# COMMISSION DECISION

## of 2 March 1988

## on Law No 64 of 1 March 1986 on aid to the Mezzogiorno

**(Only the Italian text is authentic)**

(88/318/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first subparagraph of Article 93 (2) thereof,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables [1], as last amended by Regulation (EEC) No 223/88 [2], and in particular Article 31 thereof, and to the corresponding provisions of the other Regulations on the common organization of the markets in agricultural products,

Having given the Parties an opportunity to submit their comments in accordance with Article 93,

Whereas :

I

1. By letter dated 2 May 1986 the Italian Government notified to the Commission a new aid scheme for the Mezzogiorno for the nine-year period 1985 to 1993. The scheme, contained in Law No 64 of 1 March 1986, maintains and increases the aid available under the previous legislation (Presidential Decree No 218 of 6 March 1978) and retains the area coverage of the previous scheme. Under the new scheme, which the Commission understands has not yet been introduced, aid for industrial investment and research is increased, while new aid for services and for innovation by small and medium-sized firms is introduced. The previous relief from social security contributions is continued while certain tax concessions are increased. New State guarantees are to be available for short-term credit extended to cooperatives and small and medium-sized enterprises and for credit given by industrial firms on exports, the latter including exchange risk cover. Bond issues floated by banks authorized to operate in the Mezzogiorno are eligible for subsidies, while the provisions for preferential treatment of local companies in the award of public contracts are reinforced. Firms in Sardinia will receive a 30 % reduction in air, rail and sea freight rates, and reduced rail tariffs will be available for the transport of agricultural products from other parts of the Mezzogiorno. Finally, the normal VAT refund is increased by 4 % on capital goods imported or acquired by industrial firms for use in their business.

It is planned to vary the intensity of the aid according to the economic situation measured down to province level. For this purpose the Italian authorities used a composite index composed of six indicators. As a result three zones were defined : zone (A), the least developed, holding 25 % of the population of the Mezzogiorno, zone (B), intermediate holding 61 % of the population, and zone (C), the most developed, holding 14 %. The latter zone comprises the provinces of Frosinone, Latina, Rieti, Rome (Lazio), Ascoli-Piceno (Marche), Chieti, Aquila, Pescara, Teramo (Abruzzo) and Taranto (Puglia). The Italian Government informed the Commission of its intention of offering a two-fifths higher grant rate in zone (A) and a one-fifth higher rate in zone (B), leaving zone (C) at the standard rate. This would mean maximum rates in zones (A), (B) and (C) of 73,78 %, 66,4 % and 59,02 % net grant equivalent (nge) respectively.

II

2. The Commission carried out a preliminary examination of the scheme contained in Law 64/86 and Decree 218/78 pursuant to Article 92 (3) of the EEC Treaty. On 28 April 1987 it decided to initiate the Article 93 (2) procedure against parts of the scheme, but by Decision of 30 April 1987 authorized the implementation of the other parts, including those pursuant to Law 64/86, in most areas of the Mezzogiorno. It informed the Italian Government by letter of 30 April 1987 and the Governments of the other Member States by letters of 21 September 1987, inviting observations. In accordance with Article 93 (2), a notice to interested third parties was also published in the *Official Journal of the European Communities* [3].

The Article 93 (2) procedure was initiated for all parts of the Mezzogiorno against the subsidiary guarantees of export credits, reductions in the cost of transporting agricultural products from the Mezzogiorno and relief of social security contributions for food processors provided for by Law 64/86 and Decree 218/78.

[1] OJ No L 118, 20. 5. 1972, p. 1.
[2] OJ No L 23, 28. 1. 1988, p. 1.
[3] OJ No C 259, 29. 9. 1987, p. 2.

3. The Commission was unable to assess whether the funds planned to assist innovation by small and medium-sized firms were compatible with the common market, since detailed provisions giving effect to Article 12 (5) of the Law had not been adopted. The Commission also reserved judgment on the proposals to reserve quotas of public purchasing contracts for firms located in the Mezzogiorno and to provide exchange risk cover for exports, since these issues are currently being studied in a Community context. As regards VAT, the Commission reserved the right to examine in consultation with the Italian authorities the technical details of the concession in the light of the provisions of the Sixth VAT Directive and the collection of own resources.

The Commission noted, however, that zones (A) and (B), and the province of Taranto in zone (C), could be considered as experiencing abnormally low living standards or suffering from serious underemployment and that therefore assistance to them could be accepted pursuant to Article 92 (3) (a).

On the other hand, investment aid exceeding 30 % in the provinces of Frosinone, Pescara and Chieti was unacceptable pursuant to Article 92 (3) (c), as was the proposed operating aid such as exemption from company taxation and relief from social security contributions in these provinces. Finally, the continuation of regional aid in any form in the provinces of Ascoli-Piceno, Rieti, Rome, Latina, Aquila and Teramo could not be justified at all pursuant to Article 92 (3) (c).

4. The Law extends and allocates fresh funds for the nine-year duration of the Law to the scheme for partial relief of employers' contributions to the national social security institute for their employees' pensions. The relief is available to all industrial and service enterprises in the Mezzogiorno in any sector, including firms processing agricultural products.

The Law also provides for subsidies towards the cost of transporting raw materials including agricultural products to and from Sardinia (Article 17 (11) and (12)). It also subsidizes tariffs for the transport of agricultural products from parts of the Mezzogiorno (Article 17 (13)). The first measure involves a 30 % reduction in rail, sea and air freight rates, the second a 20 % reduction in rail tariffs.

III

One other Member State and 145 interested parties made submissions to the Commission during the proceedings.

IV

1. The aid for investment in industry and services and for research and the other aid provided for in Law 64/86 and Decree 218/78 fall within the scope of Article 92 (1) of the EEC Treaty.

The aid is given to firms undertaking eligible types of investment in the Mezzogiorno. It favours such firms insofar as it is not available for similar investment outside this area.

The aid distorts competition by increasing the recipient's return on his investment compared with competitors who do not receive it.

The maximum rates of aid for industry are 73,78 %, 66,4 % and 59,02 % nge in the three areas, for services (sales) they are 44,88 %, 39,84 % and 34,79 % nge, and for services (purchases) 50 % nge, and for research the maximum rate is 76 % nge. A reduction in the cost of investment by such margins makes the investment artificially more profitable for the aided firm than for its unaided competitors and competition is likely to be distorted.

The aid concerned in the present case also affects trade between Member States. Although in assessing the impact of the aid it is not possible to say exactly where the recipients' markets are, since the prospective recipients are not known, the statistics available on imports and exports from NUTS (Nomenclature of territorial units for statistical purposes) level III areas show that a large though variable percentage of goods produced in such areas are exported to other Member States. Intra-Community trade is also affected whenever aid subsidizes national production at the expense of imports from the other Member States.

The aid is designed to encourage firms to invest in the assisted areas and is therefore likely to affect trade between Member States and to distort competition. Taking into account the characteristics of the scheme and in particular the high absolute amounts and percentages of aid available, it gives the beneficiaries a considerable advantage over their competitors and may also benefit big firms that export at least part of their output to other Member States.

Trade is also affected by the influence which the aid has on the location decisions of aided firms. Insofar as the aid induces firms to choose a location in the assisted areas or to relocate from one Member State to another, the production at, and the supply of output from, the new location changes trade patterns between Member States.

As shown above, the aid strengthens the financial position of recipients compared with their competitors. When intra-Community trade is involved, it must be regarded as affected by the aid. The aid therefore falls within the scope of Article 92 (1).

2. As the aid to be provided under the scheme in the Mezzogiorno of Italy is regional in character, the Commission can authorize it only in so far as it meets the conditions for exemption from the prohibition of State aid laid down in Article 92 (3) (a) or (c). These require that the aid should serve specified Community objectives rather than simply serving the interests of the Member State or the aid recipient. The exemptions must be strictly construed when scrutinizing aid schemes or individual aid awards.

In particular, they may be applied only when the Commission is satisfied that market forces alone would be insufficient to lead the recipients towards behaviour that would serve one of the objectives specified in the exemption clauses specified in Article 92.

To invoke the exemptions in cases where is no such causal link would be to allow trading conditions between Member States to be affected and competition to be distorted without any compensating benefit to the Community.

In applying the principles set out above in its scrutiny of regional aid schemes, the Commission must satisfy itself that the regions concerned are suffering from problems which are serious enough, in comparison with the situation in the rest of the Community, to justify the grant of aid at the level proposed. The scrutiny must show that the aid is necessary to achieve objectives specified in Article 92 (3) (a) or (c). The Commission's discretion in this area involves the making of economic and social assessments in a Community context.

3. The exemption provided for in Article 92 (3) (a) is applicable to aid which promotes the economic development of areas where the standard of living is abnormally low or where there is serious underemployment. To assess whether this is the case, the Commission has developed a method which was made available to the Italian authorities during the proceedings. The Commission considers that the standard of living is abnormally low or there is serious underemployment in regions where a majority of level III areas within the level II region have a GDP/PPS (purchasing power standard) of 75 or under on the Community index.

A distinction can be made between aid conditional on initial investment and that without any direct link to such investment, in other words operating aid. In general, the Commission does not authorize operating aid because of its distorting effect. However, in the most disadvantaged regions of the Community falling within Article 92 (3) (a), it considers that, in certain well-defined circumstances, and provided the aid is limited in time, certain types of operating aid may assist development.

The types of operating aid provided by Law 64/86 fulfil this criterion and can therefore be accepted in those regions where Article 92 (3) (a) is applicable. This applies in particular to the relief from social security contributions (Article 59 of Decree 218/78), the tax concessions pursuant to Articles 101 to 105 of Decree 218/78 and Article 14 (5) of Law 64/86, the State guarantees (Articles 15 (5) and 17 (5) of Law 64/86) and assistance with transport costs for firms located in Sardinia (Article 17 (11) and (12) of Law 64/86.

The aid for investment in industry (Article 9 of Law 64/86), services (Article 12) and research (Article 12 (13)) referred to in point 1, have a maximum intensity which may be calculated in advance. However, this is not so for other aid for investment, such as the VAT refund (Article 14 (3)), the exemption from local income tax (ILOR) on declared profits reinvested in the Mezzogiorno (Article 14 (4)) and the subsidies for bond issues (Article 10). As a result, the total amount of aid for a given investment cannot be evaluated in advance. The Italian authorities must therefore take all necessary measures to ensure that the maximum aid intensity allowed by the Commission under the principles for coordination of regional aid [1] is in no circumstance exceeded, and must be required to inform the Commission of the measures taken.

The Italian authorities have assured the Commission that all the aid conditional on initial investment fulfils the criteria specified in point 18 of the coordination principles.

The GDP data available when the Commission opened proceedings (for 1983) showed two of the four level III areas in Abruzzi as lying above the 75 threshold level for classification as eligible for Article 92 (3) (a). On the basis of 1985 figures produced during the proceedings, however, three of the four areas fail to reach the threshold. The Commission concludes that, as the situation has apparently deteriorated in the region, it is possible to consider the four provinces of Aquila, Teramo, Pescara and Chieti to be eligible, at least for the time being, for aid under Article 92 (3) (a). The aid referred to in paragraph 1 above may therefore be authorized in these areas. The Commission will review the situation in the Abruzzi region by the end of 1990.

[1] OJ No C 31, 3. 2. 1979, p. 9.

As far as the other provinces of Ascoli-Piceno, Rieti, Rome, Latina and Frosinone are concerned, the 1985 figures confirm the view taken by the Commission when it opened proceedings that the criteria of Article 92 (3) (a) are not fulfilled.

4. The exemption provided for in Article 92 (3) (c) is applicable to aid which facilitates the development of certain economic areas without at the same time adversely affecting trading conditions to an extent contrary to the common interest.

The effect on trading conditions caused by regional aid can be regarded as not being contrary to the common interest where it can be shown that the aided region suffers from difficulties that are relatively severe by Community standards, that without the aid market forces would not eliminate these diffiulties, and that the grant of aid does not unduly distort competition in particular sectors.

Therefore when assessing the compatibility of regional aid pursuant to Article 92 (3) (c), the Commission takes account both of any serious disparities existing between regions of the same country and of the social and economic situation in the regions concerned compared to the rest of the Community.

For this purpose, the Commission has developed a method of determining, for each Member State, threshold levels of structural unemployment and *per capita* gross domestic product from which, in principle, regional aid can be deemed acceptable. The method was made available to the Italian authorities in the course of the proceedings. The thresholds for a given Member State are decided in the light of its relative position in comparison with Community average. The thresholds are therefore more restrictive for more developed Member States. For Italy, they are currently 85 % of the national average *per capita* GDP and 116 % of the national average unemployment rate.

In stage two of its scrutiny, the Commission checks the results obtained from applying the thresholds against evidence of other relevant indicators presented by the Member State or interested parties or already known to the Commission.

5. It was found that the NUTS level III area Frosinone had an unemployment rate above the threshold of 116 %. To decide what rate of aid was justified in this area, average GDP and structural unemployment in the area was compared with those in level III areas in France and the United Kingdom where the Commission had accepted the highest aid intensity allowed pursuant to Article 92 (3) (c) and with those in the provinces of the Centre-North of Italy. The Commission found no justification for aid above 30 % nge, the maximum provided for in point 2 (ii) of the coordination principles.

6. The level III areas of Ascoli-Piceno, Rieti, Rome, Latina were found to have *per capita* GDP above 85 % of the national average and unemployment rates below 116 % of the national average. As the areas did not fulfil the basic criteria, the Commission examined other economic data to assess whether they could nevertheless be deemed eligible for regional aid pursuant to Article 92 (3) (c). Their GDP and unemployment rates were compared with those in provinces ofthe Centre-North and with those in level III areas in other Member States where the Commission had authorized regional aid. The Commission also examined evidence of the following indicators presented by the Italian authorities : changes in resident population, net migration, population density, activity rate (active population/resident population), changes in the levels of employment and unemployment, youth unemployment, number of income supplement claimants, potential unemployment, labour force forecasts, GDP per employee, active population by economic sector, agricultural and manufacturing employment, industrialization, employment in the advanced technology industries, services dependent upon specific industries, management services, growth of investment, degree of internationalization of the economy, infrastructure provision, commercial interest rates. The comparisons and evaluation of these data did not lead the Commission to change its initial view at the opening of the proceedings that regional aid was not justified in the areas. Therefore, all aid provided for by Law 64/86 and Decree 218/78 in the provinces of Ascoli-Piceno, Rieti, Rome and Latina must be deemed incompatible with the common market and ineligible for exemption pursuant to paragraphs (a) or (c) of Article 92. This conclusion was communicated to the representatives of the Italian Government at two meetings held on 30 November and 16 December 1987.

7. The Italian authorities have objected that the Commission has failed to take into account the great variation in conditions within each province ; this means that some areas certainly do suffer from an abnormally low standard of living or serious underemployment. In reply to this objection it must be said that, for assessing the social and economic situation of regions, the NUTS level III areas used by the Commission are the smallest of the three units agreed upon between Eurostat and the Member States to serve as a uniform reference framework for regional statistics. In Italy, the level III unit is the province, and it is this which the Italian authorities themselves used to divide the Mezzogiorno into the three zones of less, intermediate and more-developed regions.

The Italian authorities also stated that the provinces at issue have not reached the level of development where they can sustain their economic growth without aid and that the economic gap between them and the Centre-North has not yet been closed. Moreover, most of the investment decisions affecting them are taken outside the region.

The provinces are also, the Italian authorities claim, those where the first industrialization the Mezzogiorno took place, so that now they have the problem of replacing the plant and equipment installed 10 to 15 years ago to introduce new technology. This requires a high level of investment which firms located in the provinces cannot afford. The investments planned on a medium to long-term basis are threatened by lack of funds, and if they cannot go ahead economic decline and, in the worst case, the bankruptcy of many firms unable to face competition will result.

The Commission does not accept this argument. Firms in the five provinces of Marche and Lazio have in the past received a significant percentage of the total aid available under the various laws for developing the Mezzogiorno. As a result the provinces have outperformed in terms of economic growth all other parts of the Mezzogiorno and the economic evidence shows that they have reached a level of development on a par with that in the Centre. Accordingly, firms undertaking new investment in the areas should face the same conditions as in the Centre. As regional aid has no longer been available in the Centre-North since 1 January 1988, this should also be the case in these areas.

Furthermore, between Rome and Naples lies the biggest concentration of industry in the whole of the Mezzogiorno with many companies, particularly State-owned, having their headquarters there.

The Italian authorities argue that the industrial base of the region consists mainly of small to medium-sized firms in mature industries which are vulnerable to foreign competition, especially from Spain and Portugal. Without aid for the services sector, the process of replacing obsolete activities and introducing technological innovation and new industry would come to a halt.

The Commission would point out that the economy of the Centre-North also has this structure. There, decentralization and a swing away from vertical integration have produced a new pattern of industry based on smaller units. This phenomenon is not found in other parts of the Mezzogiorno, where there has been a loss of employment in small to medium firms and an increase in big firms. Furthermore, the Commission has introduced integrated Mediterranean programmes in Marche, Lazio and Abruzzi which aim at aiding in particular small to medium-sized firms and the service sector. For these reasons the Commission therefore maintains its position that national regional aid in these areas is not justified (see point 3 above).

8. As for the subsidiary State guarantee for credit extended by industrial companies to overseas customers, including firms in other Member States, in the event of their default (Article 15 (5) of Law 64/86), the Commission considers this measure to be incompatible with the common market. The Commission has always taken this view because such aid has a direct adverse effect on trade between Member States and particularly distorts competition. For this reason it is ineligible for exemption pursuant to paragraphs (a) and (c) of Article 92. This applies to all provinces of the Mezzogiorno.

9. Regarding the proposed funds to assist innovation by small and medium-sized firms (Article 12 (4) of Law 64/86), the Commission is not yet able to assess whether they are compatible with the common market as the relevant implementing provisions have not yet been adopted. The Commission will define its position on the proposal when the provisions have been notified. The Commission also reserves judgment on the provisions concerning public contracts (Article 17 (14) to (17) of Law 64/86) and exchange risk cover (Article 17 (5) of Law 64/86).

After examination, the Commission considers that the VAT refund provision (Article 14 (3) of Law 64/86) does not infringe the Sixth VAT Directive or the Regulations on the Community's own resources.

10. With regard to the subsidization of transportation costs for agricultural products provided for by Law 64/86, the Italian authorities contend that the measures do not affect competition and trade since they are aimed solely at compensating for the disadvantages suffered by the Mezzogiorno owing to its distance from markets and at developing the major industry in this part of Italy. The fact that this type of measure is not prohibited by the Commission for non-agricultural products not mentioned in Annex II of the Treaty is an indication of its marginal effect on competition. As for the relief from social security contributions pursuant to Decree 218/78, the Italian authorities argue that it is not a selective but a universal measure, as it applies to all industrial, craft and agricultural businesses in the Mezzogiorno.

In the view of the Commission, such measures represent a form of operating aid to the recipients which, thanks to the aid, are able to sell their output on the domestic market and on other Member States' markets at lower prices than would otherwise be possible. They therefore distort competition between agricultural producers and food processors in Italy and in Member States which do not have such schemes.

11. Nevertheless, the relief from social security contributions granted to food processors, representing as it does less than 4 % of the total cost of the scheme for all industry, must be regarded as an integral part of the scheme and should therefore not be prohibited in order to ensure equal treatment with other sectors of industry. This is, however, without prejudice to the Commission's position the selective or universal nature of the scheme.

12. On the other hand, the transport subsidies which reduce the recipients' marketing costs are liable to affect trade in agricultural products between Member States. By artificially improving their competitive position, the aid is liable to encourage Italian producers and processing firms to seek new market outlets or, at the very least, enable them to maintain their traditional patterns of trade. It will help them both to reduce their costs through economies of scale and to enhance their competitivity on the markets of other Member States. The measures thus fall within Article 92 as in principle incompatible with the common market.

The exemptions provided for in Article 92 (2) are clearly not applicable in the pesent case. Those provided for in Article 92 (3) are conditional on the aid serving Community objectives and not just those of particular sectors of the national economy. The conditions must be construed strictly when examining regional or sectoral aid schemes or individual aid awards under general schemes.

An exemption may be granted where the Commission is satisfied that the aid is necessary to achieve one of the objectives set out in the Article. If exemption were granted for aid not fulfilling these conditions, trade between Member States would be affected and competition distorted by the undue advantages given to firms in the Member State concerned, without any compensating benefit to the Community.

The aid in the present case does not appear to offer any such compensating benefit. The Italian authorities have not offered, nor has the Commission been able to identify, any grounds for finding that the aid fulfils the necessary conditions for exemption pursuant to Article 92 (3) of the EEC Treaty. It is not a measure designed to promote the execution of an important project of common European interest for the purposes of subparagraph (b) of Article 92 (3) because, given its effects on trade, it is not in the Community interest. Nor is it intended to remedy a serious disturbance in the Italian economy within the meaning of the same provision. As for the exemptions under subparagraphs (a) and (c) of Article 92 (3) of aid to promote or facilitate the economic development of certain areas or activities, the measure involves operating aid and therefore cannot bring about a lasting improvement in the situation of the aid recipients since, when the aid ceases, they will find themselves in the same structural situation as before the aid was granted.

Furthermore, aid of this type is likely to increase the production of agricultural products, thereby swelling the surpluses that already exist in some sectors.

The Commission has always in principle been opposed to operating aid in agriculture for the simple reason that the award of such aid is not subject to conditions qualifying it for exemption pursuant to Article 92 (3) (a) or (c).

It should also be borne in mind that the transport subsidies are to be available for products covered by common agricultural market organizations and there are therefore limits to Member States' powers to intervene directly in the operation of such markets, which involve a system of common prices now determined exclusively by the Community.

The proposed aid disregards the principle that Member States no longer have the power to determine unilaterally their farmers' incomes within a common market organization by awarding aid of this type. Even if an exemption pursuant to Article 92 (3) were possible for such a scheme, the fact that it would infringe the rules of the common agricultural market organizations would rule out such an exemption.

Hence, as it would affect the comprehensive system of Community measures instituted under the agricultural market organizations, the transport subsidies scheme does not fulfil the conditions for exemption pursuant to Article 92 and must therefore be considered incompatible with the common market. The Italian authorities should therefore be required to take the necessary steps to withdraw the scheme, without prejudice to possible measures by the Commission in connection with the financing of the common agricultural policy by the European Agricultural Guidance and Guarantee Fund.

13. In view of the fact that the areas concerned by this Decision have received regional aid since 1950 and that an immediate withdrawal of aid could have serious adverse effects in the areas, the Commission considers it necessary to allow the aid to be phased out over an appropriate period. Such transitional arrangements should be varied in the light of economic conditions in the areas. In the regions of Ascoli-Piceno, Rome, Latina and Rieti aid pursuant to Law 64/86 and Decree 218/78 should therefore be prohibited, but that pursuant to Decree 218/78 should be allowed to continue for the following periods :

— until 31 December 1990 in the provinces of Ascoli-Piceno and Rome,

— until 31 December 1992 in the provinces of Latina and Rieti. The Commission will review the social and economic situation in Rieti by the end of 1990 without prejudice to the transitional arrangements which are applicable until the end of 1992,

— until 31 December 1990 in the province of Frosinone. Nevertheless, considering the special social and economic situation in this province, the Commission considers that the award of investment aid provided for by Law 64/86 in addition to that pursuant to Decree 218/78 is justified. After 31 December 1990 such aid may still be awarded but its total intensity must be reduced to 30 % nge.

The types of aid provided for by Decree 218/78 which may be granted during the transitional period are those referred to in the following Article :

— Articles 63 to 69 (industrial investment),

— Article 70 (research),

— Article 59 (relief from social security contributions in industry),

— Articles 101, 102 and 105 (tax concessions for industry).

The Commission emphasizes the need for compliance with the Commission's rules on aid packages involving a non-regional component [1].

14. To enable the Commission to check that the aid granted under the scheme keeps within the approved limits, the Italian Government should be required to send the Commission an annual report on the application of the scheme,

HAS ADOPTED THIS DECISION :

*Article 1*

The award of aid pursuant to Law 64/86 and Decree 218/78 in the provinces of Aquila, Teramo, Pescara and Chieti is hereby deemed compatible with the common market pursuant to Article 92 (3) (a) of the EEC Treaty.

Before the end of 1990, the Commission will review the social and economic situation in these provinces in order to determine whether the award of aid there can continue to be regarded as compatible with the common market after that date.

*Article 2*

The award of aid pursuant to Law 64/86 and Decree 218/78 up to a maximum intensity of 30 % net grant equivalent in the province of Frosinone is hereby deemed compatible with the common market pursuant to Article 92 (3) (c). However, as a transitional measure the aid provided for by Article 9, 10, 12 and 14 (3) and (4) of Law 64/86 and Articles 59, 101 and 105 of Decree 218/78 may be granted there without the above limitation on intensity until not later than 31 December 1990.

*Article 3*

The award of aid pursuant to Law 64/86 and Decree 218/78 in the provinces of Latina and Rieti is incompatible with the common market pursuant to Article 92 (1) of the EEC Treaty. However, as a transitional measure, the aid provided for by Articles 59, 63, 69, 70, 101, 102 and 105 of Decree 218/78 may be granted there until not later than 31 December 1992.

*Article 4*

The award of aid pursuant to Law 64/86 and Decree 218/78 in the provinces of Ascoli-Piceno and Rome is incompatible with the common market pursuant to Article 92 (1) of the EEC Treaty. However, as a transitional measure, the aid provided for by Articles 59, 63, 69, 70, 101, 102 and 105 of Decree 218/78 may be granted there until not later than 31 December 1990.

[1] OJ No C 3, 5. 1. 1985, p. 2.

*Article 5*

The subsidiary State guarantees provided pursuant to Article 15 (5) of Law 64/86 for export credit extended by industrial firms is incompatible with the common market pursuant to Article 92 (1) of the EEC Treaty. Italy shall abolish this scheme.

*Article 6*

The subsidies towards the transportation costs of products listed in Annex II to the EEC Treaty provided for by Article 17 (11), (12), and (13) of Law 64/86 are incompatible with the common market pursuant to Article 92 (1) of the EEC Treaty. Italy shall abolish this scheme.

*Article 7*

1. The relief from social security contribution provided for by Article 59 of Decree 218/78 for firms processing products listed in Annex II of the EEC Treaty is incompatible with the common market pursuant to Article 92 (1). However, as a transitional measure such aid may be granted in the province of Frosinone until not later than 31 December 1990, in the provinces of Latina and Rieti until not later than 31 December 1992, and in the provinces of Ascoli-Piceno and Rome until not later than 31 December 1990.

2. In the other provinces referred to in Article 1 of Decree 218/78 other than those listed in paragraph 1 of this Article, such relief is deemed compatible with the common market pursuant to Article 92 (3) of the EEC Treaty and may be granted until 31 December 1993. The situation in the provinces of Aquila, Teramo, Pescara and Chieti, however, will be reviewed as provided in the second paragraph of Article 1 of this Decision.

*Article 8*

The Commission will take a decision at a later date on the proposed funds to assist innovation by small and medium-sized firms (Article 12 (4) of Law 64/86), the provisions for preference in the award of public contracts (Article 17 (14), (15), (16) and (17) of Law 64/86) and the provision of exchange risk cover (Article 17 (5) of Law 64/86).

*Article 9*

This Decision shall be without prejudice to compliance with the Community legislation and codes now in force or to be introduced in the future to control aid to particular sectors of industry or agriculture and fisheries.

*Article 10*

Italy shall furnish the Commission before the end of June each year with a report setting out for each type of aid the total amount of aid awarded (or of revenue foregone in the case of tax concessions), the number of awards, their location and the sectors and firms involved. The information shall be broken down by NUTS (Nomenclature of territorial units for statistical purposes, Statistical Office of the European Communities) level III region and by NACE (general industrial classification of economic activities, Statistical Office of the European Communities) two-digit sector.

*Article 11*

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

*Article 12*

This Decision is addressed to the Italian Republic.

Done at Brussels, 2 March 1988.

*For the Commission*

Peter SUTHERLAND

*Member of the Commission*