COMMISSION DECISION

of 4 May 1999

on the measures for the restructuring of road haulage and the development of intermodality (Law No 454 of 23 December 1997) which Italy intends to implement

(notified under document number C(1999) 1267)

(Only the Italian version is authentic)

(Text with EEA relevance)

(1999/590/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in articular to the first subparagraph of Article 88(2) thereof

Having regard to the agreement on the European Economic Area, in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to that provision [1], and having regard to their comments,

Whereas:

I. PROCEDURE

(1) By note from its Permanent Representation No 2725 of 24 April 1997, registered at the Secretariat-General under number N 403/97, the Italian Government notified the Commission of draft Law No 3270 on the restructuring of road haulage and the development of intermodality.

(2) Two requests for additional information were sent to the Italian authorities on 23 May 1997 and 16 June 1997. A bilateral meeting took place in Brussels on 11 July 1997 to clarify the aims of the Law and examine the issues raised with regard to Community legislation by the various measures proposed. Following this meeting, the Italian authorities were asked to send the Commission, as soon as possible, an amended draft Law taking account of Commission's comments.

(3) Subsequently, two revised versions of the draft Law were sent to the Commission in September and then in November 1997. At bilateral meetings held in October and November 1997 and by letter of 11 November 1997, the Commission emphasised the problems of compatibility with Community law which the planned measures continued to pose despite the amendments made to the notified text.

(4) The Italian authorities replied to the Commission's letter of 11 November 1997 by note from the Permanent Representation No 8392 of 12 December 1997. During a further bilateral meeting on 17 December 1997, the Italian authorities gave the Commission the text of the law adopted by the Chamber of Deputies. Following its adoption by the Senate, this text finally became Law No 454 of 23 December 1997 [2], forwarded to the Commission by note No 794 of 30 January 1998 from the Permanent Representation.

(5) By letter of 28 April 1998, the Commission informed the Italian Government of its decision to initiate the procedure laid down in Article 88(2) (formerly, Article 93(2)) of the EC Treaty in respect of the measures set by Law No 454. The main issues raised in the decision to initiate the procedure were further discussed at bilateral meetings held in May and June 1998.

(6) Following these discussions, the Italian authorities proposed a substantial revision of the planned scheme in order to ensure its compatibility with Community law. By note No 4757 of 16 July 1998 from the Permanent Representation, the Italian Government provided the Commission with its observations on the decision to initiate the procedure, along with an outline of the proposed amendments to Law 454/97 and the related ministerial implementing decrees (or draft decrees). The text of the proposed amendments to the Law was then forwarded to the Commission by letter No 5142 of 30 July 1998 from the Permanent Representation.

[1] OJ C 211, 7.7.1998, p. 5.

[2] *Official Gazette of the Italian Republic*, General series, No 303, 31.12.1997, p. 4.

(7) The decision to initiate the procedure was published on 7 July 1998 ([3]). As part of the proceedings, the Commission invited other Member States and interested third parties to submit their comments.

(8) The Commission received comments from interested third parties in August 1998. By letter of 8 September 1998, it passed the comments on to the Italian Government, which was given the opportunity to react. The Italian reply was received by letter No 6566 dated 7 October 1998 from its Permanent Representation.

(9) In its fax of 24 November 1998, the Italian Permanent Representation informed the Commission that the Italian Council of Ministers had, on 19 November 1998, approved the text of the amendments to Law 454/97.

(10) At bilateral meetings held in Brussels in December 1998 and January 1999 the Italian authorities were then asked to provide further clarifications on some of the proposed measures. In a letter from the Italian Ministry of Transport No 370 dated 22 January 1999, forwarded via the Permanent Representation on 29 January 1999, the Commission received the requested clarification and was informed that the Italian authorities withdrew the notification as to the capacity reduction measure contained in Article 3(7) and (8) of Law 454/97.

(11) Furthermore, on 15 February 1999 the Commission received the text of draft Law No 5527 of 17 December 1998 ([4]), setting out amendments to Law 454/97. By the following letters No 854 of 15 February 1999 from the Ministry of Transport and No 3296 of 18 February 1999 from the Permanent Representation, the Italian authorities informed the Commission of their intention to further amend some provisions of draft Law 5527 and one of the ministerial implementing decrees, the Decree on incentives for investments in innovation and training, the amended text of which they annexed to letter No 3296.

(12) By letter No 1234 of 8 March 1999 from the Ministry of Transport, the Italian authorities finally provided the Commission with the revised text of the draft Decree on Incentives for Groupings. However, by letter No 221/GA of 29 April 1999 the Italian authorities withdrew the notification as to the subsidy measures on incentives for mergers and associations between road haulage firms contained in Law 454/97.

([3]) See note 1.

([4]) Published in *Acts of Parliament, XIIIth legislature,* as draft Law No 5527, Acts of the Chamber of Deputies.

II. DESCRIPTION OF THE MEASURE

A. Background

(13) The aim of the Italian scheme is to reduce the economic and structural difficulties facing the road haulage sector and to promote intermodality and combined transport. To this end, Law 454/97 contains subsidy measures designed to improve the situation of road hauliers and to increase the use of combined transport. Such measures are implemented by ministerial decrees in which detailed rules and conditions are set out. This concerns the following regulatory texts: 1. Ministry of Transport Decree on incentives for early retirement for single-vehicle hauliers of 10 June 1998 ([5]); 2. Ministry of Transport Decree on incentives for investments in innovation and training of 14 October 1998) ([6]), as amended by the draft Ministry of Transport Decree sent by the Italian Government on 18 February 1998 (see point 11 above); 3. Ministry of Transport Decree on incentives for combined transport of 14 October 1998 ([7]). On 8 March 1999 the Italian Government also sent a draft Ministerial Decree on incentives for capacity reduction; no account is taken of the draft, however, for the purposes of this decision, following the withdrawal, on 29 April 1999, of the notification of the measures in question (see point 12).

However, the enforcement of the scheme has been suspended until the final decision on its compatibility with the common market to be adopted by the Commission under Article 88 of the Treaty. Subject to this decision, the scheme is intended to apply until the year 2000.

(14) Under Law 454/97, subsidies may take different forms. Depending on the various measures, either cash grants or interest relief on mid-term loans is possible. Interest relief — whenever applicable — is based on a 'reference rate' whose method of calculation is set out in the Decree of the Italian Minister for the Treasury of 21 December 1994 ([8]). As confirmed by the Italian authorities in their letter of 22 January 1999, the current reference rate for the purposes of Law No 454 varies from 5% to 5,3% depending on the size of the

([5]) *Official Gazette of the Italian Republic,* General series, No 137, 15.6.1998, p. 47.

([6]) *Official Gazette of the Italian Republic,* General series, No 263, 10.11.1998, p. 25.

([7]) *Official Gazette of the Italian Republic,* General series, No 263, 10.11.1998, p. 29.

([8]) *Official Gazette of the Italian Republic,* General series, No 304, 30.12.1994, p. 29.

firms concerned ([9]). According to Article 2(2) of the Law, an interest rate of one third of the reference rate will be applied to subsidised loan operations.

(15) Funding is paid by the Italian Government through banks which have entered into a specific agreement with the Ministery of Transport for this purpose. In the said letter of 22 January 1999, the Italian authorities stated that the banks which at that date had signed such an agreement were 'Mediocredito Centrale SpA' and 'Artigiancassa SpA'. Under this agreement, the banks apply the reduced interest rate to the borrowers and are in turn compensated up to the reference rate by the Government.

Under Article 6(1) of Law 454/97, Mediocredito Centrale SpA and Artigiancassa SpA are also entrusted with the preparatory examination of all applications for subsidies provided for in the Law. Subsidies are then granted by the Committee for Road Haulage and Intermodality referred to in Article 8 of the Law.

(16) The subsidy measures established by Law 454/97 are described in detail herein. However, no description is given of the measures provided for in Article 3(7) and (8) of the Law on incentives for capacity reduction and in Article 4 of the Law on incentives for mergers and associations, since the notification as to the measures in question has been withdrawn by the Italian Government (see points 10 and 12).

B. **Aid to combined transport activities**

(17) Article 1(2)(f) and 1(3)(d), Article 2(1)(c) and Article 5 of Law 454/97, as amended by draft Law 5527, deal with specific aid measures to combined transport. These measures are implemented by the Decree on Incentives for Combined Transport of 14 October 1998 (hereinafter referred to as 'the Combined Transport Decree'), as amended. Article 2(1)(e) of Law 454/97, as amended, covers aspects of training aid also for combined transport activities. These aspects are dealt with under points 62 and 27 and 82 to 86 of this decision relating to aid for training.

(18) Article 1(2)(f) of the Law defines the notion of combined transport, as used in the Law. The definition is closely aligned to the Community definition found in Article 1 of Council Directive 92/106 of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States ([10]). Article 1(3)(d) states that the aid under Law 454/97 should be given to finance combined transport equipment, and that up to 17% of the overall resources should be spent for this aid. Article 2(1)(c) of the Law empowers the Government to give aid for the 'acquisition of combined transport units, in particular those which are specifically designed for combined transport under the ADR/RID rules for the carriage of dangerous goods, and under the ATP rules for the carriage of perishable goods'.

(19) Article 5(1) of the Law states that five-year loans may be given for up to 60% of the total investment in the equipment mentioned under Article 1(3)(d), up to a maximum limit of ITL 1,5 billion. Article 5(2) defines more specifically what the financial benefits referred to in Article 5(1) are intended for: (a) construction of combined transport terminals including depots and transhipment equipment; (b) purchase of equipment dedicated to monitoring the combined transport chain; (c) purchase of combined transport units. Article 5(3) states as a further condition that projects funded under Article 5(2) must comply with national and Community rules on fair competition and must be in line with a rational development of combined transport.

(20) The Decree on combined transport implements these provisions as follows: First, it defines the notion of combined transport, following the definition in Article 1 of Directive 92/106. In Article 2 of the decree, the types of allowed investment are further defined in accordance with Article 5(1) and specific conditions are attached. Article 3 of the Decree then states the conditions and procedure for obtaining the loan. Article 3(6) of the Decree confirms that none of the subsidies provided for may be granted unless the Commission has declared them to be compatible with the provisions of the Treaty.

C. **Aid to road terminals**

(21) Article 2(1)(b) and 2(2)(b) of Law 454/97, as amended by draft Law 5527, provide for subsidies to road haulage firms for the acquisition of road terminals also including plants for the assistance and repair of vehicles, waste treatment and storage of goods. The measure is implemented by Articles 2(1)(c) and (d), 2(2), 2(3) and 4(a) of the Decree on incentives for investments in

([9]) The reference rate referred to in the Ministerial Decree of 1994 is currently 5% per annum in the industrial sector and 5,3% per annum in the craft trades sector. Smaller firms are covered by the craft trades sector.

([10]) OJ L 368, 7.12.1992, p. 32.

innovation and training of 14 October 1998 (hereinafter the 'Decree on innovation and training'), as amended by the draft Ministerial Decree forwarded by the Italian authorities on 18 February 1999.

(22) Terminals which tie in with national and regional transport planning may be subsidised through low interest loans up to 60% of investment costs up to a maximum amount of ITL 1 billion (approximately EUR 516 457). Funding is conditional upon a substantial financial contribution by the recipient to the proposed investment. Non-resident hauliers holding the Community authorisation provided for in Council Regulation (EEC) No 881/92 of 26 March 1992, on access to the market in the carriage of goods by road within the Community to or from the territory of a Member State or passing across the territory of one or more Member States, may also benefit from the measure ([11]).

D. **Aid for purchase and adaptation of vehicles**

(23) The first sentence of Article 2(1)(c) and 2(1)(d) of Law 454/97, as amended by draft Law 5527, set up a subsidy measure for the purchase and adaptation of vehicles with the general objective to renew and improve the vehicle fleet, thereby reducing overall exhaust emissions and increasing safety. The measure is implemented by Articles 3 and 4(b) of the Decree on innovation and training, as amended (see point 12).

(24) Aid may accordingly be granted to road haulage firms (both national and non-resident, when holding the Community licence) for the replacement of their vehicles that are at least five years old. The purchase is financed through low-interest loans covering up to 70% of total investment costs up to ITL 1 billion (approximately EUR 516 457).

(25) Adaptation of the existing vehicle fleet in order to reduce polluting noise and exhaust emissions may be subsidised up to 25% of such adaptation costs, as duly proved by documents.

E. **Aid to training**

(26) Article 2(1)(e) of Law 454/97, as amended by draft Law 5527 and implemented by Article 5 of the Decree on innovation and training, introduces an aid measure for training activities in order to help operators and their staff to adapt to new business models and new technologies. Access to this measure is open to both national and non-resident hauliers (holding the Community licence).

(27) The aid is intended as a contribution of up to 50% of the eligible costs, mainly defined by the ministerial decree as the costs of participation in training sessions and courses and the financing of training projects involving both transport undertakings and university institutes. The possible use of EU resources for co-financing activities is allowed.

F. **Aid for the purchase of computer systems and equipment**

(28) An aid measure for the purchase of computer equipment is introduced by Article 2(1)(a) of the Law, as amended, and is implemented by Article 2(1)(a) of the Decree on innovation and training, as amended. The subsidies are designed to facilitate the purchase of computer systems and equipment for use in the training activities provided for in Article 5 of the same Decree for innovation in general management methods and in data interchange.

(29) Low-interest loans up to 75% of investment costs within the limit of ITL 550 million (approximately EUR 284 051) may be granted for this purpose to both national and non–resident hauliers (holding a Community licence). Beneficiaries are required to make a substantial financial contribution to the planned investments.

G. **Aid for early retirement**

(30) This measure is established by Article 3(1) to (5) of Law 454/97 and implemented by the Decree on Early Retirement of Single-Vehicle Hauliers of 10 June 1998. An early retirement premium is provided for national hauliers owning only one vehicle of more than 11,5 tonnes who, on the day of entry into force of the law, have been holding an operating licence for at least ten years. Applicants must agree to be deleted from the road hauliers register and terminate haulage activities for at least 10 years. Access to the measure is allowed for only six months following the entry into force of

([11]) OJ L 95, 9.4.1992, p. 1.

the law. However, according to Article 3(3) of draft Law 5527, this period may be extended until 31 December 1999.

(31) The amounts of the premium are fixed at ITL 60 million (approximately EUR 30 987) and ITL 110 million (approximately EUR 56 810) per haulier owning a vehicle up to 26 tonnes or up to 44 tonnes respectively.

III. COMMENTS FROM THE ITALIAN GOVERNMENT

(32) Following the opening of the procedure, the Italian Government submitted to the Commission comments and observations on the compatibility with the Community law of the measures envisaged by letter of 16 July 1998 from the Permanent Representation.

(33) The Italian letter underlines that the planned scheme has a general objective of rationalising the goods transport sector by means of specific support measures for the restructuring of road haulage and the development of combined transport. In fact the measures under discussion are intended to foster innovation of their plant, equipment and organisational systems, in order to encourage restructuring of the supply of road haulage services and to improve efficiency in the sector. Moreover, the scheme provides for measures to develop combined and intermodal transport, so as to favour the shift from road to other modes.

The further overall objectives of the scheme under discussion are environmental protection and road safety. According to the Italian authorities, the envisaged measures will improve environmental protection and increase road safety, either directly by favouring the purchase of less polluting vehicles and the adaptation of the existing fleet to higher environmental standards, or indirectly by reducing empty running in relation to the rationalisation of logistic services and the increase in combined transport techniques.

(34) Within this general framework, the law also introduces the bases for new rules on access to the occupation of road haulier and on liberalisation of road haulage operations. In this context, the Italian Government issued *inter alia* Legislative Decree No 85/98 ([12]) of 14 March 1998 and the Decree of the Minister of Transport No 212 ([13]) of 22 May 1998, providing for a phase-out of the existing system of authorisations based on load capacity. Under those provisions, only one authorisation with no load limit will be needed for each operator of road haulage for hire or reward as from 1 January 2001. Specific rules are established for the transitional period.

(35) The Italian authorities subsequently proposed a substantial revision of the legal bases of the planned measures, in order to ensure their compatibility with the Community rules on State aids. According to the Italian Government, this revision now takes account of all the remarks and observations made by the Commission in examining the subsidy scheme.

The revised legal instruments now include the amended text of Law 454/97 as well as rules of implementation, introduced by the ministerial decrees referred to above.

IV. COMMENTS FROM INTERESTED PARTIES

(36) Further to the publication of the decision to initiate the procedure, the Commission received the following comments from interested third parties:

A. Comments from FNTR and Premat-STP

(37) By means of different letters both dated 31 July 1998, 'FNTR' and 'Premat-STP' forwarded to the Commission their observations on the opening of the procedure in respect of the Italian aid scheme. FNTR is a French trade association in the road haulage sector; 'Premat-STP' is a French road haulage company. Both their letters point out that, although the planned aid to mergers and associations is not conditional upon any capacity reduction by the firms concerned, the Commission seems to consider the measure compatible with Community law. This conclusion is reportedly in contrast with previous Commission practice. In its decision N 773/A/94 ([14]) the Commission imposed such a condition when approving a French scheme of aid to groupings between road haulage firms. It is underlined, moreover, that under the Italian rules on access to the road haulage market, beneficiaries of aid to groupings are allowed to further increase their load capacity in the transitional period leading to the final abolition of quantitative restrictions on the load capacities of Italian hauliers. This allegedly will lead not only to an

([12]) *Official Gazette of the Italian Republic*, General series, No 83, 9.4.1998, p. 42.

([13]) *Official Gazette of the Italian Republic*, General series, No 156, 7.7.1998, p. 11.

([14]) Commission Decision of 18 October 1995 in case N 773/A/94 — France (OJ C 335, 13.12.1995, p. 10).

unreasonable discrimination against French hauliers, but also to a significant distortion of competition.

B. **Comments from UNA, Unatras and ANCST**

(38) By letter of 4 August 1998, the Italian trade associations 'Unione Associativa' (UNA) '*Unione delle Associazioni dei Trasportatori in conto terzi*' (UNATRAS) and '*Associazione Nazionale delle Coooperative Servizi e Turismo*' (ANCST) submitted their comments on that decision. The Italian associations are of the opinion that, taking account of the changes proposed in July 1998 (see point 6), Law 454/97 and the administrative rules provided for in the ministerial decrees of implementation both comply with the Community rules on State aids. Measures established under the planned scheme are, for various reasons, not liable to distort competition and to affect intra-Community trade. Subsidies are, in general, available to all Community road haulage firms and intended to attain objectives of common European interest.

V. **ASSESSMENT**

A. **Article 87(1)**

(39) According to Article 87(1) of the EC Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is, in so far as it affects trade between Member States, incompatible with the common market.

(40) Under the proposed scheme, beneficiary undertakings receive contributions to costs arising from the transport of goods while other undertakings, national or from other Member States, do not receive such contributions. To that extent the scheme entails a distortion of competition and affects intra-Community trade and is therefore, in principle, incompatible with Article 87(1).

(41) Some of the planned measures, however, appear by their particular features not to be likely to distort competition nor to affect intra-Community trade. As far as they concern road transport, these measures are accordingly assessed under Article 87(1) as follows.

Early retirement

(42) A State contribution to a self-employed individual who terminates all business activities does not benefit an undertaking operating in the market and, therefore, does not in itself have any impact on competition or trade between Member States. The Commission considers in the present case that, if it is ensured that such funds do not reenter the road haulage sector either directly or indirectly, the measure does not fall, in principle, under Article 87(1) of the Treaty.

(43) When initiating the procedure under Article 88(2), the Commission emphasised the need for efficient procedures to ensure that the use of funds is not misdirected and that the beneficiary of the aid, together with his vehicle, does not continue to be active in the sector, even if not in a self-employed capacity.

(44) The Commission takes note in this respect that detailed administrative rules have been provided by the Ministerial Decree of 10 June 1998. Essential conditions for obtaining the retirement premium are the commitment to irrevocably terminate road haulage activity, with the deletion from the road hauliers' register (the related authorisation being revoked). Furthermore, beneficiaries are forbidden to practise road haulage activity for hire or reward, directly or indirectly, and to be partners or shareholders in road haulage companies, for at least 10 years. According to Article 6(4) of the Law, in case of breach of the prohibition to practise road haulage activity, beneficiaries have to repay the amounts received with interest at a rate determined by law.

(45) The Commission considers that the foregoing provisions provide a sufficient guarantee that the planned contributions will neither be misused nor re-enter the road haulage sector, even indirectly. It therefore concludes that contributions provided by the measure at issue do not constitute State aid within the meaning of Article 87(1) of the Treaty.

Terminal

(46) A State subsidy to road haulage firms for the acquisition of real estate and equipment for the repair and maintenance of vehicles and for treatment of polluting waste, if intended to favour certain undertakings operating in a specific sector, falls in principle under Article 87(1) of the Treaty.

(47) However, for several reasons subsidies for the acquisiton of road terminals under the Italian measure do not appear to threaten intra-Community competition. The Italian measure is designed to facilitate the development of a road transport infrastructure system, with the general aim of improving efficiency, environmental protection and safety in road transport operations, whether carried out by Italian hauliers or not. Terminals are intended as structures providing services to all hauliers on a market basis as a part of a 'network' of such facilities covering the whole national territory. Article 2(2) of the Decree on innovation and training does in fact stipulate that terminals eligible for funding must be located in line with national and regional transport planning and their sites must be chosen in order to minimise environmental impact. Article 2(2)(a) furthermore guarantees that only facilities which are open to all potential users, subject to fair conditions and transparent charges which allow a proper return on investment, are eligible for subsidies.

(48) There is also provision for a safeguard clause to prevent any negative impact on competition: under Article 2(2)(a), last sentence, and (b), of the Decree no contribution can be granted where the new terminals in question distort or are liable to distort competition in a given area or in the relevant market.

(49) Any aid under the Decree will be granted only if the applicant has shown, to the satisfaction of the Committee referred to in Article 8 of Law 454/97, that the above conditions are satisfied. In this respect the Commission also notes that the Italian system does not discriminate against non-resident carriers as, according to Article 1(1) in conjunction with Article 2(1)(c) of the Decree, every EC haulier holding a Community licence may apply directly for the planned contributions.

(50) In addition, the subsidies at issue may not be accumulated with any other contribution received for the same reasons from public bodies nor with any subsidy provided for in the other decrees implementing Law 454/97 (last sentence of Article 2(3) of the Decree).

(51) Finally, Article 6(3) of the Law, in conjunction with Article 7(1) of the Decree, provides that, in the event of misuse of the funds received, beneficiaries must repay the sums received with interest at the rate laid down by law and are liable to be struck off the road hauliers' register.

(52) The Commission holds the view that the above prior conditions and restrictions, together with the penalties provided for by the Law and in the relevant Decree constitute a sufficient safeguard to ensure that no distortive effect on intra-Community competition will be caused by the measure at issue. In addition, the Commission will be able to monitor the fulfilment of such requirements through the Italian authorities' periodical reports on the implementation of the whole aid scheme.

The Commission accordingly concludes that the subsidies provided for in the present measure do not constitute State aid for the purposes of Article 87(1) of the Treaty.

B. **Article 73 (formerly Article 77) of the EC Treaty**

(53) Acording to Article 73, aids are compatible with the Treaty if they meet, *inter alia*, the needs of coordination of transport. The second exception provided for by Article 73 refers to aid considered as reimbursement for the provision of public service obligations, which is not relevant in the present case.

(54) While Article 71 (formerly Article 75) of the EC Treaty provides the legal basis for liberalising the transport markets, the liberalisation itself is, contrary to other sectors, based on legislative acts of the Council. The Treaty acknowledges the special position of the transport sector as a regulated industry, largerly partitioned into national markets.

(55) Regulation (EC) No 1107/70 of the Council of 4 June 1970 on the granting of aids for transport by rail, road and inland waterway ([15]), as last amended by Council Regulation (EC) No 543/97 ([16]), reduces the Commission's power of discretion and leaves the Member States with a greater possibility to grant State aid restricting competition than under the general rules laid down by Article 87. That Regulation sets out the scope of Article 73 and in its Article 3(1)(a) to (f) defines aids which fulfil the coordination requirements of transport.

(56) Until 31 December 1997, Article 3(1)(e) of Regulation (EEC) No 1107/70, as amended, provided for a specific framework for aid to combined transport. Under Article 3(1)(e), aid for investment in infrastructure or the fixed and movable facilities necessary for

([15]) OJ L 130, 15.6.1970, p. 1.
([16]) OJ L 84, 26.3.1997, p. 6.

transhipment was allowed. However, this Regulation is no longer applicable. The market for providing combined transport services has been fully liberalised since 1 July 1993 through Articles 2 and 4 of Directive 92/106. Any Community legal person is free, under the general rules of the Treaty on freedom of establishment and freedom to provide services, to offer combined transport services anywhere in the Community. Any aid to combined transport from 1 January 1998 onwards has, therefore, to be assessed under the relevant Treaty provisions ([17]).

(57) In the past, Article 3(1)(d) of Regulation (EEC) No 1107/70 provided an exception for certain measures on the restructuring of transport markets under certain conditions. However, the scope of the provision was restricted in time until the entry into force of Community rules on access to the transport market. The relevant legislation which opened up national road transport markets to intra-Community competition entered into force on 1 July 1990 following the approval of Council Regulation (EEC) No 4059/89 of 21 December 1989 laying down the conditions under which non-resident carriers may operate national road haulage services within a Member State ([18]).

(58) The concept of aid meeting transport coordination needs implies government intervention in the transport sector. The further a sector is liberalised, the less there is a need for coordinating activities to be undertaken by the Member States. Indeed, in a liberalised transport market coordination may be achieved to a certain extent by the market itself, within the limits of the framework conditions set by the Member States in accordance with Community law enacted under Article 71 of the Treaty. This interpretation is confirmed by the wording of Article 3(1)(d) of Regulation (EEC) No 1107/70, which links the application of the exception to the entry into force of Community measures liberalising the market.

(59) In conclusion, in the present case Regulation (EEC) No 1107/70 does not provide for any specific exceptions applicable to the proposed measures.

(60) As stated above, the direct application of Article 73 of the Treaty has to be seen in close connection with the status of liberalisation in the sector. The higher the degree of liberalisation already achieved, the less State intervention to 'coordinate' transport is necessary and may be covered by the scope of Article 73. As liberalisation of combined and road transport has already been decided and to a very high extent achieved, the application of Article 73 in these sectors is consequently very limited. The measures proposed by Law 454/97, as its title indicates, clearly aim at promoting the development of the economic prospects of a sector, which is dealt with by another provision of the Treaty. The measures are not based on defined objectives as regards the co-ordination of transport in the public interest.

In this advanced state of liberalisation, State subsidies may still be granted, in particular, when serving the purpose of the development of a sector. With regard to the present case, the proposed measures are, therefore, assessed under the relevant articles of the Treaty.

C. **Article 87(2) and (3)**

(61) In the case at issue, the exceptions provided for in Article 87(2) are not applicable because the aid scheme is not directed towards the attainment of the objectives set out. According to those objectives aid is 'compatible with the common market' if it is granted either to individuals for social purposes, or to compensate for damages caused by natural disasters or exceptional occurrences, or for effects of the division of Germany.

(62) Under Article 87(3) such aid may therefore be considered compatible with the common market. In order to ensure the proper functioning of the common market and having regard to the principles in competition matters established by the Treaty, the exceptions provided for in that provision must be construed narrowly when aid measures are assessed.

Article 87(3)(a) exempts aid which promotes the development of areas with economic difficulties and a special need for assistance. The exception cannot be considered relevant for aid schemes without a regional element — in this case the whole territory of the Member State is covered — and with a clear sectoral objective.

With regard to the exceptions provided for in Article 87(3)(b), the aid at issue is not intended to promote the execution of a project of common European interest or to remedy a serious disturbance in

([17]) In this connection, see Commission Decisions of 27.3.1996, case NN 97/95 (OJ C 123, 26.4.1996, p. 9), and of 22.10.1997, case N 79/97, (OJ C 377, 12.12.1997, p. 3).

([18]) OJ L 390, 30.12.1989, p. 3. This Regulation was repealed by the Court of Justice of the European Communities for reasons of form, but remained in force until the entry into force of Regulation (EEC) No 3118/93 (OJ L 279, 12.11.1993, p. 1).

the Italian economy, nor does it have any features of such projects.

Article 87(3)(c) provides for an exception relating to aid granted to facilitate the development of certain economic activities and where the aid measures do not adversely affect trading conditions to an extent contrary to the common interest.

(63) In conclusion, the Commission considers that the State aid measures notified in the given case, except for the measures already examined above, should be assessed under Article 87(3)(c).

Combined transport

(64) The Law in conjunction with the Ministerial Decree on incentives for combined transport provides for several measures to foster combined transport, which are assessed below.

(65) The Law and the Decree now provide for a definition of combined transport in line with Article 1 of Directive 92/106. There is no further generic mention, in the Law or in the Decree, of terms such as 'intermodality ' or 'multimodal'. Therefore, the Commission is able to assess whether these measures contribute to the goals of Community combined transport policy.

(66) The Community has for some time pursued a policy of achieving a balanced intermodal transport system, and fostering the competitiveness of combined *vis-à-vis* road transport is part and parcel of this policy. The central aim of the EC combined transport policy is to promote a shift from road to other transport modes. Community instruments such as Directive 92/106 aim at fostering the development of combined transport. Article 1 of Council Regulation 2196/98 of 1 October 1998 concerning the granting of Community financial assistance for actions of an innovative nature to promote combined transport [19] states that its objective is fostering actions leading to increased use of combined transport. The Commission Green Paper on Fair and Efficient Pricing and the Commission White Paper on Fair Payment for Infrastructure Use also advocate a more balanced modal split [20]. The development of combined transport is thus in the common interest within the meaning of Article 87(3)(c) [21].

(67) Any aid under the Decree will be granted only if the applicant has shown, to the satisfaction of the Committee referred to in Article 8 of the Law, that the investment will contribute to efficient and economically viable combined transport operations. Further, the applicant is required to provide a substantial financial contribution to the investment (Article 3(2) in conjunction with Article 3(5) of the Decree). The substantial financial contribution of applicants for a low-interest loan under Article 2(1) of the Decree is as a rule ensured by the low aid intensity: under Article 5(1) of the Law, low-interest loans covering up to 60 % of the overall investment costs may not exceed ITL 1,5 billion (approximately EUR 774 700). According to Article 2(4) of the Decree, this aid cannot be accumulated with other aid received in the same capacity from public authorities. Nor may it be accumulated with similar types of subsidy provided for by other provisions of the Law.

(68) Aid to purchase transport units for combined transport under Article 2(1)(c) of the Law and Article 2(1)(a) of the Decree is to be qualified as investment aid within the meaning of Article 87(1) of the Treaty. Maritime containers (ISO series 1) may not be funded under the decree. As Article 3(3) of the Decree states, the funding for equipment may not exceed the difference in cost between a combined transport unit and a corresponding road transport unit, and may not, in any event, exceed 30 % of the total costs of investment.

The Commission considers that this aid complies with Article 87(3)(c) of the Treaty. As the Commission has already pointed out on another occasion [22], investment aid for combined transport units may be allowed under certain conditions, which are fulfilled by the Decree. The aid is designed for combined transport units only, and not standard maritime containers, which are mostly used in operations not to be defined as combined transport. Overfunding and misuse of funding is excluded by the fact that, even with the subsidy, a combined transport unit will not be cheaper than a corresponding road unit. Further, the Commission notes that Article 5(1)(a) of Regulation (EC) No 2196/98 allows a Community contribution of up to 30 % of total eligible costs regarding, *inter alia*, the leasing or

[19] OJ L 277, 14.10.1998, p. 1.

[20] COM(95) 691, 20.12.1995; COM(98) 466, 22.7.1998.

[21] In this connection, see Commission Decisions of 25.3.1998 (OJ C 211, 7.7.1998 — see Note 1 above), and of 21.1.1997, case C 2/97 — Netherlands (OJ C 93, 22.3.1997, p. 11).

[22] Commission Decision of 22.10.1997, case N 79/97 — Netherlands (OJ C 377, 12.12.1997, p. 3).

depreciation of intermodal transport units. For these reasons, the Commission considers that this measure contributes to the development of the sector of combined transport activities and does not, because of the safeguards included, affect trading conditions contrary to the common interest. It is thus covered by Article 87(3)(c).

(69) Article 2(1)(b) of the Decree provides for the investment aid within the meaning of Article 87(1) concerning transhipment equipment for intermodal transport units. Article 3(4) of the Decree limits the aid intensity to 30% of total eligible investment costs. Transhipment equipment is essential for the smooth functioning of the combined transport chain. On the other hand, 30% of the costs of the intermodal transport chain is linked to costs arising in transhipment. Therefore, State aid to transhipment equipment helps to reduce the system costs of combined transport and thus improves its competitiveness in relation to road transport.

The general selection criteria mentioned in Article 3(2) in conjunction with Article 3(5) of the Decree ensure that only transhipment equipment contributing to viable terminal operations will be funded. Further, Article 5(3) of the Law states that investments funded under the Law must comply with the relevant competition laws of Italy and the Community. This reference ensures that only such transhipment equipment will be funded which does not cause distortions of competition contrary to the common interest vis-à-vis other terminals. Furthermore, concerning transhipment equipment investment related to newly constructed terminals, Article 2(3) of the Decree will apply and thus ensure that State aid will not be given to investment which distorts competition. The Commission also notes that the maximum aid intensity is similar to that provided for in Article 5(1)(c) of Council Regulation 2196/98 concerning the granting of Community financial assistance for actions of an innovative nature to promote combined transport. Article 5(1)(c) of that Regulation limits Community financial assistance to a maximum of 30%, notably investment expenditure on combined transport transhipment equipment. For these reasons, the Commission considers that this measure contributes to the development of the sector of combined transport activities and does not, because of the safeguards included, affect trading conditions contrary to the common interest. It is thus covered by Article 87(3)(c) ([23]).

([23]) See also Commission Decision of 22 December 1998, case N 598/98 — Netherlands (OJ C 29, 4.2.1999, p. 13).

(70) Under Article 2(1)(c) of the Decree, low interest loans may also be given for the construction and purchase of terminals for combined transport. The Commission considers that these loans do not constitute State aid under Article 87(1).

First, Article 2(3)(a) of the Decree states that all terminal construction projects benefiting from low-interest loans must be open to all operators on equal terms and at transparent rates which allow cost recovery. The terminals are thus open to all potential users under non-discriminatory conditions, and therefore do not raise State aid issues. Second, low-interest loans may not be granted under Article 2(3)(a) and (b) of the Decree if the terminal has a negative impact on competition with other terminals. This condition ensures that loans will not affect trade between Member States within the meaning of Article 87(1).

(71) Finally, Article 2(1)(d) of the Decree allows low-interest loans for the purchase of electronic and computer systems and equipment for use, control, monitoring and sales in the combined transport chain. Such loans count as aid within the meaning of Article 87(1). Electronic information systems for monitoring the combined transport chain are essential for the success of combined transport. A road haulier can easily track, via the truck driver and his mobile phone, a long-haul road operation throughout Europe. An equivalent combined transport operation would have to track the container and possibly the rail wagon. This tracking operation has to be performed taking into account various, sometimes hardly compatible, information systems used by several operators in different Member States. The up-front investment in such electronic systems for combined transport is much higher than the investment needed for a comparable road operation.

Therefore, the Commission would consider State investment aid for such systems compatible with the common market under Article 87(3)(c). However, it must be ensured that the aid is used only for information systems relating to the combined transport chain, and not for general business information or for other transport operations. The Decree states that the

electronic equipment described in Article 2(1)(d) must serve the combined transport chain, and the term 'combined transport' is explicitly and correctly defined in Article 1(1)(a) of the Decree. For these reasons, the Commission considers that this measure contributes to the development of the sector of combined transport activities and does not, because of the conditions mentioned and the low funding intensity, affect trading conditions in a way which is contrary to the common interest. It is thus covered by Article 87(3)(c).

Purchase and adaptation of vehicles

(72) The Commission considers that in sectors with overcapacity, such as road freight transport, no aid can in principle be granted on any grounds for the purchase of transport vehicles. The negative effect of such aid on competition would under no circumstances be proportionate to any benefit therefrom.

(73) Nevertheless, certain alternatives are compatible with the overall objectives of environmental protection and safety. The only possibility for granting aid in connection with the purchase of new vehicles is as compensation for the costs of higher technical standards on emissions and safety. Those standards have to be clearly higher than those laid down by national or Community legislation with which vehicles have to comply by law in any case. This general principle is established by the Community guidelines on State aid for environmental protection [24] with regard to environmental standards and may be developed for safety standards on the basis of Article 87(3)(c) by analogy.

(74) When initiating the procedure under Article 88(2), the Commission therefore pointed out that the Italian measure designed to subsidise the purchase or adaptation of vehicles on the basis of a simple percentage of the general investment costs could not be considered compatible with the common market.

(75) The Commission takes note, however, of the announced amendments to Article 2(1)(c) of Law 454/97 (by means of an amendment to Article 1(2)(a) of draft Law 5527) and to Article 3(1) of the Decree on innovation and training, as reported by the Italian letters of 15 and 18 February 1999. Amendments to these provisions are planned in order to stipulate explicitly that aid for the purchase of new vehicles and the adaptation of existing vehicles is intended to attain higher standards of environmental protection than those in force under national and EC law [25]. Provided that the proposed amendments of Law 454/97 and of the Decree on innovation and training are approved, the Italian measure appears to be consistent with the principles set out in the Community Guidelines referred to in point 73.

The Guidelines provide in this respect that aid granted to firms located outside assisted areas and not exceeding 30% of gross eligible investment (40% for SMEs) may be considered compatible with the common market.

(76) Under the measure discussed here, low-interest loans for the purchase of new vehicles are granted at an interest rate of one third of the reference rate, as defined by the Italian authorities (Article 2(2)(c) of the Law), i. e. from around 1,66 to 1,76% [26]. In their letter of 29 January 1999, the Italian authorities contended that, whenever aid takes the form of interest relief, the aid amount must be determined on the basis of two thirds of the above-mentioned reference rate. In order to determine the concrete advantage for the borrower from a State aid viewpoint, however, reference must be made to the interest rate it would have paid under normal market conditions. In its Notice of 9 September 1997 [27], the

[24] OJ C 72, 10.3.1994, p. 3.

[25] Article 3(1) of the Italian Decree refers to higher standards regarding environmental protection than national or European standards in force 'on the date of the Decree'. Reference should therefore be made to the limit values for emissions laid down by Council Directive 70/220/EEC of 20 March 1970 on the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from positive-ignition engines of motor vehicles (OJ L 76, 6.4.1970, p. 1), as amended by Directive 96/69/EC (OJ L 282, 1.11.1996, p. 64), and Council Directive 88/77/EEC of 3 December 1987 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous pollutants from diesel engines for use in vehicles (OJ L 36, 9.2.1988, p. 33), as amended by Directive 91/542/EEC (OJ L 295, 25.10.1991, p. 1). In this connection it should be noted that the more stringent emissions limits introduced by Directive 98/69/EC of the European Parliament and of the Council of 13 October 1998 relating to measures to be taken against air pollution by emissions from motor vehicles and amending Council Directive 70/220/EEC (OJ L 350, 28.12.1998, p. 1) are to be applied gradually upon the registration, sale or entry into service of new vehicles from 1 January 2001.

[26] Depending on the reference rate applied. In the industrial sector, where the reference rate is currently 5%, the low-interest rate will be around 1,66%. In the craft-trades sector, where the reference rate is currently 5,3%, the low-interest rate will be around 1,76%. See also point 14 and note 9 above.

[27] See Commission notice on the method for setting the reference rates (OJ C 273, 9.9.1997, p. 3).

Commission set out the method to calculate a reference rate reflecting the average level of interest rates on medium and long-term loans (five to 10 years) in the different Member States. In the present case the advantage for the recipients may therefore be estimated, by way of comparison between the interest rate actually paid and the current reference rate for Italy determined on the basis of the above criteria, at some 4,4 to 4,5 percentage points ([28]). This advantage has to be referred to loans covering up to 70 % of overall investment costs (Article 2(2)(c) of Law 454/97 and Article 4(1)(b), first sentence of the Decree). In this respect the last sentence of Article 4(1)(b) of the Decree explicitly refers to the Community Guidelines mentioned in point 73 in stipulating that the aid granted for the purchase of new vehicles can never exceed the ceiling established therein.

In so far as this latter provision confines aid for the purchase of new vehicles to the extra environmental costs ([29])to be borne by the recipients, within the intensities allowed by the Guidelines, the Commission may find acceptable the aid amounts as determined above.

(77) Article 2(1)(d) of the Law in conjunction with Article 4(1)(c) of the Decree stipulates that maximum aid intensity may attain 25 % of adaptation costs, as duly proved by documents. However, Article 2(2)(d) of the Law seems to allow a higher intensity to be attained. The Commission notes in this respect that by letter of 15 February 1999, the Italian Government undertook to amend Article 2(2)(d) of Law 454/97 in order to make it consistent with the 25 % ceiling. Provided that the proposed amendment to Law 454/97 is approved, the Commission can accept that aid for adaptation of vehicles also complies with the intensity ceiling set by the Guidelines.

(78) The Commission takes note that, in case of purchase of new vehicles, the Ministerial Decree provides for safeguard rules in order to prevent abandoned transport capacity re-entering the market. Article 3(2) of the Decree introduces the obligation to scrap the replaced vehicles or sell them outside the ECMT area ([30]). Beneficiaries must give evidence of the scrapping or sale of the old vehicle before receiving the subsidised loan.

(79) The Commission also takes note that Article 1(1) in conjunction with Article 3(1) of the Decree allows both national and non-resident haulage firms to benefit from the measure at issue. The Commission accordingly considers that the present measure does not imply any potential discrimination against carriers from other Member States.

(80) Overfunding is excluded by the first sentence of Article 3(1) of the Decree, stipulating that the subsidies in question may not be accumulated with any other contribution received for the same reasons from public bodies nor with any subsidy provided for in the other implementing decrees of Law 454/97. In addition (Article 6(3) of the Law in conjunction with Article 7(1) of the Decree), in case of misuse of the funds received, beneficiaries are obliged to repay the overall contribution with interest at a rate defined by law and may be struck off the road hauliers' register.

(81) For all the above reasons, the Commission can accept that in achieving environmental protection objectives the aid measure at issue, in its latest version, is designed to promote the development of transport activities to an extent compatible with the common market. The Commission therefore concludes that the measure may benefit from the exception provided for in Article 87(3)(c).

Training

(82) Aid compensating for training costs to be borne by enterprises to adapt to a changing economic environment may be regarded as one of several means of improving the employment situation and, therefore, the Commission may consider it compatible with the common market on the basis of Article 87(3)(c).

(83) When initiating the procedure, however, the Commission pointed out that, apart from aid intensity,

([28]) The reference rate as defined in the 1997 notice is periodically revised in accordance with the methods set out therein. The five-year reference rate (relevant to the present case) currently applicable in Italy is 6,18 % from 1 January 1999, in accordance with the latest update of 3 March 1999.

([29]) The Guidelines define such costs as 'additional investment costs for attaining the objectives of environmental protection' and further specify that costs eligible for environmental protection aid 'exclude costs of general investments not attributable to environmental protection' (see point 3.2.1 of the Guidelines).

([30]) The European Conference of Ministers of Transport (ECMT) is an intergovernmental body set up by an agreement signed in Brussels on 17 October 1953. The current members of the ECMT comprise all 15 EU countries and many other central and east European countries.

the Italian law failed to provide any further specification on the measure at issue, and consequently the measure itself appeared insufficiently clear to assess its compatibility with the common market. In this respect, the Commission notes that detailed rules and conditions have been subsequently planned by the Italian Government in the implementing decrees.

(84) Eligible training activities listed in Article 5(1) of the Decree on innovation and training appear not only linked to the organisational restructuring operations of the concerned firm and to its adaptation to new technologies, but also intended to acquire general skills and qualifications in the transport business. In this light, it can be accepted that the measure involves general training projects intended to facilitate the development of the transport sector within the meaning of Article 87(3)(c) of the Treaty.

(85) The measures in question cover up to 50 % of training costs. When initiating the procedure, the Commission noted that an aid intensity of 50 % for all undertakings seemed too high to be considered compatible with the common market. Nevertheless, the Community framework on training aid which has meanwhile entered into in force ([31]) lays down in this respect a maximum aid intensity for general training expenditure outside assisted areas of 50 % of the eligible costs for large firms and of 70 % for SMEs. In fact, information supplied by the Italian authorities in their letter of 16 July 1998 as well as official transport statistics show that, at least among national hauliers, potential recipients are in most cases small or even very small enterprises ([32]). As for aid intensity, a maximum ceiling of 50 % of eligible costs therefore seems reasonable to the Commission in the light of the above-mentioned circumstances.

(86) In conclusion, the Commission holds the view that the measure in question is compatible with the common market under Article 87(3)(c).

Purchase of computer systems and equipment

(87) With reference to this measure, the Commission considers that an investment-linked aid designed to assist undertakings in carrying out training activities may, in principle, be considered to serve the development of a specific sector, and therefore be compatible with the common market under Article 87(3)(c).

(88) However, the wording of the relevant legal texts, and especially of Article 2(1)(a) and (b) of the Decree on innovation and training, was too general to allow the Commission to conclude that the related aid provisions were intended to support specific training activities.

(89) In their letter of 29 January 1999, the Italian authorities stressed that the aid measure at issue has the sole aim of encouraging road haulage firms whose staff is involved in training activities to purchase equipment to study and practice new technologies in the field. In this light, the Italian Government announced the revision of Article 2(1)(a) and (b) in order to clarify the breadth and scope of the aid provisions concerned.

The Commission takes note in this respect of the draft Ministerial Decree amending the Decree on innovation and training, forwarded by note of 18 February 1999 from the Italian Permanent Representation. On the basis of the proposed amendments, support for the purchase of computers under the Italian measure can now be seen in direct connection with the provisions on aid to training examined above. In fact the new text of Article 2(1)(a) of the Decree on innovation and training only allows aid for the purchase of 'computer systems and hardware for use in the training activities provided for by Article 5 [of the Decree] for innovation in business management methods and in computerised data interchange systems', whereas Article 2(1)(b) will be repealed.

(90) Provided that the above amendments are approved, the Commission accepts that the Italian measure under discussion, in favouring the purchase of equipment for use in training activities, may help the firms concerned to adapt to innovative technologies and to make the necessary organisational changes. The measure contains an essential training component and has accordingly to be assessed under the criteria laid down in the Framework on training aid currently in force ([33]).

(91) The Framework allows aid for general training projects up to 50 % of eligible costs, plus a further 20 percentage points for SMEs. In so far as it is intended for use in training activities, computer equipment may be eligible for aid under the Framework.

([31]) OJ C 343, 11.11.1998, p. 10.

([32]) According to the Italian authorities some 60 % of Italian hauliers have no more than two vehicles and some 20 % have three to five vehicles.

([33]) See point 85 and footnote 31.

(92) As for aid intensity, the Commission notes that the Italian measure provides for low-interest loans at one third of the reference interest rate, as defined by the Italian authorities (Article 2(2)(a) of the Law and Article 2(1)(a) of the Decree), namely approximately 1,66 to 1,76 % ([34]). Following the criteria stated in the 1997 Notice on reference and discount rates ([35]), the concrete advantage for the borrower in comparison with interest rates applied in normal market conditions may be estimated at some 4,4 to 4,5 percentage points. The Commission holds the view that such advantage, referred to loans covering up to 75 % of the overall investment costs (Article 2(2)(a) of Law 454/97 and Article 4(1)(a), part two, of the Decree), can never attain the ceiling established by the Framework.

(93) The substantial financial contribution by the applicant of a low-interest loan under Article 2(3) of the Decree is as a rule ensured by the low aid intensity. Overfunding is excluded by Article 2(3) of the Decree, stipulating that the subsidies in question cannot be accumulated with any other contribution received for the same reasons from public bodies nor with any subsidy provided for in the other implementing decrees of Law 454/97. In addition, Article 6(3) of the Law in conjunction with Article 7(1) of the Decree stipulates that, in case of misuse of the funds received, beneficiaries are obliged to repay the overall contribution plus interest at a rate laid down by law and are liable to be struck off the road hauliers' register.

(94) In the light of the above, the Commission takes the view that the Italian safeguard rules for granting the contributions are sufficient to ensure a proper use of the funds and are likely to keep any distortion of competition at a reasonably low level.

(95) Finally, the Commission notes that Article 1(1) in conjunction with Article 2(1)(a) of the Decree allows both national and non-resident haulage firms to benefit from the measure at issue. It accordingly considers that the present measure does not imply any potential discrimination against carriers from other Member States.

(96) In conclusion, the Commission is of the opinion that the measure may benefit from the exemption laid down in Article 87(3)(c).

([34]) See footnote 26.
([35]) See point 76 and footnote 27.

Capacity reduction measure

(97) The Commission takes note in this respect that by letter of 22 January 1998 the Italian Government withdrew the notification of Article 3(7) and (8) of Law 454/97 containing incentives for capacity reduction in the road haulage sector.

The Commission therefore concludes that no decision is required in this connection.

Mergers and associations

(98) The Commission takes note in this respect that by letter of 29 April 1999 the Italian authorities withdrew the notification of the measures providing for incentives for mergers and associations between road haulage firms containd in Law 454/97.

The Commission therefore concludes that no decision is required in this connection.

VI. **CONCLUSIONS**

(99) In the light of all the above considerations, the measures established by the Italian scheme under discussion either appear not to constitute State aid within the meaning of Article 87(1) of the Treaty or can be declared compatible with the common market pursuant to Article 87(3) of the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

1. Contributions provided for in Article 3(1) to (5) of Italian Law No 454/97 of 23 December 1997, as amended, and in the Italian Decree of 10 June 1998 for the early retirement of single-vehicle road hauliers do not constitute State aids within the meaning of Article 87(1) of the EC Treaty or Article 61(1) of the EEA Agreement.

2. Subsidies for the construction of road terminals according to Article 2(1)(b) of the Italian Law No 454 of 23 December 1997, as amended, and Article 2(1)(c) and (d), 2(2), 2(3) and 4(1)(a) of the Italian Decree of 14 October 1998 on incentives for investments in innovation and training, as

amended, do not constitute State aids within the meaning of Article 87(1) of the Treaty or Article 61(1) of the EEA Agreement.

Article 2

1. Subsidies to road haulage firms for the purchase of combined transport units, the purchase of combined transport equipment and the purchase of electronic equipment dedicated to monitoring, control, use and sales in the combined transport chain according to Article 2(1)(b) and 5 of Italian Law No 454/97 of 23 December 1997, as amended, and according to Article 2(1)(a), (b) and (d) of the Italian Decree of 14 October 1998 are compatible with the common market according to Article 87(3)(c) of the EC Treaty and Article 61(3)(c) of the EEA Agreement.

2. Contributions for the construction of combined transport terminals under Article 5 of Italian Law No 454/97 of 23 December 1997, as amended, and under Article 2(1)(c) of the Italian Decree of 14 October 1998 on incentives for combined transport do not constitute State aid within the meaning of Article 87(1) of the EC Treaty or Article 61(1) of the EAA Agreement.

Article 3

1. Subsidies for the purchase and adaptation of vehicles under Article 2(1)(c) of Italian Law No 454 of 23 December 1997, as amended, and Articles 3 and 4(1)(b) of the Italian Decree of 14 October 1998 on incentives for investments in innovation and training, as amended, are compatible with the common market within the meaning of Article 87(3)(c) of the EC Treaty and Article 61(3)(c) of the EEA Agreement.

2. Aid to training activities under Article 2(1)(e) of Italian Law No 454 of 23 December 1997, as amended, and Article 5 of the Italian Decree of 14 October 1998 on incentives for investments in innovation and training, as amended, is compatible with the common market under Article 87(3)(c) of the EC Treaty and Article 61(3)(c) of the EEA Agreement.

3. Subsidies for the purchase of computer systems and equipment under Article 2(1)(a) of Italian Law No 454 of 23 December 1997, as amended, and Articles 2(1)(a) and 4(1)(a) of the Italian Decree of 14 October 1998 on incentives for investments in innovation and training, as amended, are compatible with the common market within the meaning of Article 87(3)(c) of the EC Treaty and Article 61(3)(c) of the EEA Agreement.

Article 4

1. Italy informs the Commission that is has approved the amendments to Law No 454 of 23 December 1997 set out in draft Law No 5527 of 17 December 1998, further amended according to the letter from the Italian authorities of 15 February 1999, and the amendments to the Decree of 14 October 1998 on incentives for investments in innovation and training set out in the draft Ministerial Decree forwarded on 18 February 1999.

2. Italy shall provide the Commission with annual reports on the implementation of the measures established by Law No 454 of 23 December 1997, as amended, and the related Ministerial Decrees, as amended. The first report shall be updated to 31 December 1999 and be furnished by 31 January 2000.

Article 5

This Decision is addressed to the Italian Republic.

Done at Brussels, 4 May 1999.

For the Commission
Neil KINNOCK
Member of the Commission