



EUROPEAN COMMISSION

Brussels, 21.5.2020  
C(2020) 3482 final

**SENSITIVE\*** : *COMP Operations*

**Subject:** State Aid SA.57021 (2020/N, ex 2020/PN) – Italy - COVID-19 *Regime Quadro*

Excellency,

**1. PROCEDURE**

- (1) Following pre-notification contacts, by electronic notification of 20 May 2020, Italy notified aid in the form of a *Regime Quadro* (the “*Regime Quadro*”, or the “scheme”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework”).<sup>1</sup>
- (2) The Italian authorities confirm that the notification does not contain confidential information.
- (3) Italy exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with

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\* Handling instructions for SENSITIVE information are given at <https://europa.eu/db43PX>

<sup>1</sup> Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91 of 20.3.2020, p. 1-9, as modified by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I of 4.4.2020, p. 1-9, and by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak of 8 May 2020, OJ C 164, 13.05.2020, p. 3/15. The numbering of paragraphs and footnotes of the Temporary Framework referred to in this decision follows the informal consolidated version published on the DG Competition website:  
[https://ec.europa.eu/competition/state\\_aid/what\\_is\\_new/TF\\_consolidated\\_version\\_as\\_amended\\_3\\_april\\_and\\_8\\_may\\_2020\\_en.pdf](https://ec.europa.eu/competition/state_aid/what_is_new/TF_consolidated_version_as_amended_3_april_and_8_may_2020_en.pdf).

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Article 3 of Regulation 1/1958,<sup>2</sup> and to have this Decision adopted and notified in English.

## **2. DESCRIPTION OF THE SCHEME**

- (4) Italy considers the *Regime Quadro* as a response to the COVID-19 outbreak.
- (5) Italy considers that the COVID-19 outbreak is affecting the real economy. In March 2020, the impact of COVID-19 and contagion-containment measures triggered a drop of 16.6% in the economic activity as compared to February 2020, bringing the production index back to the levels of forty-two years ago. In the first quarter of 2020, industrial production is expected to decline by 5.4%, the biggest drop in eleven years. For the second quarter of 2020, also as a result of the closure of around 60% of manufacturing companies, the fall in activity could reach -15%. As a consequence, the Italian GDP is expected to fall by 4.7% in the first quarter of 2020 as compared to the previous quarter and by 4.8% in 2020 as compared to 2019.
- (6) To counteract the increase in infections due to COVID-19, 57% of industrial activities (accounting for 48% of the national production) were required to close as of 11 March; the remaining 43% of undertakings continued to work at a very slow pace, with few exceptions (food and pharmaceutical). This was due to lower demand, logistic difficulties and reduced activity of the main commercial partners. This has resulted in order cancellations and further blocking of international supply chains.
- (7) Production activities started gradually reopening since 17 May 2020. Yet companies are facing weak domestic demand in some sectors and the worsening of foreign demand in line with the spread of COVID-19 in the rest of the world. In this scenario, delays in the implementation of support measures for businesses and workers risk aggravating the already dramatic prospects.
- (8) The *Regime Quadro* consists of several measures, which are expressly based on Article 107(3)(b) and Article 107(3)(c) of the TFEU, as interpreted by Sections 2, 3.1, 3.2, 3.3, 3.4, 3.6, 3.7, 3.8 and 3.10 of the Temporary Framework.

### **2.1. The nature and form of aid**

- (9) The *Regime Quadro* is a scheme under which the Regions, the Autonomous Provinces, other territorial bodies and Chambers of commerce may adopt measures under which aid is granted in the form of:
  - (a) Direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity;
  - (b) Guarantees on loans granted directly or channelled through credit institutions and other financial institutions such as financial intermediaries that are allowed to provide credit in Italy;

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

- (c) Subsidised interest rates on loans granted directly or channelled through credit institutions and other financial institutions such as financial intermediaries that are allowed to provide credit in Italy;
- (d) Direct grants, repayable advances or tax advantages for COVID-19 relevant research and development;
- (e) Investment aid for testing and upscaling infrastructures that contribute to develop COVID-19 relevant products;
- (f) Investment aid for the production of COVID-19 relevant products; and
- (g) Aid in the form of wage subsidies for employees to avoid lay-offs during the COVID-19 outbreak.

## 2.2. Legal basis

- (10) The legal basis for the scheme are articles 54 to 61 of the Italian Decree Law n. 34 of 19 May 2020 ("Decree Law")<sup>3</sup>.

## 2.3. Administration of the scheme

- (11) The scheme will be implemented at various administrative levels, by the Regions, the Autonomous Provinces, other territorial bodies and Chambers of commerce. The aid granted by the Regions, the Autonomous Provinces, other territorial bodies and Chambers of commerce will be administered by those entities. The aid will be financed by the budget of the respective territorial entities.

## 2.4. Budget and duration of the scheme

- (12) The scheme will be implemented at various administrative levels, therefore it is difficult to estimate its budget. The Italian authorities have provided an estimated budget of approximately EUR 9 billion for the whole *Regime Quadro*, of which around EUR 6 billion will be disbursed as direct grants, tax and payment advantages or other forms of aid under Article 54 of the Decree Law.
- (13) The *Regime Quadro* may be co-financed by the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and/or the European Maritime and Fisheries Fund, as amended by the Coronavirus Response Investment regulations, or even the European Union Solidarity Fund, when implemented at various administrative levels. The Italian authorities confirm that the rules applicable under these Funds will be respected.
- (14) Aid may be granted under the *Regime Quadro* until 31 December 2020.<sup>4</sup>

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<sup>3</sup> Published in the Italian Official Journal, *Gazzetta Ufficiale, Serie Generale*, No. 128 of 19 May 2020.

<sup>4</sup> For aid granted in the form of tax advantages under section 3.1 of the Temporary Framework, the tax liability in relation to which the advantage is granted must have arisen no later than 31 December 2020, in line with footnote 17 of the Temporary Framework.

## 2.5. Beneficiaries

- (15) All undertakings registered in Italy, regardless of the size and sector and in which they are active, are eligible for aid under the *Regime Quadro*, with the exception of credit institutions and other financial institutions such as financial intermediaries. The final beneficiaries of the *Regime Quadro* are therefore SMEs, large undertakings, self-employed persons and family businesses engaged in craft or other activities and partnerships or associations regularly engaged in an economic activity. SMEs are defined in line with Annex I of the General Block Exemption Regulation.
- (16) Aid may not be granted under the scheme to undertakings that were already in difficulty within the meaning of the General Block Exemption Regulation (“GBER”)<sup>5</sup> on 31 December 2019. Aid is granted either directly or through credit institutions and other financial institutions such as financial intermediaries that are allowed under the Italian law to provide credit in Italy.

## 2.6. Sectoral and regional scope of the scheme

- (17) The *Regime Quadro* is open to all sectors. It applies to the whole territory of Italy. Credit institutions and other financial institutions such as financial intermediaries are excluded as eligible final beneficiaries, except under section 3.10, if aid is provided to employees of credit or financial institutions in the form of wage subsidies for employees to avoid lay-offs during the COVID-19 outbreak.

## 2.7. Basic elements of the scheme

### 2.7.1. Direct grants, tax and payment advantages or other forms of aid (Article 54 of the Decree Law)

- (18) The measure provides that aid may be granted in the form of direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity, whereas:
- (a) The gross nominal amount of aid that is granted under the measure, before any deduction of tax or other charge, will not exceed EUR 800 000 per undertaking, except for undertakings active in the agricultural, fishery and aquaculture sector and undertakings active in the primary production of agricultural products;
- (b) The gross amount of aid, before any deduction of tax or other charge, will not exceed EUR 120 000 per undertaking active in the agricultural, fishery

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<sup>5</sup> As defined in Article 2 (18) of the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1. Wherever reference is made to the definition of “undertaking in difficulty” as contained in Article 2(18) of Regulation (EU) No 651/2014, it shall be read as referring to the definitions contained in Article 2(14) of Regulation (EU) No 702/2014 and Article 3(5) of Regulation No 1388/2014.

and aquaculture sector<sup>6</sup> or EUR 100 000 per undertaking active in the primary production of agricultural products<sup>7</sup>;

- (c) As explained in recital (12), the Italian authorities estimate that the overall budget for aid granted in the form of direct grants, repayable advances and tax advantages under Section 3.1 of the Temporary Framework will not exceed EUR 6 billion;
- (d) aid will be granted no later than 31 December 2020;
- (e) Aid granted to undertakings active in the processing and marketing of agricultural products<sup>8</sup> is conditional on it not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the undertakings concerned;
- (f) The following specific conditions apply for aid granted to undertakings in the primary production of agricultural products, fishery and aquaculture sector:
  - aid to undertakings active in the primary production of agricultural products will not be fixed on the basis of the price or quantity of products put on the market;
  - aid to undertakings active in the fishery and aquaculture sector will not concern any of the categories of aid referred to in Article 1, paragraph (1)(a) to (k) of Commission Regulation (EU) No 717/2014<sup>9</sup>;
  - where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22 (a) and 23 (a) of the Temporary Framework, it will be ensured, by appropriate means, such as separation of accounts, that for each of these activities the relevant ceiling is respected and that the overall maximum amount of EUR 800 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 120 000 will not be exceeded per undertaking.

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<sup>6</sup> The products concerned are those listed in Annex I to Regulation No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000, OJ L 354, 28.12.2013, p. 1.

<sup>7</sup> The products concerned are all products listed in Annex I to the TFEU with the exception of the products of the fisheries and aquaculture sector.

<sup>8</sup> Reference is made to the definitions provided by Article 2(6) and Article 2(7) of Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas.

<sup>9</sup> Commission Regulation (EC) No (EU) No 717/2014 of 27 June 2014 (OJ L 90, 28.6.2014, p. 45) relates to the application of Articles 107 and 108 of the TFEU to *de minimis* aid in the fishery and aquaculture sector.

2.7.2. *Aid in the form of guarantees on loans (Article 55 of the Decree Law)*

(19) The measure provides that aid may be granted in the form of guarantees on loans, whereas:

(a) The guarantee premiums will be set per individual loans at a minimum level, which shall increase progressively as the duration of the guaranteed loan increases, as follows:

Recipient	1 <sup>st</sup> year	2 <sup>nd</sup> and 3 <sup>rd</sup> year	4 <sup>th</sup> to 6 <sup>th</sup> year
SMEs	25bps	50bps	100bps
Large Enterprises	50bps	100bps	200bps

(b) The guarantee is granted by 31 December 2020 at the latest;

(c) The overall amount of loans per beneficiary shall not exceed the limits set out in point 25(d) (i) and (ii) of the Temporary Framework. Accordingly, the overall amount of loans per beneficiary shall not exceed:

(i) double the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the undertaking's site but formally in the payroll of subcontractors) for 2019, or for the last year available. In the case of undertakings created on or after 1 January 2019, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation; or

(ii) 25% of the beneficiary's total turnover in 2019;

(d) The duration of the guarantee is limited to maximum six years and the public guarantee shall not exceed the thresholds set out in point 25(f) of the Temporary Framework. Therefore, the public guarantee shall not exceed:

(i) 90% of the loan principal where losses are sustained proportionally and under the same conditions by the credit institution and the State; or

(ii) 35% of the loan principal, where losses are first attributed to the State and only then to the credit institutions (i.e. a first-loss guarantee); and

(iii) in both of the above cases, when the size of the loan decreases over time, for instance because the loan starts to be reimbursed, the guaranteed amount must decrease proportionally;

(e) Guarantees shall be made available for both investment and working capital loans;

(f) The measure does not allow to calculate the loan amount pursuant to point 25 (d) (iii) or point 25 (e) of the Temporary Framework, neither does it

allow any of the modulations provided for in point 25 (b) of the Temporary Framework<sup>10</sup>;

- (g) The measure applies in principle only to new loans. Guarantees under the terms and conditions of Article 60 of the Decree Law can apply to existing loans only if (i) the loans are granted to SMEs; (ii) there exists a legal obligation to extend the maturity of the loan; (iii) the loans are not non-performing; (iv) the SME has the right to renegotiate the terms of the loan and (v) no guarantee fee will be charged. Furthermore, the Italian authorities indicated that the obligation laid down in point 31 of Section 3.4 of the Temporary Framework, according to which credit institutions and other financial institutions should, to the largest extent possible, pass on the advantage to the final beneficiaries, will be respected;
- (h) The mobilisation of the guarantees is contractually linked to specific conditions which have to be agreed between the parties when the guarantee is initially granted.

2.7.3. *Aid in the form of subsidised interest rates for loans (Article 56 of the Decree Law)*

(20) The measure provides that aid may be granted in the form of subsidised interest rates on loans, whereas:

- (a) Loans may be granted at reduced interest rates which are at least equal to the base rate (-31 basis points<sup>11</sup>) applicable on 1 January 2020 plus the credit risk margins, as follows:

Recipient	1 <sup>st</sup> year	2 <sup>nd</sup> and 3 <sup>rd</sup> year	4 <sup>th</sup> to 6 <sup>th</sup> year
SMEs	25bps	50bps	100bps
Large Enterprises	50bps	100bps	200bps

- (b) The minimum all-in interest rate (base rate plus the credit risk margins) will be at least 10bps per year;
- (c) Subsidised interest rates on loans shall relate to and/or investment and working capital needs;
- (d) Loan contracts will be signed by 31 December 2020 at the latest and are limited to maximum 6 years;
- (e) The overall amount of the loan per beneficiary shall not exceed the limits set out in paragraph 27(d) (i) and (ii) of the Temporary Framework. Accordingly, the overall amount of loans per beneficiary shall not exceed:

<sup>10</sup> In order to access any of the options provided in point 25 (b), 25 (d) (iii) or 25 (e) of the Temporary Framework, the granting authority shall notify such aid to the Commission.

<sup>11</sup> Corresponding to 1 year IBOR applicable on 1 January 2020 calculated in accordance with the Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.01.2008, p.6.) and published on the website of DG Competition at [https://ec.europa.eu/competition/state\\_aid/legislation/reference\\_rates.html](https://ec.europa.eu/competition/state_aid/legislation/reference_rates.html).

- (i) double the annual wage bill of the beneficiary (including social charges as well as the cost of personnel working on the undertaking's site but formally in the payroll of subcontractors) for 2019, or for the last year available. In the case of undertakings created on or after 1 January 2019, the maximum loan must not exceed the estimated annual wage bill for the first two years in operation; or
  - (ii) 25% of the beneficiary's total turnover in 2019;
- (f) The measure does not allow to calculate the loan amount pursuant to point 27 (e) of the Temporary Framework, neither does it allow any of the other modulations provided for in point 27 (b) and 27 (d) (iii) of the Temporary Framework<sup>12</sup>.
- (g) The measure applies in principle only to new loans. Subsidised interest rates under the terms and conditions of Article 61 of the Decree Law can apply to existing loans only if (i) the loans are granted to SMEs; (ii) there exists a legal obligation to extend the maturity of the loan; (iii) the loans are not non-performing; (iv) the SME has the right to renegotiate the terms of the loan and (v) no guarantee fee may be charged. Furthermore, the Italian authorities indicated that the obligation laid down in point 31 of Section 3.4 of the Temporary Framework, according to which credit institutions and other financial institutions should, to the largest extent possible, pass on the advantage to the final beneficiaries, will be respected.

#### 2.7.4. *Aid channelled through financial intermediaries*

- (21) According to the Italian authorities, the conditions set out in Section 3.4 of the Temporary Framework will be complied with. In particular, the Decree Law provides for specific mechanisms in order to ensure that the benefits of the aid channelled through financial intermediaries are passed, to the largest extent possible, to the final beneficiaries. Moreover, the Italian authorities will adopt a circular, which will provide as follows:
- all credit and financial institutions may act as intermediary in granting the aid, ensuring competition between financial intermediaries;
  - administrative costs shall be charged at no more than the normal level;
  - in the interest of the beneficiary, the advantage for the beneficiary as well as the reduced risk for the credit or financial institution shall be reflected in higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates;
  - when the aid is granted in the form of a loan guarantee, in order to ensure that interest rates of new guaranteed loans and of existing loans subject to a new guarantee reflect the reduced risk, the interest rate shall be set or adjusted at

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<sup>12</sup> In order to access any of the options provided in point 27 (b), 27 (d) (iii) or 27 (e) of the Temporary Framework, the granting authority shall notify such aid to the Commission.



the interest rate of a comparable loan within the same risk category and for the same size of company, minus an appropriate rebate.

2.7.5. *Aid for COVID-19 related R&D (Article 57 of the Decree Law)*

- (22) The measure provides for aid for R&D projects carrying out COVID-19 and other antiviral relevant research, subject to the following conditions:
- (a) COVID-19 and other antiviral relevant research includes research into vaccines, medicinal products and treatments, medical devices and hospital and medical equipment, disinfectants and protective clothing and equipment, as well as into relevant process innovations for an efficient production of the required products;
  - (b) The aid shall be granted in the form of direct grants, repayable advances or tax advantages by 31 December 2020;
  - (c) For COVID-19 related R&D projects started as of 1 February 2020, the aid is deemed to have an incentive effect; for projects started before 1 February 2020, the aid is deemed to have an incentive effect, if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid;
  - (d) Eligible costs may refer to all the costs directly related to and necessary for the R&D project during its time span, including, amongst others, personnel costs, costs of instruments and equipment (including digital and computing equipment, diagnostic tools and data collection and processing tools), costs of buildings and land for the duration of the project, cost of contractual research and other relevant R&D services, including costs for digital and computing services, for pre-clinical and clinical trials (trial phases I-IV)<sup>13</sup>, for obtaining<sup>14</sup>, validating and defending patents and other intangible assets, for obtaining the conformity assessments and/or authorisations necessary for the marketing of new and improved vaccines and medicinal products, medical devices, hospital and medical equipment, disinfectants and personal protective equipment;
  - (e) Aid shall not be granted to undertakings carrying out contract research on behalf of other undertakings;
  - (f) Assets (instruments, equipment etc.) that are not used for the full duration of the R&D project and/or are used for other purposes than the R&D projects covered by the notified measure are taken into account only pro rata (depreciation over period of duration of the R&D project or pro rata of the capacity used for the R&D project);

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<sup>13</sup> Phase-IV trials are eligible as long as they allow further scientific or technological advance.

<sup>14</sup> To the extent the costs to buy or license knowledge and patents correspond to an arm's length price.

- (g) The categories of research eligible for aid are: fundamental research, industrial research and experimental development<sup>15</sup>. The aid intensity for each beneficiary may cover 100% of eligible costs for fundamental research and shall not exceed 80% of eligible costs for industrial research and experimental development. If the aided projects consist of different work packages which fall under fundamental research and industrial research or experimental development, the aid intensity for industrial research and experimental development will be applied, if the majority of costs incurred do not arise from work packages that fall under the category of fundamental research;
- (h) The aid intensity for industrial research and experimental development may be increased by 15 percentage points if more than one Member State supports the research project or if it is carried out in cross-border collaboration with research organisations or other undertakings;
- (i) The aid beneficiary shall commit to grant non-exclusive licences under non-discriminatory market conditions to third parties in the EEA.

2.7.6. *Investment aid for testing and upscaling infrastructures (Article 58 of the Decree Law)*

- (23) The measure provides that aid may be granted in the form of investment aid for testing and upscaling infrastructures that contribute to develop COVID-19 relevant products, provided the following conditions are met:
  - (a) The aid will be granted for the construction or upgrade of testing and upscaling infrastructures required to develop, test and upscale, up to first industrial deployment prior to mass production, COVID-19 relevant medicinal products (including vaccines) and treatments, their intermediates, active pharmaceutical ingredients and raw materials; medical devices, hospital and medical equipment (including ventilators and protective clothing and equipment as well as diagnostic tools) and necessary raw materials; disinfectants and their intermediary products and raw chemical materials necessary for their production; as well as data collection/processing tools;
  - (b) Aid will be granted in the form of direct grants, tax advantages, repayable advances or loss cover guarantees by 31 December 2020;
  - (c) For projects started as of 1 February 2020, the aid is deemed to have an incentive effect; for projects started before 1 February 2020, the aid is deemed to have an incentive effect, if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid;

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<sup>15</sup> As defined, respectively, in paragraph (84), (85) and (86) of Article 2 of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1.

- (d) The investment project shall be completed within six months after the date of granting the aid. An investment project is considered completed when it is accepted by the national authorities as completed. Where the six-month deadline is not met, per month of delay, 25% of the amount of aid awarded in form of direct grants or tax advantages shall be reimbursed, unless the delay is due to factors outside the control of the aid beneficiary. Where the deadline is respected, aid in the form of repayable advances is transformed into grants; if not, the repayable advance is reimbursed in equal annual instalments within five years after the date of granting the aid;
- (e) Eligible costs are the investment costs necessary for setting up the testing and upscaling infrastructures required to develop the products listed in point (a) above (e.g. land, building, plant/equipment and immaterial assets). The granting authority will provide a detailed list of the eligible costs;
- (f) The aid intensity shall not exceed 75% of the eligible costs. The maximum allowable aid intensity of the direct grant or tax advantage may be increased by an additional 15 percentage points, either if the investment is concluded within two months after the date of aid granting or date of application of the tax advantage, or if the support comes from more than one Member State. If the aid is granted in form of a repayable advance, and the investment is completed within two months, or if the support comes from more than one Member State, an additional 15 percentage points may be granted;
- (g) Assets that are not used for the full lifetime of the infrastructure are taken into account only pro rata (i.e. depreciation over the lifetime, if applicable or pro rata of the capacity used for the infrastructure);
- (h) A loss cover guarantee may be granted in addition to a direct grant, tax advantage or repayable advance, or as an independent aid measure. The loss cover guarantee is issued within one month after the undertaking applied for it; the amount of loss to be compensated is established five years after completion of the investment. The compensation amount is calculated as the difference between sum of investment costs, reasonable profit of 10% p.a. on the investment cost over five years, and operating cost on the one hand, and the sum of the direct grant received, revenues over the five year period, and the terminal value of the project;
- (i) The price charged for the services provided by the testing and upscaling infrastructure shall correspond to the market price;
- (j) The testing and upscaling infrastructures shall be open to several users and access shall be granted on a transparent and non-discriminatory basis. Undertakings, which have financed at least 10 % of the investment costs may be granted preferential access under more favourable conditions.

2.7.7. *Investment aid for the production of COVID-19 relevant products  
(Article 59 of the Decree Law)*

- (24) The measure provides that aid may be granted in the form of grant investment aid for the production of COVID-19 products provided the following conditions are met:
- (a) The investment aid will be granted for the production of COVID-19 relevant products such as medicinal products (including vaccines) and treatments, medical devices and hospital and medical equipment, disinfectants and protective clothing and equipment, active pharmaceutical ingredients and active substances used for disinfectants, intermediary products, and raw chemical materials necessary for their production, diagnostic tools, data collection/processing tools;
  - (b) The aid will be granted in the form of direct grants, tax advantages, repayable advances or loss cover guarantee by 31 December 2020;
  - (c) For projects started as of 1 February 2020, the aid is deemed to have an incentive effect; for projects started before 1 February 2020, the aid is deemed to have an incentive effect, if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid;
  - (d) The investment project will be completed within six months after granting the aid. An investment project is considered completed when it is accepted by the aid granting authorities as completed. Where the six-month deadline is not met, per month of delay, 25% of the amount of aid awarded in form of direct grants or tax advantages will be reimbursed, unless the delay is due to factors outside the control of the aid beneficiary. Where the deadline is respected, aid in the form of repayable advances is transformed into grants; if not, the repayable advance is reimbursed in equal annual instalments within five years after the date of granting the aid;
  - (e) Eligible costs relate to all investment costs necessary for the production of the products listed in point 39(a) of the Temporary Framework (land, buildings, plant/equipment and immaterial assets) and to the costs of trial runs of the new production facilities. The granting authority will provide a detailed list of the eligible costs. The aid intensity shall not exceed 80% of the eligible costs;
  - (f) The maximum allowable aid intensity of the direct grant or tax advantage may be increased by an additional 15 percentage points, either if the investment is concluded within two months after the aid granting or the date of application of the direct grant or tax advantage, or if the support comes from more than one Member State. If the aid is granted in the form of a repayable advance, and the investment is completed within two months or if the aid comes from more than one Member State, an additional 15 percentage points may be granted;
  - (g) A loss cover guarantee may be granted in addition to a direct grant, tax advantage or repayable advance or as an independent aid measure. The

loss cover guarantee is issued within one month after the undertaking applied for it; the amount of loss to be compensated is established five years after completion of the investment. The compensation amount is calculated as the difference between sum of investment costs, reasonable profit of 10% p.a. on the investment cost over five years, and operating cost on the one hand, and the sum of the direct grant received, revenues over the five year period, and the terminal value of the project.

2.7.8. *Aid in the form of wage subsidies for employees to avoid lay-offs during the COVID-19 outbreak (Article 60 of the Decree Law)*

- (25) The measure provides that aid may be granted in the form of wage subsidies for employees to avoid lay-offs during the COVID-19 outbreak:
- (a) The aid is aimed at avoiding lay-offs during the COVID-19 outbreak and is granted by 31 December 2020;
  - (b) The aid is granted in the form of schemes to undertakings in specific sectors, regions or of a certain size that are particularly affected by the COVID-19 outbreak;
  - (c) The wage subsidy is granted for employees that would otherwise have been laid off as a consequence of the suspension or reduction of business activities due to the COVID-19 outbreak, and subject to the condition that the benefitting personnel is maintained in continuous employment for the entire period for which the aid is granted;
  - (d) The wage subsidy is granted over a period of not more than twelve months. The twelve months are calculated from the date of the application for aid or from an earlier date. The subsidy can be granted for periods as of 1 February 2020. According to the Italian authorities, the reason for this is linked to the fact that the COVID-19 outbreak started in Italy already in February; therefore Italy suffered an adverse economic impact already at that time;
  - (e) The granting authority will establish the eligibility conditions as well as the amount of the monthly wage subsidy as compared to the monthly gross salary. In any event, the monthly wage subsidy shall not exceed 80% of the monthly gross salary (including employer's social security contributions) of the benefitting personnel.

## 2.8. Cumulation

- (26) The aid ceilings and cumulation maxima fixed under the scheme shall apply regardless of whether the support for the aided project is financed entirely from State resources or partly financed by the Union.
- (27) The Italian authorities confirm that aid granted under the scheme may be cumulated with aid under *de minimis* Regulations<sup>16</sup> or the General Block

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<sup>16</sup> Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid, OJ L 352, 24.12.2013, p.1; Commission Regulation (EU) No 1408/2013 of 18 December 2013 on the application

Exemption Regulation, the Agricultural Block Exemption Regulation and the Fisheries Block Exemption Regulation<sup>17</sup>, provided the relevant provisions and cumulation rules are respected.

- (28) The Italian authorities will ensure that cumulation conditions are respected across all Italian measures under the Temporary Framework and across all granting authorities:
- (a) if the beneficiary receives aid on several occasions or in several forms under Article 54 of the Decree Law or aid under other measures approved by the Commission under Section 3.1 of the Temporary Framework, the overall maximum cap per undertaking, as set out in points 22(a) and 23(a) of that framework, shall be respected;
  - (b) aid granted under Article 55 and 56 of the Decree Law must not be cumulated if the aid is granted for the same underlying loan principal. As provided by Articles 55 and 56, for different loans, the overall aided amount of loans per undertaking must not exceed the ceilings set out respectively in point 25(d) (i) and (ii) or 27(d) (i) and (ii) of the Temporary Framework. Furthermore, a beneficiary may benefit in parallel from multiple measures in the form of guarantees on loans or in the form of subsidized interest rates on loans, provided the overall amount of loans per beneficiary does not exceed the ceilings set out respectively in point 25(d) or 27(d) of the Temporary Framework;
  - (c) aid granted under Article 57, Article 58 and Article 59 of the Decree Law must not be cumulated if the aid concerns the same eligible costs. Furthermore, aid granted under Article 57 of the Decree Law may be combined with support from other sources for the same eligible costs, provided the total amount of combined aid does not exceed the aid ceilings set in point 35(d) and (e) of the Temporary Framework. Aid granted under

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of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the agriculture sector, OJ L 352, 24.12.2013 p. 9; Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector, OJ L 190, 28.6.2014, p. 45; and Commission Regulation (EU) No 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid granted to undertakings providing services of general economic interest, OJ L 114 of 26.4.2012, p. 8.

<sup>17</sup> Respectively, Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187 of 26.6.2014, p. 1; Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1; and Commission Regulation (EU) No 1388/2014 of 16 December 2014 declaring certain categories of aid to undertakings active in the production, processing and marketing of fishery and aquaculture products compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union OJ L 369, 24.12.2014, p. 37.

Article 58 and 59 of the Decree Law shall not be combined with other investment aid for the same eligible costs;

- (d) aid granted under Article 60 of the Decree Law may be combined with aid granted under other generally available measures or with aid schemes in the form of employment support measures, provided the total amount of combined aid does not lead to overcompensation of the wage costs of the personnel concerned. Wage subsidies may further be combined with tax deferrals and deferrals of social security payments;
- (e) in order to verify that the aid granted under Articles 54 to 60 of the Decree Law will not exceed the ceilings set by the Temporary Framework, taking into account any other aid, also granted by other authorities, the granting authorities may ask the beneficiary to produce a self-declaration confirming that the total aid received rests below the limits allowed.

## **2.9. Monitoring and reporting**

- (29) The Italian authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework. In particular, they confirm:
  - (a) to publish relevant information on each individual aid granted under the *Regime Quadro* on the comprehensive State aid website or Commission's IT tool within 12 months from the moment of granting<sup>18</sup>;
  - (b) to provide the Commission, by 31 December 2020, with a list of measures put in place on the basis of the Decree Law;
  - (c) to keep detailed records regarding the aid for 10 years from the date at which the aid is granted and commit to provide those records to the Commission upon request. Such records must contain all information necessary to establish that the necessary conditions set out in the Temporary Framework have been observed;
  - (d) to submit annual reports in line with the requirements of the Commission Regulation (EC) No 794/2004<sup>19</sup>.

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<sup>18</sup> Referring to information required in Annex III to Commission Regulation (EU) No. 651/2014 of 17 June 2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III of the Commission Regulation (EU) No 1388/2014 of 16 December 2014. For repayable advances, guarantees, loans, subordinated debt and other forms of aid, the nominal value of the underlying instrument shall be inserted per beneficiary. For tax and payment advantages, the aid amount of the individual aid may be indicated in ranges.

<sup>19</sup> The Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ L 140, 30.4.2004, p. 1–134.

### 3. ASSESSMENT

#### 3.1 Legality of the scheme

- (30) By notifying the scheme before putting it into effect, the Italian authorities have respected their obligations under Article 108(3) TFEU. As indicated in Article 61 of the Decree Law, which entered into force on 19 May 2020, the applicability of Articles 54 to 60 of the Decree Law is suspended until approval by the Commission.

#### 3.2 Existence of State aid

- (31) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (32) The *Regime Quadro* is imputable to the State, since it is administered by the relevant aid granting authorities identified in recital (11). It is financed through State resources, since it is financed by public funds.
- (33) The scheme confers an advantage on its beneficiaries in the form of direct grants, repayable advances, tax and payment advantages, guarantees, loans and equity, guarantees on loans, subsidised interest rates, guarantees and loans channelled through credit institutions or other financial institutions, financing for COVID-19 relevant research and development, investment for testing and upgrading infrastructures, investment for the production of COVID-19 relevant products and wage subsidies for employees. The *Regime Quadro* thus relieves those beneficiaries of costs which they would have had to bear under normal market conditions.
- (34) The advantage granted by the scheme is selective, since it is awarded only to certain undertakings, in particular SMEs and large enterprises and self-employed persons and family businesses engaged in craft or other activities and partnerships or associations regularly engaged in an economic activity, with the exclusion of undertakings of the financial sector.
- (35) The scheme is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (36) In view of the above, the Commission concludes that the *Regime Quadro* constitutes aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

#### 3.3 Compatibility

- (37) Since the *Regime Quadro* involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether it is compatible with the internal market.



- (38) The *Regime Quadro* consists of several measures which have different purposes. It aims at: (i) easing the liquidity constraints of businesses and facilitating the access of firms to external finance at a time when the normal functioning of credit markets is severely disturbed by the COVID-19 outbreak; (ii) enhancing and accelerating COVID-19 relevant research, investment into testing and upscaling infrastructure and the production of COVID-19 relevant products to address the current emergency health crisis; and (iii) preserving employment.
- (39) The Commission will assess the compatibility of these measures pursuant to Article 107(3)(b) and Article 107(3)(c) TFEU.

### *3.3.1 Compatibility of Articles 54, 55, 56 and 60*

- (40) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid “*to remedy a serious disturbance in the economy of a Member State*”.
- (41) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (Section 2) that “*the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings*”. The Commission concluded that “*State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs*”. Furthermore, by amending the Temporary Framework on 3 April 2020, the Commission acknowledged that “*under the current circumstances it is also crucial to preserve employment*”.
- (42) Articles 54, 55, 56 and 60 are thus part of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of measures to support businesses during the COVID-19 outbreak as well as the importance of wage support to preserve employment and economic continuity are widely accepted by economic commentators and these measures are of a scale which can be reasonably anticipated to produce effects across the entire Italian economy. Furthermore, these measures have been designed to meet the requirements of each specific category of aid described in Sections 3.1 to 3.3 and 3.10 of the Temporary Framework, as well as the requirements for aid channelled through credit institutions or other financial institutions described in Section 3.4 of the Temporary Framework.
- (43) The Commission accordingly considers that these measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of Italy and meet all the relevant conditions of the Temporary Framework. In particular:
- For direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity (Article 54 of the Decree Law):*
- (44) The measure meets all the conditions provided for by the Temporary Framework for ‘temporary limited amounts of aid’ in the form of direct grants, tax and payment advantages or other forms such as repayable advances, guarantees, loans and equity:

- The maximum aid amount per undertaking in the notified scheme, with the exception of undertakings in the fishery and aquaculture sector and active in the primary production of agriculture products, will not exceed EUR 800 000, before any deduction of tax or other charges, as explained at recital (18)(a) above. The measure therefore complies with point 22(a) of the Temporary Framework.
- The overall nominal value of the aid does not exceed EUR 120 000 per undertaking active in the fishery and aquaculture sector or EUR 100 000 per undertaking active in the primary production of agricultural products (recital (18)(b)) as laid down in point 23(a) Temporary Framework.
- The measure is granted on the basis of an aid scheme with an estimated budget of EUR 6 billion (recital (18)(c)), hence the condition set out in point 22(b) Temporary Framework is met.
- The measure will be granted no later than 31 December 2020 (recital (18)(d)). For aid in form of tax advantages granted under section 3.1 of the Temporary Framework, the tax liability in relation to which that advantage is granted must have arisen no later than 31 December 2020 (footnote (4)). The measure therefore complies with point 22(d) of the Temporary Framework;
- The measure granted to undertakings active in the processing and marketing of agricultural products is conditional on not being partly or entirely passed on to primary producers and is not fixed on the basis of the price or quantity of products purchased from primary producers or put on the market by the SMEs concerned (recital (18)(e)), hence the measure complies with point 22(e) Temporary Framework.
- Aid to undertakings active in the primary production of agricultural products will not be fixed on the basis of the price or quantity of products put on the market (recital (18)(f)), hence the measure complies with point 23(b) Temporary Framework.
- Aid to undertakings active in the fishery and aquaculture does not concern any of the categories of aid referred to in Article 1, paragraph (1) (a) to (k), of Commission Regulation (EU) No 717/2014 (recital (18)(f)), hence the measure complies with point 23(c) Temporary Framework.
- Where an undertaking is active in several sectors to which different maximum amounts apply in accordance with points 22(a) and 23(a) of Temporary Framework, the Italian authorities will ensure, by appropriate means such as separation of accounts, that for each of these activities the relevant ceiling is respected and the overall maximum amount of EUR 800 000 is not exceeded per undertaking. Where an undertaking is active in the sectors covered by point 23 (a) of the Temporary Framework, the overall maximum amount of EUR 120 000 is not exceeded per undertaking (recital (18)(f)). The measure therefore complies with point 23bis of the Temporary Framework.

- As described in recital (16), aid will not be granted to undertakings that were already in difficulty on 31 December 2019. The measure therefore complies with point 22(c) of the Temporary Framework.
- The applicable cumulation rules are respected (Section 2.8).

For guarantees on loans (Article 55 of the Decree Law):

(45) The measure notified by Italy meets all the conditions provided for by the Temporary Framework under Section 3.2 for guarantees on loans:

- The measure sets minimum levels for guarantee premiums per individual loans which shall increase progressively as the duration of the guaranteed loan increases, per category of borrower (SME or large enterprise), as detailed at recital (19)(a)(19)(a). The measure therefore complies with point 25(a) of the Temporary Framework.
- Guarantees can be granted under the measure by 31 December 2020 at the latest (recital 0). The measure therefore complies with point 25(c) of the Temporary Framework.
- The overall amount of loans per beneficiary is limited in line with point 25(d) (i) or (ii) of the Temporary Framework. The measure therefore complies with point 25(d) of the Temporary Framework.
- The measure limits the duration of the guarantees to a maximum six years (recital (19)(d)). Moreover, those public guarantees may not exceed the thresholds set out in point 25(f) of the Temporary Framework. Those guarantees cover only up to 90% of the loan principal if losses stemming from the loans are sustained proportionally and under the same conditions by the credit institutions and the State. Where losses are first attributed to the State and only then to the credit institutions (i.e. a first-loss guarantee), the guarantees cover up to 35% of the loan principal. In both cases, when the size of the loan decreases over time, the guaranteed amount decreases proportionally (recital (19)(d)). The measure therefore complies with point 25(f) of the Temporary Framework.
- Guarantees granted under the measure relate to investment and working capital loans (recital (19)(e)). The measure therefore complies with point 25(g) of the Temporary Framework.
- The mobilisation of the guarantees is contractually linked to specific conditions which have to be agreed between the parties when the guarantee is initially granted (recital (19)(h)).
- As described in recital (16), aid may not be granted to undertakings that were already in difficulty on 31 December 2019. The measure therefore complies with point 25(h) of the Temporary Framework.
- The applicable cumulation rules are respected (Section 2.8).

For subsidised interest rates for loans (Article 56 of the Decree Law):

- (46) The measure notified by Italy meets all the conditions provided for by Section 3.3 of the Temporary Framework for subsidised interest rates for loans:
- The applicable interest rates are equal to the base rate of -31 basis points (1-year IBOR or equivalent as published by the Commission)<sup>20</sup> applicable on 1 January 2020 plus a credit margin as set out in the table in point 27(a) of the Temporary Framework (recital (20)(a)). The minimum all-in interest rate (base rate plus the credit risk margins) is at least 10bps per year. The measure therefore complies with point 27(a) of the Temporary Framework.
  - The loan contracts are signed by 31 December 2020 at the latest and are limited to maximum 6 years (recital (20)(d)). The measure therefore complies with point 27(c) of the Temporary Framework.
  - The overall amount of loans per beneficiary is limited in line with point 27(d) (i) or (ii) of the Temporary Framework (recital (20)(e)). The measure therefore complies with point 27(d) of the Temporary Framework.
  - The loans relate to investment and working capital needs (recital (20)(c)). The measure therefore complies with point 27(f) of the Temporary Framework.
  - As described in recital (16), aid may not be granted to undertakings that were already in difficulty on 31 December 2019. The measure therefore complies with point 27(g) of the Temporary Framework.
  - The applicable cumulation rules are respected (Section 2.8).

*Specific rules for aid channelled through financial intermediaries:*

- (47) Articles 55 and 56 introduce safeguards in relation to the possible indirect aid in favour of credit institutions or other financial institutions. In particular, mechanisms are put in place in order to ensure that the benefits channelled through them are passed, to the largest extent possible, to the final beneficiaries (Section 2.7.4). Those mechanisms are:
- all credit and financial institutions may act as intermediary in granting the aid, ensuring competition between financial intermediaries;
  - administrative costs shall be charged at no more than the normal level;
  - in the interest of the beneficiary, the advantage for the beneficiary as well as the reduced risk for the credit or financial institution shall be reflected in higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates;
  - when the aid is granted in the form of a loan guarantee, in order to ensure that interest rates of new guaranteed loans and of existing loans subject to

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<sup>20</sup> Base rates calculated in accordance with the Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.01.2008, p. 6).

a new guarantee reflect the reduced risk, the interest rate shall be set or adjusted at the interest rate of a comparable loan within the same risk category and for the same size of company, minus an appropriate rebate.

Therefore, these measures comply with Section 3.4 of the Temporary Framework.

*For aid in form of wage subsidies for employees to avoid lay-offs during the COVID-19 outbreak (Article 60 of the Decree Law):*

- (48) The measure meets all the conditions provided for by Section 3.10 of the Temporary Framework for aid in form of wage subsidies for employees to avoid lay-offs during the COVID-19 outbreak:
- As described in recital 25(a), the aid is aimed at avoiding lay-offs during the COVID-19 outbreak. The measure therefore complies with point 43(a) of the Temporary Framework.
  - As described in recital 25(b), the aid is granted in the form of schemes to undertakings in specific sectors that are particularly affected by the COVID-19 outbreak. The measure therefore complies with point 43(b) of the Temporary Framework.
  - As described in recital 25(c), the wage subsidies are granted for employees that would otherwise have been laid off as a consequence of the suspension or reduction of business activities due to the COVID-19 outbreak over a period of not more than twelve months. The twelve months are calculated from the date of the application for aid or from an earlier date. The subsidy can be granted for periods as of 1 February 2020. The Commission considers that the COVID-19 outbreak started in Italy already in February, hence Italy has started suffering an adverse economic impact already at that time. Therefore, it is acceptable to apply this measure from the date when the disturbance or containment measure related to the COVID-19 outbreak hit the country. The measure therefore complies with point 43(c) of the Temporary Framework.
  - As described in recital 25(e), the monthly wage subsidy shall not exceed 80% of the monthly gross salary (including employer's social security contributions) of the benefitting personnel. The measure therefore complies with point 43(d) of the Temporary Framework.
  - The applicable cumulation rules are respected (Section 2.8).
- (49) Lastly, for all these measures the Italian authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (Section 2.9).

### *3.3.2 Compatibility of Articles 57, 58 and 59*

- (50) Pursuant to Article 107(3)(c) TFEU, the Commission may declare compatible with the internal market “*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*”.

- (51) By amending the Temporary Framework on 3 April 2020, the Commission acknowledged the need to take specific temporary measures enabling Member States to address the health crisis caused by the COVID-19 outbreak. The Commission considered that “*beyond ensuring access to liquidity and finance, it is also essential to facilitate COVID-19 relevant research and development, to support the construction and upgrade of testing facilities of COVID-19 relevant products, as well as the setting up of additional capacities for the production for products needed to respond to outbreak*”.
- (52) Articles 57, 58 and 59 aim at facilitating COVID-19 related research and the production of COVID-19 relevant products to address the current emergency health crisis. These measures have been designed to meet the requirements of the specific categories of aid described in Sections 3.6, 3.7 and 3.8 of the Temporary Framework.
- (53) The Commission accordingly considers that these measures contribute to the achievement of a common objective of crucial importance, is appropriate and necessary to address the health crisis. In particular:

*For aid for COVID-19 relevant research and development (Article 57 of the Decree Law):*

- (54) The measure meets all the conditions provided for by Section 3.6 of the Temporary Framework for COVID-19 relevant research and development:
- Aid granted under this element of the measure is limited to the eligible research areas listed in point 35 of the Temporary Framework (recital (22)(a)).
  - As described in recital (22)(b), the aid shall be granted in the form of direct grants, repayable advances or tax advantages. The measure therefore complies with point 35(a) of the Temporary Framework.
  - As described in recital (22)(d), eligible costs may refer to all the costs necessary for the R&D project during its duration, including amongst others, personnel costs, costs for digital and computing equipment, for diagnostic tools, for data collection and processing tools, for R&D services, for pre-clinical and clinical trials (trial phases I-IV), for obtaining, validating and defending patents and other intangible assets, for obtaining the conformity assessments and/or authorisations necessary for the marketing of new and improved vaccines and medicinal products, medical devices, hospital and medical equipment, disinfectants, and personal protective equipment; phase-IV trials are eligible as long as they allow further scientific or technological advance. Eligible costs are therefore defined in accordance with point 35(c) of the Temporary Framework. All costs necessary for the duration of the R&D aided project are eligible for aid under the measure. As described in recital (22)(c), for projects started before 1 February 2020, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid under the measure, in line with point 35(b) of the Temporary Framework.

- As described in recital (22)(g), the aid intensity for each beneficiary may cover 100% of eligible costs for fundamental research and shall not exceed 80% of eligible costs for industrial research and experimental development. The measure therefore complies with point 35(d) of the Temporary Framework.
- As described in recital (22)(h), the aid intensity for industrial research and experimental development can be increased by 15 percentage points, if more than one Member State supports the research project, or it is carried out in cross-border collaboration with research organisations or other undertakings. The measure therefore complies with point 35(e) of the Temporary Framework.
- As described in recital (22)(i), the aid beneficiaries must commit to grant non-exclusive licences under non-discriminatory market conditions to third parties in the EEA. The measure therefore complies with point 35(g) of the Temporary Framework.
- As described in recital (16), aid may not be granted to undertakings that were already in difficulty on 31 December 2019. The measure therefore complies with point 35(h) of the Temporary Framework.
- The applicable cumulation rules are respected (Section 2.8). In particular, the aid granted may be combined with support from other sources for the same eligible costs, provided the total combined amount of aid does not exceed the aid ceilings laid down in points 35(d) and (e) of the Temporary Framework.

*For aid for testing and upscaling infrastructures (Article 58 of the Decree Law):*

- (55) The measure meets all the conditions provided for by Section 3.7 of the Temporary Framework for testing and upgrading infrastructures:
- As described in recital (23)(a), the aid is limited to the construction or upgrade of testing and upscaling infrastructures required to develop, test and upscale, up to first industrial deployment prior to mass production, COVID-19 relevant medicinal products (including vaccines) and treatments, their intermediates, active pharmaceutical ingredients and raw materials; medical devices, hospital and medical equipment (including ventilators and protective clothing and equipment as well as diagnostic tools) and necessary raw materials; disinfectants and their intermediary products and raw chemical materials necessary for their production; as well as data collection/processing tools. The measure therefore complies with point 37(a) of the Temporary Framework.
  - As described in recital (23)(b), aid will be granted in the form of direct grants, tax advantages or repayable advances by 31 December 2020. The measure therefore complies with point 37(b) of the Temporary Framework.
  - As described in recital (23)(c), for investment projects started as of 1 February 2020, the aid is deemed to have an incentive effect; for projects started before 1 February 2020, the aid is deemed to have an incentive

effect, if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid. The measure therefore complies with point 37(c) of the Temporary Framework.

- As described in recital (23)(d), investment projects shall be completed within six months after the date of granting the aid. An investment project is considered completed when it is accepted by the national authorities as completed. Where the six-month deadline is not met, per month of delay, 25% of the amount of aid awarded in form of direct grants or tax advantages shall be reimbursed, unless the delay is due to factors outside the control of the aid beneficiary. Where the deadline is respected, aid in the form of repayable advances is transformed into grants; if not, the repayable advance is reimbursed in equal annual instalments within five years after the date of granting the aid. The measure therefore complies with point 37(d) of the Temporary Framework.
- As described in recital (23)(e), eligible costs will be the investment costs necessary for setting up the testing and upscaling infrastructures required to develop the items listed in point 37(a) of the Temporary Framework, as set out above. The aid intensity shall not exceed 75% of the eligible costs. The measure therefore complies with point 37(e) of the Temporary Framework.
- As described in recital (23)(f), the maximum allowable aid intensity of the direct grant or tax advantage may be increased by an additional 15 percentage points, either if the investment is concluded within two months after the date of application for the direct grant or tax advantage, or if the support comes from more than one Member State. If the aid is granted in form of a repayable advance, and the investment is completed within two months, or if the support comes from more than one Member State, an additional 15 percentage points can be granted. The measure therefore complies with point 37(f) of the Temporary Framework.
- As described in recital (23)(h), a loss cover guarantee may be granted in addition to a direct grant, tax advantage or repayable advance, or as an independent aid measure. The loss cover guarantee shall be issued within one month after the undertaking applied for it; the amount of loss to be compensated is established five years after completion of the investment. The compensation amount is calculated as the difference between sum of investment costs, reasonable profit of 10% p.a. on the investment cost over five years, and operating cost on the one hand, and the sum of the direct grant received, revenues over the five year period, and the terminal value of the project, on the other. The measure therefore complies with point 37(h) of the Temporary Framework.
- As described in recital (23)(i), the prices charged for the services provided by the testing and upscaling infrastructure shall correspond to the market price. The measure therefore complies with point 37(i) of the Temporary Framework.



- As described in recital (23)(j), the testing and upscaling infrastructures shall be open to several users and access shall be granted on a transparent and non-discriminatory basis. Undertakings which have financed at least 10 % of the investment costs may be granted preferential access under more favourable conditions. The measure therefore complies with point 37(j) of the Temporary Framework.
- As described in recital (16), aid may not be granted to undertakings that were already in difficulty on 31 December 2019. The measure therefore complies with point 37(k) of the Temporary Framework.
- The applicable cumulation rules are respected (Section 2.8).

*For aid for the production of COVID-19 relevant products (Article 59 of the Decree Law):*

(56) The measure meets all the conditions provided for by Section 3.8 of the Temporary Framework for aid for the production of COVID-19 relevant products:

- As described in recital 24(a), the investment aid granted is limited to the production of COVID-19 relevant products such as medicinal products (including vaccines) and treatments, their intermediates, active pharmaceutical ingredients and raw materials; medical devices, hospital and medical equipment (including ventilators, protective clothing and equipment as well as diagnostic tools) and necessary raw materials; disinfectants and their intermediary products and raw chemical materials necessary for their production; data collection/processing tools. The measure therefore complies with point 39(a) of the Temporary Framework.
- As described in recital 24(b), the aid will be granted in the form of direct grants, tax advantages or repayable advances by 31 December 2020. The measure therefore complies with point 39(b) of the Temporary Framework.
- As described in recital 24(c), for projects started as of 1 February 2020, the aid is deemed to have an incentive effect; for projects started before 1 February 2020, the aid is deemed to have an incentive effect, if the aid is necessary to accelerate or widen the scope of the project. In such cases, only the additional costs in relation to the acceleration efforts or the widened scope shall be eligible for aid. The measure therefore complies with point 39(c) of the Temporary Framework.
- As described in recital 24(d), the investment project will be completed within six months after the date of granting the aid. An investment project is considered completed when it is accepted by the aid granting authorities as completed. Where the six-month deadline is not respected, 25% of the amount of aid awarded in form of direct grants and tax advantages will be reimbursed, per month of delay, unless the delay is due to factors outside the control of the aid beneficiary. Where the deadline is respected, aid in the form of repayable advances is transformed into grants; if not, the repayable advance is reimbursed in equal annual instalments within five

years after the date of granting the aid. The measure therefore complies with point 39(d) of the Temporary Framework.

- As described in recital 24(e), eligible costs relate to all investment costs necessary for the production of the products listed in point 39(a) of the Temporary Framework and to the costs of trial runs of the new production facilities. The aid intensity shall not exceed 80% of the eligible costs. The measure therefore complies with point 39(e) of the Temporary Framework.
  - As described in recital 24(f), the maximum allowable aid intensity of the direct grant or tax advantage may be increased by an additional 15 percentage points, either if the investment is concluded within two months after the date of application for the direct grant or tax advantage, or if the support comes from more than one Member State. If the aid is granted in the form of a repayable advance, and the investment is completed within two months, or if the support comes from more than one Member State, an additional 15 percentage points may be granted. The measure therefore complies with point 39(f) of the Temporary Framework.
  - As described in recital 24(g), the loss cover guarantee will be issued within one month after the undertaking has applied for it; the amount of loss to be compensated is established five years after completion of the investment. The compensation amount is calculated as the difference between sum of investment costs, reasonable profit of 10% p.a. on the investment cost over five years, and operating cost on the one hand, and the sum of the direct grant received, revenues over the five year period, and the terminal value of the project. The measure therefore complies with point 39(h) of the Temporary Framework.
  - As described in recital (16) aid may not be granted to undertakings that were already in difficulty on 31 December 2019. The measure therefore complies with point 39(i) of the Temporary Framework.
  - The applicable cumulation rules are respected (Section 2.8).
- (57) Lastly, for all these measures the Italian authorities have confirmed that they will respect the monitoring and reporting rules laid down in Section 4 of the Temporary Framework (Section 2.9).

### 3.3.3 Conclusions

- (58) In light of all the above, the Commission considers that the different measures of the *Regime Quadro* comply with the compatibility conditions laid down in the Temporary Framework. As concerns Articles 54, 55, 56 and 60 of the Decree Law, the Commission considers that these measures are necessary, appropriate and proportionate to remedy a serious disturbance in the economy of Italy pursuant to Article 107(3)(b) TFEU, since they meet all the relevant conditions of the Temporary Framework. Regarding Articles 57, 58 and 59 of the Decree Law, the Commission has taken due consideration of the common objective pursued by these measures and its positive effects on tackling the health crisis provoked by the COVID-19 outbreak when balancing those effects against the potential negative effects of these measures on the internal market, pursuant to Article

107(3)(c) TFEU. The Commission concludes that those positive effects of these measures outweigh its potential negative effects on competition and trade.

#### **4. COMPLIANCE WITH INTRINSICALLY LINKED PROVISIONS OF DIRECTIVE 2014/59/EU AND REGULATION (EU) 806/2014**

- (59) Without prejudice to the possible application of Directive 2014/59/EU on bank recovery and resolution (“BRRD”)<sup>21</sup> and of Regulation (EU) 806/2014 on the Single Resolution Mechanism (“SRMR”),<sup>22</sup> in the event that an institution benefiting from the measures meets the conditions for the application of that Directive, the Commission notes that the notified measures do not appear to violate intrinsically linked provisions of the BRRD and the SRMR.
- (60) In particular, aid granted by Member States to non-financial undertakings as final beneficiaries under Article 107(3)(b) TFEU in line with the Temporary Framework, which is channeled through credit institutions or other financial institutions as financial intermediaries, may also constitute an indirect advantage to those institutions.<sup>23</sup> Nevertheless, any such indirect aid granted under Articles 55 and 56 does not have the objective of preserving or restoring the viability, liquidity or solvency of those institutions. The objective of these measures is to remedy the liquidity shortage faced by undertakings that are not financial institutions and to ensure that the disruptions caused by the COVID-19 outbreak do not undermine the viability of such undertakings, especially of SMEs. As a result, aid granted under these measures does not qualify as extraordinary public financial support under Art. 2(1) No 28 BRRD and Art. 3(1) No 29 SRMR.
- (61) Moreover, as indicated in recital (21) above, these measures introduces safeguards in relation to any possible indirect aid in favour of the credit institutions or other financial institutions to limit undue distortions to competition. Such safeguards ensure that those institutions, to the largest extent possible, pass on the advantages provided by the measures to the final beneficiaries.
- (62) The Commission therefore concludes that the *Regime Quadro* does not violate any intrinsically linked provisions of the BRRD and the SRMR.

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<sup>21</sup> OJ L 173, 12.6.2014, p. 190-348.

<sup>22</sup> OJ L 225, 30.7.2014, p. 1-90.

<sup>23</sup> Points 6 and 29 of the Temporary Framework.

## **5. CONCLUSION**

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

Yours faithfully,

For the Commission

Margrethe VESTAGER  
Executive Vice-President

**CERTIFIED COPY**  
For the Secretary-General,

**Jordi AYET PUIGARNAU**  
Director of the Registry  
**EUROPEAN COMMISSION**