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SENSITIVE[*]: *COMP Operations*

Subject: State Aid SA.102136 (2022/N) – Italy
COVID-19 and RRF: Direct grants and tax credits for tourism undertakings and tax credits for travel agencies and tour operators

Excellency,

1. Procedure

(1) By electronic notification of 1 March 2022, Italy notified a measure in the form of limited amounts of aid ("*Direct grants and tax credits for tourism undertakings and tax credits for the digitization of travel agencies e tour operator*", the "measure") under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (the "Temporary Framework").[1] On 9, 31 March and 28 April 2022, the Commission services requested further clarifications to the Italian authorities, which they provided on 16 March, 4 and 29 April 2022.

(2) 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 Article 3 of Regulation 1/1958[2] and to have this Decision adopted and notified in English.

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[1] Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak (OJ C 91I, 20.3.2020, p. 1), as amended by Commission Communications C(2020) 2215 (OJ C 112I, 4.4.2020, p. 1), C(2020) 3156 (OJ C 164, 13.5.2020, p. 3), C(2020) 4509 (OJ C 218, 2.7.2020, p. 3), C(2020) 7127 (OJ C 340I, 13.10.2020, p. 1), C(2021) 564 (OJ C 34, 1.2.2021, p. 6), and C(2021) 8442 (OJ C 473, 24.11.2021, p. 1).

[2] Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

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2. DESCRIPTION OF THE MEASURE

(3) Italy considers that the COVID-19 pandemic affects the real economy. The Italian authorities submit that Italy was the very first Member State of the European Union to be affected by the COVID-19 pandemic and to declare, with a resolution of the Council of Ministers of 31 January 2020, a declaration of a state of emergency. Since the declaration of the state of emergency, various decrees have been enacted, which have entailed, among other things, restrictions on people's mobility, gatherings, transport of passengers and the organization of events.

(4) In addition, the Italian authorities stress that amongst the various restrictive measures, Decree-Law No.6 of 23 February 2020, concerning "*urgent measures for the containment and management of the epidemiological emergency presented by COVID-19*", granted the competent authorities the power to ban inbound and outbound travel to or from a municipality or area where at least one person was tested positive to the COVID-19 coronavirus; to suspend demonstrations, events, private and public meetings; to close museums and art galleries, and more. After the adoption of Decree-Law No. 6 of 23 February 2020, which saw the enactment of other restrictive measures, a long period of lockdown entered into force and a long period of limitations and suspensions of activities took place in Italy.

(5) Italy explains that the COVID-19 pandemic has had a negative impact on the tourism sector. Italy submits that in 2020 the tourism sector generated 4.1% of the country's GDP, which is a decrease of 13% compared to 2019. Italy also submits that in 2020, due to the COVID-19 pandemic and the containment measures taken by the Italian authorities, the sector saw a drastic drop in tourist inflow. Inbound tourism[3] saw the number of tourists drop by 54.6% in 2020 compared to 2019 and suffered a loss of about EUR 35 billion in revenues compared to the previous year. According to the information provided by Italy, the tourism sector continued to be impacted negatively in 2021. In particular, in the first nine months of 2021, the accommodation sector saw a decline in the number of customers of 38.4% compared to 2019. In addition, the number of foreign tourists arriving in Italy in 2021 over the same period declined by 56.1% compared to 2019.

(6) The Italian authorities explain that the objective of the measure is to support the lack or unavailability of liquidity that has affected tourism businesses due to the restrictive measures enforced by the Italian authorities to combat the COVID-19 pandemic, with a view to helping those businesses carry out the necessary interventions and allow them to continue their activities and recover from the negative consequences of the pandemic. Italy adds that at present, the tourism sector is, on the national scene, the one in relation to which the worst performances are estimated. In particular, the Italian accommodation sector is very exposed to the effects of the COVID-19 pandemic due to its characteristics, as Italian hotels are mostly made up of small structures not affiliated to chains. In this respect, Italy submits that the measure will be particularly helpful in facing the reduction of liquidity in the sector. In addition, according to the Italian authorities, the hospitality sector needs support to resume the capital loss together with liquidity in order to combat the risk of stopping structural interventions to relaunch tourism.

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[3] Inbound tourism means visits to a country by visitors who are not residents of that country. The Italian authorities refer to the number of foreign tourists in Italy.

(7) The Italian authorities therefore consider that it is crucial to help the industry cope with the contingency, in order to avoid as much as possible the closure of facilities and tackle the recovery in the most efficient manner. In particular, Italy considers that the tax credits and direct grants to be granted under the measure will reduce the need for liquidity faced by the eligible beneficiaries and will create a virtuous circle. Italy also considers that the measure is necessary to support further investments in the tourism sector and for the relevant beneficiaries, to stimulate a recovery of the losses caused by the pandemic, but also with a view to encouraging new investments, reviving the businesses and facing the future challenges of the sector by seeking to make businesses more resilient.

(8) The measure forms part of an overall package of measures and aims to ensure that sufficient liquidity remains available in the market, to counter the liquidity shortage faced by undertakings because of the pandemic. It ensures that the disruptions caused by the pandemic do not undermine the viability of the undertakings and thereby preserves the continuity of economic activity during and after the pandemic.

(9) Italy confirms that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA.

(10) The compatibility assessment of the measure is based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

2.1. The nature and form of aid

(11) The measure provides aid in the form of direct grants and tax credits.

2.2. Legal basis

(12) The legal basis for the measure is based on the following acts:

(a) Decree-Law No 152 of 6 November 2021[4], in particular Article 1 on "Direct grants and tax credits for tourism undertakings" ("Article 1"); and Article 4 on "Tax credits for the digitization of travel agencies and tour operators" ("Article 4").

(b) Public notice of the Minister of Tourism 23 December 2021[5] "Implementing rules for the granting of contributions and tax credits to tourist undertakings referred to in Article 1(1) and (2) of Decree-Law No 152 of 6 November 2021" ("the Public Notice").

[4] Decreto-Legge 6 novembre 2021, n. 152 , Disposizioni urgenti per l'attuazione del Piano nazionale di ripresa e resilienza (PNRR) e per la prevenzione delle infiltrazioni mafiose (21G00166) (GU n.265 del 6-11-2021).

[5] Avviso pubblico del Ministero del Turismo del 23 dicembre 2021, "Modalità applicative per l'erogazione di contributi e crediti d'imposta a favore delle imprese turistiche ai sensi dell'articolo 1 del Decreto Legge No 152 del 6 Novembre 2021".

(c) Interministerial Decree of 29 December 2021[6] on the application procedures for the use of the tax credit referred to in Article 4(1) of the Decree-Law No. 152 of 6 November 2021.

(d) The Act of the Minister of Tourism to be adopted pursuant to Article 8 of the Public Notice identifying the eligible beneficiaries.

2.3. Administration of the measure

(13) The Ministry of Tourism is responsible for administering and granting the measure.

2.4. Budget and duration of the measure

(14) The estimated budget of the measure is EUR 698 million. The Italian authorities explain that EUR 600 million will be allocated for support under Article 1 and EUR 98 million for support under Article 4. The budget is partly made available through the Recovery and Resilience Facility ("RRF")[7].

(15) Aid may be granted under the measure as from the notification of the Commission's decision approving the measure until no later than 30 June 2022[8].

2.5. Beneficiaries

(16) The beneficiaries of the measure are:

(a) Under Article 1: hotel businesses; companies that carry out agri-tourism accommodation[9] activities; companies that manage open-air accommodation facilities; and companies in the tourism, recreational, exhibition and congress sectors, including bathing establishments, spa complexes, marinas, theme parks, including water and wildlife parks. The Italian authorities indicate that there will be approximately 3 700 beneficiaries.

(b) Under Article 4: travel agencies and tour operators with ATECO code[10] 79.1, 79.11 or 79.12. The Italian authorities indicate that there will be approximately 4 000 beneficiaries.

(17) The Italian authorities indicate that financial institutions are excluded as eligible beneficiaries under the measure.

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6 Decreto interministeriale del 29 dicembre 2021 n. 233, "Modalità applicative per la funzione del credito di imposta per la digitalizzazione delle agenzie di viaggio e tour operator".

7 Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility, OJ L 57, 18.2.2021, p. 17.

8 The tax liability in relation to which the aid is granted must have arisen no later than 30 June 2022, in line with footnote 24 of the Temporary Framework.

9 The Italian authorities confirmed that the measure does not apply to undertakings active in the processing and marketing of agricultural products.

10 Italian equivalent of the European Nomenclature "NACE". It refers to the national classification of economic activities used by the c (Italian Institute of Statistics).

(18) Aid may not be granted under the measure to medium[11] and large enterprises that were already in difficulty within the meaning of the General Block Exemption Regulation ("GBER")[12] on 31 December 2019. Aid may be granted to micro and small enterprises that were in difficulty within the meaning of the GBER on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid[13] or restructuring aid.[14]

2.6. Sectoral and regional scope of the measure

(19) The measure is open to undertakings active in the tourism sector as identified in Article 1 and 4 of Decree-Law No. 152 of 6 November 2021 (see recital (16)). It applies to the whole territory of Italy.

2.7. Basic elements of the measure

(20) As explained in recital (12), the measure takes two forms:

(a) Aid in the form of direct grants and tax credits under Article 1, as described in recital (16)(a);

(b) Aid in the form of tax credits to travel agencies and tour operators under Article 4, as described in recital (16)(b).

2.7.1. Article 1

(21) Under Article 1 measures, Italy would like to stimulate the beneficiaries to use the additional liquidities provided because of the difficulties resulting from the COVID-19 pandemic for new investments to allow the sector to recover from the COVID-19 pandemic by increasing its resilience to such events. The eligible costs are those costs related to increasing energy efficiency, removing architectural barriers, building works, construction of thermal facilities, the acquisition of equipment and digitalisation activities as further set out in Article 1(5) of Decree-Law No 152 of 6 November 2021, and must relate to interventions carried out from the date of entry into force of the Decree-Law No 152 of 6 November 2021 until no later than 31 December 2024.

(22) Eligible undertakings are allowed to apply for both the direct grants and the tax credits. The direct grants and the tax credits can be requested alternatively or cumulatively, in compliance with the respective conditions and limits, at the time of submitting the application.

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11 As defined in Annex I to 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, 26.6.2014, p. 1.

12 As defined in Article 2(18) 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, 26.6.2014, p. 1.

13 Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

14 Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

(23) For the part of the measure under Article 1 concerning direct grants, following the completion of the selection process of the eligible beneficiaries (see Section 2.7.3), the beneficiary undertakings may receive a grant of up to 50% of the eligible costs as described in recital (21), with a maximum of EUR 100 000 per undertaking. More in detail, aid will consist of a grant of up to EUR 40 000, which may be increased cumulatively as follows:

(a) By up to an additional EUR 30 000 for costs related to digitalisation and technological and energy innovation.

(b) By up to an additional EUR 20 000 for undertakings eligible for "female entrepreneurship" under Article 53 of the Code referred to in Legislative Decree No 198 of 11 April 2006 or whose personnel consists for at least 60% of employees aged 18 and 34 at the date of the submission of the application.

(c) By up to an additional EUR 10 000 for eligible undertakings having their operational headquarters in the regions of Abruzzo, Basilicata, Calabria, Campania, Molise, Puglia, Sardinia and Sicily.[15]

(24) For the part of the measure under Article 1 concerning tax credits, following the completion of the selection process of the eligible beneficiaries (see Section 2.7.3), the beneficiary undertakings may receive a contribution in the form of a tax credit of up to 80% of the eligible costs as described in recital (21). The tax credit can be claimed in compensation starting from the year following the one in which the interventions were carried out but no later than 31 December 2024.

2.7.2. Article 4

(25) Under Article 4 measures, following the completion of the selection process of the eligible beneficiaries (see Section 2.7.3), the beneficiary undertakings may receive a tax credit, not exceeding EUR 25 000 per undertaking, to be used in compensation of up to 50% of the eligible costs related to investments and digital development activities carried out by travel agencies and tour operators from the date of entry into force of Decree-Law No 152 of 6 November 2021 and until 31 December 2024.

(26) The tax credit must be claimed exclusively through the electronic services offered by the Italian Revenue Agency. The amount of the tax credit used in compensation must not exceed the amount granted by the Ministry of Tourism, under penalty of the rejection of the operation.

2.7.3. Provisions applicable to both Article 1 and 4

(27) The Italian authorities explain that the procedure for submitting the applications for aid under the measure is set out in Article 6 of the Public Notice. That provision describes the application process and details the documentation to be submitted by each applicant. In that respect, a notice published on the institutional website of the Ministry of Tourism on 18 February 2022[16] set out the rules for

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[15] The Italian authorities explain in certain regions of Southern Italy there is a particular need to encourage post-COVID economic recovery.

[16] Comunicazione pubblica del Ministero del Turismo del 18 febbraio 2022.

access and use of the online platform through which the applications had to be submitted. In particular, the Italian authorities explain that the eligible beneficiaries had to submit their applications in the period between 28 February and 30 March 2022.[17]

(28) Article 8(2) of the Public Notice states that the selection procedure will be completed within 60 days from the closing date for submitting the applications.

(29) The Italian authorities submit that the list of eligible beneficiaries will be published within 60 days following the closing date for submitting applications. The procedure for granting the aid as described in recitals (27) and (28) must end by 30 June 2022.

(30) The Italian authorities also confirm that aid under the measure will be granted by 30 June 2022. The Italian authorities also commit not to grant any aid under the measure after 30 June 2022.

(31) The Italian authorities confirm that the overall nominal value of the direct grants and the tax credits shall not exceed the overall maximum aid amount of EUR 2.3 million per undertaking[18].

2.8. Cumulation

(32) The Italian authorities confirm that aid granted under the measure may be cumulated with aid under de minimis Regulations[19] or the General Block Exemption Regulation[20] provided the provisions and cumulation rules of those Regulations are respected.

(33) The Italian authorities confirm that aid granted under the measure may be cumulated with aid granted under other measures approved by the Commission under other sections of the Temporary Framework provided the provisions in those specific sections are respected.

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[17] When submitting their applications, applicantsthey had to complete a form, including the provision of mandatory documentation such as identity and tax identification number of the applicant undertaking and its legal representative, a statement of compliance with the principles of the NRRP, a declaration of compliance with the requirements of the measure, the certification by an certified expert confirming that the costs are consistent with those eligible under the measure and that the incurrence and timing of the interventions complies with the relevant requirements, in particular with respect to the starting date of the works and interventions that the eligible beneficiaries intend to carry out (Articles 5 and 6 of the Public notice of the Minister of Tourism of 23 December 2021). In addition, the interventions and works to be carried out must be proven by the necessary communications or administrative authorizations that specify the starting date of the works (Annex I of the Public Notice).

[18] All figures must be gross, i.e. before any deduction of tax or other charge

[19] 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 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, 26.4.2012, p. 8).

[20] 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.

(34) The Italian authorities confirm that if the beneficiary receives aid on several occasions or in several forms under the measure 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 point 22(a) of that framework, will be respected. Aid granted under the measure and/or other measures approved by the Commission under section 3.1 of the Temporary Framework which has been reimbursed before 31 December 2021 shall not be taken into account in determining whether the relevant ceiling is exceeded.

2.9. Monitoring and reporting

(35) The Italian authorities confirm that they will respect the monitoring and reporting obligations laid down in section 4 of the Temporary Framework (including the obligation to publish relevant information on each individual aid above EUR 100 000 granted under the measure on the comprehensive national State aid website or Commission's IT tool within 12 months from the moment of granting[21]).

3. ASSESSMENT

3.1. Existence of State aid

(36) 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.

(37) The measure is imputable to the State, since it is administered and granted by the Ministry of Tourism (see recital (13)) and it is based on Article 1 and Article 4 of the Decree-Law No 152 of 6 November 2021 (recital (12)). It is financed through State resources, since it is financed by public funds (recital (14)).

(38) The measure confers an advantage on its beneficiaries in the form of direct grants and tax advantages (recital (11)). The measure thus confers an advantage on those beneficiaries which they would not have had and relieves those beneficiaries of costs which they would have had to bear under normal market conditions.

(39) The advantage granted by the measure is selective, since it is awarded only to certain undertakings, in particular undertakings active in the tourism sector, excluding the financial sector (recital (16)).

(40) The measure 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.

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21 Referring to information required in Annex III to Commission Regulation (EU) No 651/2014 and Annex III to Commission Regulation (EU) No 702/2014 and Annex III to Commission Regulation (EU) No 1388/2014. For tax and payment advantages, the aid amount of the individual aid may be indicated in ranges.

(41) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Italian authorities do not contest that conclusion.

3.2. Compatibility

(42) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.

(43) 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*".

(44) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (in 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*".

(45) The measure aims at providing support to undertakings active in the tourism sector at a time when the normal functioning of markets is severely disturbed by the COVID-19 pandemic and that pandemic is affecting the wider economy and leading to severe disturbances of the real economy of Member States.

(46) The measure is one of a series of measures conceived at national level by the Italian authorities to remedy a serious disturbance in their economy. The importance of the measure to preserve employment and economic continuity in the tourism sector is widely accepted by economic commentators and the measure is of a scale which can be reasonably anticipated to produce effects across the entire Italian economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid ("*Aid in the form of direct grants and tax credits"*) described in section 3.1 of the Temporary Framework.

(47) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State and meets all the conditions of the Temporary Framework. In particular:

- The aid takes the form of direct grants and tax credits (recital (11)).

  The overall nominal value of the direct grants and the tax credits shall not exceed EUR 2.3 million per undertaking (recital (27)); all figures used must be gross, that is, before any deduction of tax or other charges. The measure therefore complies with point 22(a) of the Temporary Framework.

- Aid is granted under the measure on the basis of a scheme with an estimated budget as indicated in recital (14). The measure therefore complies with point 22(b) of the Temporary Framework.

- Aid may not be granted under the measure to medium[22] and large enterprises that were already in difficulty on 31 December 2019 (recital (18)). The measure therefore complies with point 22(c) of the Temporary Framework. Aid may be granted to micro and small enterprises that were in difficulty on 31 December 2019, if those enterprises, at the moment of granting the aid, are not subject to collective insolvency procedure under national law and they have not received rescue aid[23] or restructuring aid[24] (recital (18)). The measure therefore complies with point 22(c)bis of the Temporary Framework.

- Aid will be granted under the measure no later than 30 June 2022. In this respect, the Italian authorities confirm that, account taken of the functioning of the measure, aid under the measure may be granted by 30 June 2022 at the latest. The Italian authorities also commit not to grant any aid under the measure after 30 June 2022 (see recital (30)). The measure therefore complies with point 22(d) of the Temporary Framework.

(48) The Italian authorities confirm that the aid under the measure is not conditioned on the relocation of a production activity or of another activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid. This is irrespective of the number of job losses actually occurred in the initial establishment of the beneficiary in the EEA (recital (9)).

(49) The Italian authorities confirm that the monitoring and reporting rules laid down in section 4 of the Temporary Framework will be respected (recital (35)). The Italian authorities further confirm that the aid under the measure may only be cumulated with other aid, provided the specific provisions in the sections of the Temporary Framework and the cumulation rules of the relevant regulations are respected (recital (32)).

(50) The Commission therefore considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of a Member State pursuant to Article 107(3)(b) TFEU since it meets all the relevant conditions of sections 2 and 3.1 of the Temporary Framework.

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[22] As defined in Annex I to 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, 26.6.2014, p. 1.

[23] Alternatively, if they have received rescue aid, they have reimbursed the loan or terminated the guarantee at the moment of granting of the aid under the notified measure.

[24] Alternatively, if they have received restructuring aid, they are no longer subject to a restructuring plan at the moment of granting of the aid under the notified measure.

4. 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 to Article 107(3)(b) of the Treaty on the Functioning of the European Union.

The decision is based on non-confidential information and is therefore published in full on the Internet site: http://ec.europa.eu/competition/elojade/isef/index.cfm.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General

Martine DEPREZ
Director
Decision-making & Collegiality
EUROPEAN COMMISSION