo nel 2005⁽¹⁾, nell'ambito del regolamento che prevede l'esenzione per categoria per gli aiuti alle PMI⁽²⁾. Tale precedente versione del provvedimento limita il credito d'imposta al massimale del 50 % dei costi di consulenza per il processo di concentrazione o aggregazione. Le autorità italiane hanno informato che, dato il suddetto limite, il provvedimento ha avuto un'applicazione ridotta: sono state ricevute 132 domande, per un importo totale di 3 442 261 EUR di credito d'imposta. Sono state accolte soltanto 46 domande, per l'importo totale di 415 306 EUR.

⁽¹⁾ Basato sull'articolo 9 del decreto-legge n. 35/2005, convertito dalla legge n. 80/2005. Tale provvedimento è stato registrato presso la Commissione il 21.4.2005, con il riferimento XS 89/05.

⁽²⁾ Regolamento (CE) n. 70/2001 della Commissione, del 12 gennaio 2001, relativo all'applicazione degli articoli 87 e 88 del trattato CE agli aiuti di Stato a favore delle piccole e medie imprese (GU L 10 del 13.1.2001, pag. 33).

7. Per il provvedimento ora notificato è stato previsto un bilancio di 120 milioni di EUR per il 2006, di 242 milioni di EUR per il 2007 e di 122 milioni di EUR per il 2008.

8. Potranno beneficiare del provvedimento imprese risultanti dalla concentrazione di microimprese e piccole imprese, ai sensi della definizione di PMI⁽³⁾. Data la sua natura fiscale, il provvedimento si applica solo ad imprese con sede stabile in Italia che possono, tuttavia, concentrarsi con imprese provenienti da tutto il SEE. Il beneficio è limitato al caso delle operazioni alle quali partecipano due o più imprese del medesimo settore. Le imprese in questione potranno ottenere il credito d'imposta soltanto se la loro concentrazione o aggregazione perdurerà per almeno tre anni.

9. Per beneficiare del credito d'imposta, le imprese devono inoltrarne domanda al Centro operativo di Pescara dell'Agenzia delle entrate. L'esame delle domande viene effettuato secondo l'ordine cronologico di presentazione, fino a esaurimento dei fondi. Le domande vengono accolte o respinte entro il lasso di tempo di 30 giorni.

10. Inoltre, le autorità italiane hanno informato che potranno beneficiare del provvedimento le imprese che realizzano profitti, dato che le imprese non redditizie non sarebbero in grado di avvalersi del credito d'imposta. Le autorità italiane hanno anche segnalato che tale strumento fiscale presenta il vantaggio di essere concesso a posteriori e che in tal modo si agevolano i controlli a posteriori (il credito d'imposta viene revocato, per esempio, se la concentrazione si scinde prima di tre anni).

11. Per quanto riguarda il cumulo, le autorità italiane hanno informato che il provvedimento può cumularsi con altre misure di aiuto. Poiché si tratta di un regime fiscale, non vi sono costi ammissibili.

12. Nella lettera dell'8 febbraio 2006, la Commissione ha chiesto alle autorità italiane di sospendere l'erogazione del nuovo aiuto previsto dal regime di premi di concentrazione alle imprese che non avevano rimborsato aiuti incompatibili, in ottemperanza a precedenti decisioni di recupero, in particolare la decisione 2000/128/CE della Commissione, dell'11 maggio 1999, relativa al regime di aiuti concessi dall'Italia per interventi a favore dell'occupazione (GU L 42 del 15.2.2000, pag. 1) e la decisione 2003/193/CE della Commissione, del 5 giugno 2002, relativa alle esenzioni fiscali e prestiti agevolati concessi dall'Italia in favore di imprese di servizi pubblici (GU L 77 del 24.3.2003, pag. 21). Le autorità italiane hanno rifiutato d'impegnarsi in tal senso e hanno inoltre dichiarato che, a loro parere, non si può applicare ai regimi la giurisprudenza della sentenza Deggendorf, in base alla quale la Commissione deve controllare il cumulo tra vecchi e nuovi aiuti.

Valutazione

13. Le autorità italiane hanno notificato il provvedimento a norma dell'articolo 88, paragrafo 3 del trattato CE. Tale misura comprende una clausola di sospensione.

⁽³⁾ Raccomandazione della Commissione, del 6 maggio 2003, relativa alla definizione delle microimprese, piccole e medie imprese (GU L 124 del 20.5.2003, pag. 36).

14. Le autorità italiane dichiarano che, a loro parere, il provvedimento in oggetto costituisce un aiuto. Esso comporta l'intervento di risorse statali ed è selettivo, poiché favorisce soltanto le microimprese e piccole imprese che possono avvalersi del credito d'imposta. Queste imprese sono o possono essere operanti in settori nei quali si effettuano scambi tra gli Stati membri. Il provvedimento falsa o minaccia di falsare la concorrenza. Secondo la Commissione, risultano soddisfatte le condizioni enunciate all'articolo 87, paragrafo 1 del trattato CE per riconoscere l'esistenza di un aiuto.
15. La Commissione ha quindi esaminato se il provvedimento possa essere ritenuto compatibile con il trattato CE.
16. Tale provvedimento non si configura come un aiuto ai consumatori, né come un aiuto inteso a porre rimedio ai danni provocati da inondazioni o altre calamità naturali. Di conseguenza, ad esso non si applicano le deroghe previste all'articolo 87, paragrafo 2 del trattato CE.
17. La Commissione ha poi esaminato se il provvedimento possa considerarsi compatibile con le deroghe previste all'articolo 87, paragrafo 3 del trattato CE. La Commissione osserva che lo scopo del provvedimento non consiste nel favorire lo sviluppo economico di determinate regioni, in quanto riguarda le imprese in tutto il territorio italiano.
18. Inoltre, la Commissione osserva che il provvedimento non è inteso a promuovere la realizzazione di un importante progetto di comune interesse europeo, né a porre rimedio a una perturbazione dell'economia di uno Stato membro. Infine, la Commissione osserva che il provvedimento non si prefigge di promuovere la cultura o la conservazione del patrimonio, né rientra in altre categorie di aiuti.
19. La Commissione osserva invece che il provvedimento può rientrare nella deroga prevista all'articolo 87, paragrafo 3, lettera c), riguardante gli aiuti intesi ad agevolare lo sviluppo di determinate attività.
20. In particolare, il provvedimento è destinato alle aggregazioni di microimprese e piccole imprese. La promozione dello sviluppo delle microimprese e piccole imprese è riconosciuto come uno degli obiettivi degli aiuti, quale è sancito dall'adozione di norme specifiche riguardanti gli aiuti a favore delle PMI⁽⁴⁾, in special modo nel regolamento n. 70/2001.
21. Tale regolamento, nel riconoscere che lo sviluppo delle PMI è un obiettivo che gli Stati membri possono favorire mediante aiuti⁽⁵⁾, stabilisce le condizioni per assicurare che simili aiuti non falsino la concorrenza in misura contraria all'interesse comune. In particolare, l'articolo 4 del regolamento consente l'erogazione di aiuti per la crescita delle PMI mediante investimenti o creazione di posti di lavoro⁽⁶⁾, piuttosto che mediante acquisizioni esterne.
22. Il provvedimento non rispetta né le condizioni previste dall'articolo 4, né quelle di altri articoli del regolamento. Di conseguenza, la Commissione dubita, in questa fase, che il provvedimento in esame possa essere ritenuto compatibile sulla base del fatto che promuova la crescita delle PMI.
23. In aggiunta, e ad ogni buon fine, la Commissione ha proceduto a valutare il provvedimento sotto gli aspetti della necessità, della proporzionalità e del numero limitato di effetti negativi.

Necessità dell'aiuto

24. Le autorità italiane hanno fatto notare che le minori dimensioni delle imprese italiane, rispetto ai partner UE, costituiscono un fallimento del mercato. L'Italia ha presentato alcuni studi volti a dimostrare tale imperfezione. Per esempio, uno studio effettuato di recente da un istituto di ricerca in materia economica⁽⁷⁾ mostra che la struttura dimensionale delle imprese italiane esercita un'incidenza negativa sull'incremento della produttività e stima che, se in Italia vi fosse una struttura analoga a quella del resto dell'Europa, il settore manifatturiero avrebbe una produttività superiore del 20 %. Le piccole imprese tendono a investire di meno nella R&S e nell'innovazione e sono meno in grado di trasformare in maggiore produttività gli investimenti nelle tecnologie dell'informazione e delle comunicazioni, il che a sua volta porta a una minore efficienza dell'economia, a tassi inferiori d'impiego delle nuove tecnologie ed a minore produttività, creando così una sorta di circolo vizioso, una trappola dimensionale.
25. Tuttavia, dai medesimi studi risulta che le cause di tale problema sono dovute soprattutto a questioni regolamentari, in misura tale che può sembrare opportuno parlare piuttosto di un "fallimento regolamentare". L'Italia non è stata in grado d'indicare in qual modo il provvedimento in esame sia necessario per ovviare a tale imperfezione: ha informato che il provvedimento è stato adottato prescindendo da tali cause.
26. Di conseguenza, la Commissione dubita una misura fiscale temporanea sia necessaria ed appropriata a risolvere le difficoltà strutturali in questione.

Proporzionalità

27. Le autorità italiane hanno spiegato di essersi risolte a uno sgravio fiscale del 10 % mediante una semplice soluzione, consistente anzitutto nel decidere che era necessario un incentivo a due cifre per attrarre l'interesse dei potenziali beneficiari, e nel fissarlo poi al livello minimo di tale ordine di grandezza. Inoltre, le autorità italiane hanno indicato che lo sgravio fiscale viene calcolato in base all'IRAP, che è un'imposta pagata da pressoché tutte le imprese ed è più onerosa per le imprese a impiego più intensivo di manodopera.

⁽⁴⁾ Regolamento (CE) n. 70/2001 della Commissione, del 12 gennaio 2001, relativo all'applicazione degli articoli 87 e 88 del trattato CE agli aiuti di Stato a favore delle piccole e medie imprese.

⁽⁵⁾ Vedere in particolare il considerando 5 e specialmente il considerando 13 del regolamento n. 70/2001.

⁽⁶⁾ Vedere in particolare l'articolo 4 — Investimenti — del regolamento (CE) n. 70/2001.

⁽⁷⁾ Prometeia/Banca Intesa: Analisi dei settori industriali, ottobre 2005.

28. La Commissione ha dubbi riguardo alla proporzionalità di tale sgravio fiscale. Pur riconoscendo che il sistema adottato dalle autorità italiane per stabilire il tasso dello sgravio fiscale ha il pregio della semplicità, la Commissione desidera altri chiarimenti sulla sua proporzionalità, poiché l'incentivo non è correlato ai costi causati dal processo di concentrazione o aggregazione e potrebbe esser tale da comportare inaspettati guadagni per i beneficiari. In particolare, quando l'impresa risultasse dall'aggregazione di varie imprese, il valore del beneficio, misurato dalla differenza tra il valore della produzione della nuova entità e il valore della produzione della maggiore tra le imprese partecipanti nell'aggregazione, potrebbe essere estremamente elevato.

Cumulo

29. Le autorità italiane hanno informato che il provvedimento può cumularsi, in quanto si tratta di una misura fiscale non correlata a costi ammissibili. La Commissione osserva anzitutto che ciò appare in contraddizione con l'articolo 8, paragrafo 2 del regolamento (CE) n. 70/2001⁽⁸⁾.

Beneficiari aventi ricevuto aiuti illegali ed incompatibili

30. Inoltre, la Commissione fa notare il problema del cumulo delle distorsioni risultanti dall'aiuto ricevuto nell'ambito del regime di premi di concentrazione con altre distorsioni derivanti da aiuti illegittimi e incompatibili, in particolare quelli previsti nei regimi menzionati al punto 12, che non sono ancora stati rimborsati. Nella sentenza del 15 maggio 1997, la Corte di giustizia ha statuito che *"quando la Commissione esamina la compatibilità di un aiuto con il mercato comune, deve prendere in considerazione tutti gli elementi pertinenti, ivi compreso, eventualmente, il contesto già esaminato in una decisione precedente, nonché gli obblighi che tale decisione precedente abbia potuto imporre ad uno Stato membro"*. Secondo la Corte di giustizia, la compatibilità di un nuovo aiuto può dipendere dall'esistenza di un precedente aiuto illegittimo che non sia stato restituito, poiché l'effetto cumulativo degli aiuti potrebbe produrre gravi distorsioni della concorrenza nel mercato comune. Di conseguenza, la Commissione, nell'esaminare la compatibilità di un aiuto di Stato con il mercato comune, ha la facoltà di prendere in considerazione al tempo stesso l'effetto cumulativo di tale aiuto con un aiuto precedente e il fatto che l'aiuto precedente non sia stato rimborsato⁽⁹⁾.

31. In applicazione della giurisprudenza Deggendorf, la Commissione valuta una nuova misura di aiuto tenendo conto dell'eventualità che i beneficiari non abbiano ottemperato a precedenti decisioni con le quali la Commissione stessa abbia ordinato loro di rimborsare precedenti aiuti illegittimi e incompatibili. In simili casi, la Commissione deve accertare gli effetti che esercita sui beneficiari il combinarsi del nuovo aiuto con i precedenti aiuti incompatibili che non sono stati ancora restituiti.

32. La Commissione nota che, nel caso in esame, le autorità italiane hanno rifiutato d'impegnarsi a non erogare il nuovo aiuto previsto dal regime di premi di concentrazione alle imprese che non hanno ancora rimborsato l'aiuto incompatibile, in ottemperanza alle decisioni di recupero menzionate al punto 12. Le autorità italiane hanno dichiarato che, a loro parere, la giurisprudenza Deggendorf non si applica ai regimi.

33. La Commissione fa notare anzitutto che la giurisprudenza Deggendorf si applica a tutti i tipi di aiuto, che siano concessi singolarmente o nell'ambito di regimi.

34. In secondo luogo, la Commissione rammenta alle autorità italiane l'esigenza di eseguire le decisioni in materia di aiuti di Stato, in particolare quando esse impongono il recupero di aiuti illegittimi e incompatibili mediante rimborso da parte dei beneficiari.

35. In considerazione di quanto detto sinora, e in applicazione della giurisprudenza Deggendorf, a questo stadio la Commissione ritiene di non poter approvare il regime di premi di concentrazione, se questo si applica automaticamente ad imprese che devono ripagare precedenti aiuti illegali ed incompatibili, anche se tali aiuti erano stati erogati in base ad un regime, in particolare nei casi menzionati al punto 12.

36. Su tale aspetto, la Commissione chiede il parere delle autorità italiane e delle parti interessate.

Conclusioni

37. In base alle precedenti considerazioni, e agendo secondo la procedura stabilita all'articolo 88, paragrafo 2 del trattato CE, la Commissione chiede all'Italia di presentarle le sue osservazioni e di trasmetterle, entro un mese dalla data alla quale avrà ricevuto la presente lettera, tutte le informazioni che possano essere utili per valutare il provvedimento.

38. La Commissione rammenta all'Italia che l'articolo 88, paragrafo 3 del trattato CE ha effetto sospensivo e richiama l'attenzione sull'articolo 14 del regolamento (CE) n. 659/1999 del Consiglio, a norma del quale tutti gli aiuti illegittimi possono essere recuperati presso i beneficiari.

39. La Commissione avverte l'Italia che informerà le parti interessate, pubblicando la presente lettera e una sintesi del caso nella *Gazzetta ufficiale dell'Unione europea*. Inoltre, la Commissione informerà le parti interessate degli Stati EFTA firmatari dell'Accordo SEE, pubblicando una comunicazione nel Supplemento SEE della *Gazzetta ufficiale dell'Unione europea* e informerà l'Autorità di vigilanza EFTA inviandole una copia della presente lettera. Tutti gli interessati saranno invitati a presentare osservazioni entro un mese dalla data delle suddette pubblicazioni.'

⁽⁸⁾ Vedere anche il considerando n. 19 del regolamento (CE) n. 70/2001.

⁽⁹⁾ Causa C-355/95P, *Textilwerke Deggendorf GmbH (TWD) contro Commissione*, Racc. 1997, pag. I-2549, punti 25-27.

Non-opposition to a notified concentration
(Case COMP/M.4220 — Food Service Project/Tele Pizza)

(2006/C 146/10)

(Text with EEA relevance)

On 6 June 2006, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No. 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- from the Europa competition web site (<http://ec.europa.eu/comm/competition/mergers/cases/>). This web site provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form on the EUR-Lex website under document number 32006M4220. EUR-Lex is the on-line access to European law. (<http://ec.europa.eu/eur-lex/lex>)
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