II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 25 April 2001

on the aid granted by Italy to Istituto Poligrafico e Zecca dello Stato and its subsidiaries

(Notified under document number C(2001) 1177)

(Only the Italian text is authentic)

(Text with EEA relevance)

(2002/345/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

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

Having called on interested parties to submit their comments pursuant to the provisions cited above [1] and having regard to their comments,

Whereas:

I. PROCEDURE

(1) By letter dated 4 August 1998, the Commission informed Italy of its decision to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the aid granted to Istituto Poligrafico e Zecca dello Stato (hereinafter 'Poligrafico') and to some of the companies controlled by it.

(2) The Commission decision to initiate the procedure was published in the *Official Journal of the European Communities* The Commission called on interested parties to submit their comments on the aid in question.

(3) The Commission received comments from three interested parties. It forwarded them to Italy, which was given the opportunity to react.

(4) The Italian authorities submitted their observations by letter of 1 February 1999. The Commission requested additional information by letters of 9 February and 27 August 1999.

(5) The Italian authorities provided the requested information by letters of 26 March, 27 May, 20 August and 29 November 1999 and by letter of 13 March 2000. Meetings were held with the Italian authorities on several occasions. In particular, detailed information was provided during the meeting held in Rome on 21 January 2000.

(6) During the course of the procedure, the Commission was informed of a new aid measure granted by Italy in the context of a larger restructuring plan. On 3 May 2000 it decided to extend the procedure to this new aid measure. This decision was communicated to Italy by letter of 5 July 2000.

(7) The Commission decision to extend the procedure was published in the *Official Journal of the European Communities*. The Commission called on interested parties to submit their comments on the aid in question.

[1] OJ C 133, 13.5.1999, p. 1; OJ C 272, 23.9.2000, p. 17.

(8) The Commission received no comments from third parties.

(9) The Italian authorities submitted their observations by letter of 3 August 2000.

II. DESCRIPTION OF THE MEASURES

(10) Poligrafico was set up under Law No 2744 of 1928 in order to bring together under a single body the production of banknote paper and normal paper destined for use by the State. It was defined in Article 1 of that Law as an *ente pubblico economico* (public undertaking) under the control of the Ministry of Finance. Law No 559 of 1966 redefined its nature and its financial structure, transferring control from the Ministry of Finance to the Ministry of the Treasury; its objectives were set as follows:

— production of paper (normal and for banknotes),

— publication of all the official documentation of the State,

— publication of cultural and literary works of national interest,

— management of paper production plants.

(11) From the financial point of view, Poligrafico was entrusted with ownership of the properties, plants and goods which had been used by the previous undertaking and received ITL 3 billion in new capital; the rent which it was obliged to pay to the State for the use of these assets (4 % of their value) was abolished. At the same time, it was required to transfer 90 % of its annual profits to the State as dividends.

(12) Law No 154 of 1978 assigned the following additional objectives (among others) to Poligrafico:

— minting of coins to serve as legal tender (both in Italy and abroad),

— minting of artistic and collectors' coins.

(13) In 1980 Poligrafico was authorised to acquire a majority shareholding in Cartiere Miliani di Fabriano SpA. (hereinafter 'CMF'), a large pulp and paper producing firm.

(14) Lastly, Law No 266 of 1988 confirmed Poligrafico as an ente pubblico economico. Being a public undertaking under the control of the Ministry of the Treasury, it enjoys financial autonomy vis-à-vis the State. Its management is appointed by the Italian Government.

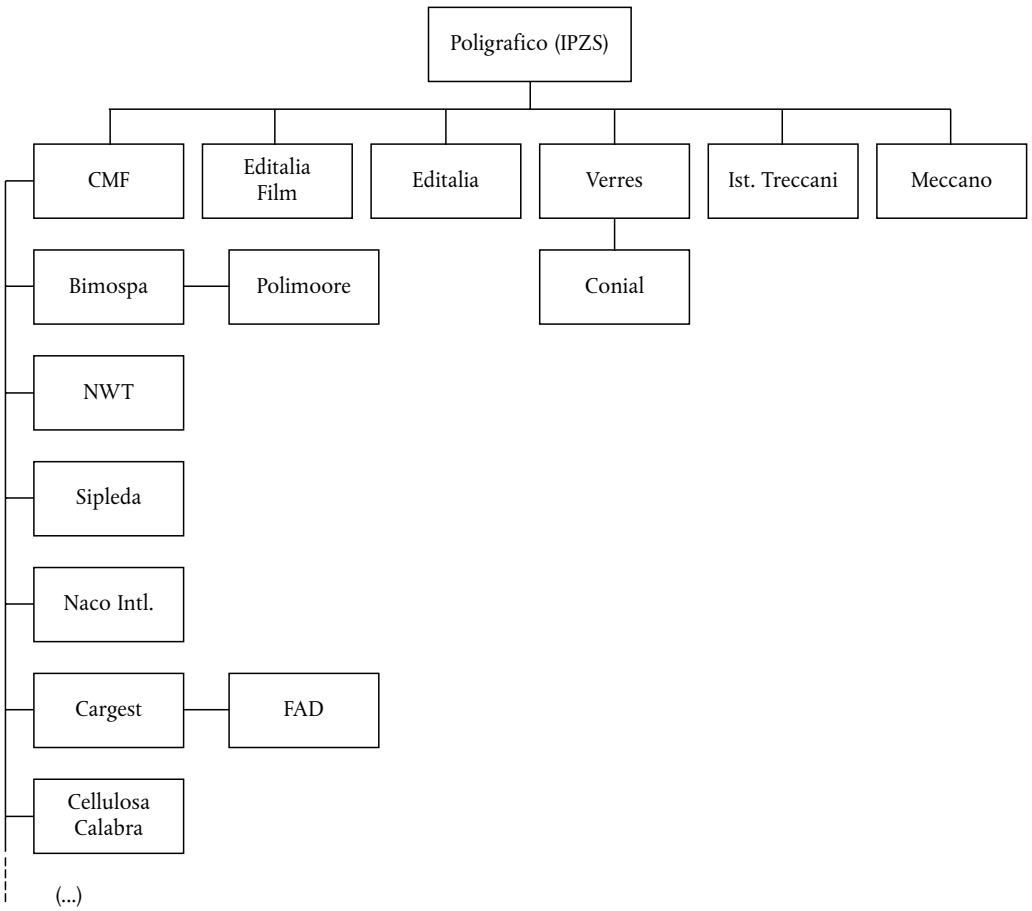
(15) At the time the procedure was initiated, the Poligrafico group was headed by Istituto Poligrafico e Zecca dello Stato, operating both as a commercial company and as a financial holding. It controlled directly CMF (97,3 %), Verres SpA (hereinafter 'Verres') (55 %), Editalia SpA (hereinafter 'Editalia') (71,8 %) and Editalia Film Srl (71,4 %). In addition, it held minority shares in Istituto Enciclopedia Italiana Treccani SpA (10 %) and Meccano SpA (0,6 %). As a whole, the group comprised 27 controlled companies and 7 affiliated companies.

(16) At the time the procedure was initiated, CMF in turn controlled several undertakings including among others Cellulosa Calabra SpA (hereinafter 'Cellulosa Calabra'), Naco International SpA (hereinafter 'Naco'), NWT SpA (hereinafter 'NWT') and FAD SpA. The structure of the Poligrafico group at the time the procedure was initiated is shown in Figure 1.

Figure 1

Poligrafico group

(main companies) as at 31 December 1996



(17) Under the Civil Code and Laws No 559/66 and No 154/78, Poligrafico was not obliged to prepare a consolidated balance sheet. At the request of the Ministry of the Treasury, the undertaking has, however, prepared consolidated accounts since June 1996 (see Figure 2).

(18) Poligrafico generates most of its turnover from supplying products and services to the State, as provided for in Law No 559/66. Under this law, it is required to supply normal paper and security paper to the public administration, to publish the Official Gazette and the official collection of all legal acts of the Italian Republic, to mint coins of the State and to manufacture marks of the State and all items with characteristics which safeguard public confidence ([2]).

(19) In 1998 Poligrafico's consolidated turnover was as follows:

— 'security paper'	ITL 260 billion (EUR 133 million)	30 %
— normal paper	ITL 278 billion (EUR 143 million)	31 %
— licence plates	ITL 78 billion (EUR 40 million)	9 %
— publishing	ITL 140 billion (EUR 72 million)	16 %
— coins and medals	ITL 127 billion (EUR 65 million)	14 %.

([2]) Article 2 of Law No 559/66, as modified by Article 2 of Legislative Decree No 166 von 1999.

(20) Poligrafico's consolidated profit and loss account is shown in Figure 2.

Figure 2

Poligrafico's consolidated profit and loss account

(ITL billion)

	1995	1996	1997	1998
Turnover	1 053	998	977	883
— Operating costs ([1])	(1 050)	(1 004)	(1 307)	(898)
Operating margin	3	(6)	(330)	(15)
— Financial charges and earnings	13	19	2	(8)
— Extraordinary charges and earnings	—	—	(286)	(150)
— Income taxes	(11)	(8)	—	(17)
Net result	5	5	(614)	(190)

([1]) Also includes asset write-downs and write-offs (ITL 232 billion in 1997 and 62 billion 1998).

(21) CMF is Poligrafico's largest subsidiary in terms of turnover and production. It produces normal paper and security paper. Its key economic and financial data are shown in Figure 3 below.

Figure 3

Consolidated profit and loss account of CMF

(ITL billion)

	1993	1994	1995	1996	1997	1998
Turnover	284	347	462	404	348	350
— Operating costs	(257)	(332)	(414)	(359)	(362)	(349)
Operating margin	27	15	48	45	(14)	(1)
— Financial charges and earnings	(34)	(36)	(45)	(43)	(37)	(20)
— Extraordinary charges and earnings	—	22	—	(1)	(136)	(156)
— Income taxes	—	—	(1)	—	—	(3)
Net result	(7)	1	2	1	(187)	(180)

(22) In its decision to initiate the procedure, the Commission referred to various aid measures granted by the State to Poligrafico and its subsidiaries. These included two capital increases of ITL 54 billion (EUR 28 million) and ITL 250 billion (EUR 125 million) granted by Poligrafico to CMF in 1996 and 1998 respectively and overpayments by the State to Poligrafico for its products and services.

(23) After the procedure had been initiated, the Italian Government adopted Decree-Law No 116 of 21 April 1999, which required Poligrafico to undertake a broad restructuring programme aimed at changing it from a public undertaking (*ente pubblico economico*) into a joint stock company (*società per azioni*) by 31 December 2001. To that end, Poligrafico was also required to carry out a three-year restructuring plan with the objective of restoring the group's profitability and financial soundness.

(24) As part of the procedure, the Italian Government informed the Commission that Law No 144 of 17 May 1999 gave Poligrafico a yearly grant of ITL 80 billion (EUR 40 million) over the next twenty years to repay the principal and the interest on loans taken out by Poligrafico to finance the restructuring plan.

(25) The Italian authorities also gave details of the financial resources granted to CMF by Poligrafico:

— 1996: capital increase of ITL 54 billion (EUR 28 million),

— 1998: transfer of debts of ITL 227 billion (EUR 116 million) and capital contribution of ITL 30 billion (EUR 15 million),

— 1999: capital contribution of ITL 89 billion (EUR 46 million).

(26) Of these resources, CMF transferred ITL 272 billion to Cellulosa Calabra, ITL 25 billion to NWT and ITL 5 billion to Naco.

(27) In addition, the Italian authorities informed the Commission that in 1998 Poligrafico granted capital contributions to Editalia for a net amount of ITL 49 billion (EUR 25 million) to reconstitute the share capital eroded by losses.

(28) All these sums granted by Poligrafico to its subsidiaries were then recovered by Poligrafico by means of the yearly grant given to it by the State. For the purposes of this procedure, the aid measure to be assessed is that granted to Poligrafico by Law No 144 of 17 May 1999 (ITL 80 billion for twenty years).

III. **COMMENTS FROM THIRD PARTIES**

(29) France submitted comments to the effect that the 'Direction des monnaies et médailles' had not participated in the calls for tender concerning minting services in India and Algeria mentioned by the Commission in its decision to initiate the procedure.

(30) France also affirmed that Verres' activities on foreign markets were rather limited in 1997 and 1998 since it did not take part in any of the calls for tender in which the 'Direction des monnaies et médailles' had participated.

IV. **COMMENTS FROM ITALY**

(31) In its reply, the Italian Government argues that:

— as far as the two capital increases granted by Poligrafico to CMF are concerned, (i) they do not constitute State aid since they have not provided any economic benefit to the recipient, (ii) Poligrafico acted as a private investor in a market economy, and (iii) in any event, any aid would be compatible with the common market under Article 87(3)(c),

— as far as the alleged commercial advantages granted to Poligrafico are concerned, they do not constitute State aid since the State has never overpaid Poligrafico for its products and services.

(32) As regards point (i), the Italian authorities maintain that the funds granted by Poligrafico to CMF were not caught by Article 87(1) in that they did not provide an economic benefit to the recipient. They argue that the two capital increases were transferred in their entirety by CMF to its subsidiaries Cellulosa Calabra, Naco and NWT to finance their restructuring. Since the funds were transferred to Cellulosa Calabra, Naco and NWT, CMF has not, according to the Italian authorities, derived any economic benefit from such funds, having acted merely as intermediary.

(33) The Italian Government maintains that the resources granted by CMF to Cellulosa Calabra, Naco and NWT did not constitute State aid since these companies have never been active on the market and therefore were not in a position to distort competition and trade between Member States. In any case, Cellulosa Calabra and Naco have been sold to private investors, while NWT has been wound up.

(34) As regards point (ii), the Italian authorities argue that Poligrafico, in granting the funds in question, acted as a private investor, in that it provided the funds necessary to restructure one of its subsidiaries, so as to safeguard the value of its investment.

(35) As regards point (iii), the Italian authorities argue that, should the Commission consider these measures as State aid, they should nevertheless qualify for the derogation under Article 87(3)(c) since they were aimed at restructuring a firm in difficulty.

(36) As regards the alleged commercial advantages granted to Poligrafico in the form of overpayment for products and services, the Italian authorities dispute the very existence of the measures and explain that the price of products and services sold to the State is fixed by a commission set up within the government stationery office (Provveditorato Generale dello Stato), which is responsible for supplying all public administration offices.

(37) According to the Italian authorities, the price set by the commission takes into account, on the one hand, the price of similar products and services on the market and, on the other hand, the production costs incurred by Poligrafico. Consequently, Italy claims that no overpayment in favour of Poligrafico is possible.

(38) As regards the funds allocated to Poligrafico by Law No 144 of 17 May 1999, which were not included in the decision to initiate the procedure, the Italian Government argues that they are part of an extensive restructuring plan for Poligrafico as a group and that they therefore constitute aid which is compatible within the meaning of Article 87(3)(c).

(39) Finally, as regards the funds granted by Poligrafico to Editalia, the Italian Government claims that they are aimed at restructuring the company and are, therefore, to be regarded as aid compatible with the common market within the meaning of Article 87(3)(c) of the EC Treaty.

(40) The same arguments were adduced by the Italian authorities with respect to the extension of the procedure.

V. ASSESSMENT OF THE AID

(41) In the case under assessment, it has to be established whether the funds granted to Poligrafico and its subsidiaries and the alleged commercial advantages:

— are granted by the State or through State resources,

— are capable of distorting competition by favouring certain undertakings or the production of certain goods, and

— affect trade between Member States and therefore constitute aid within the meaning of Article 87(1).

Use of State resources

(42) The funds granted by Law No 144 of 17 May 1999 to Poligrafico stem directly from the State budget and, as such, clearly constitute State resources within the meaning of Article 87(1).

Favouring of certain undertakings

(43) The Commission takes the view that any financial measure granted by the State to an undertaking which, in various forms, would mitigate the charges normally included in the accounts of the undertaking has to be considered as State aid within the meaning of Article 87.

(44) The funds provided by Law No 144 of 1999 to Poligrafico (ITL 80 billion for twenty years) will allow the company to repay the principal and the interest due on loans it has taken out to finance its restructuring. In practice, Poligrafico is placed in a position in which it obtains loans for which it will pay back neither the principal nor the interest. The amount in loans that Poligrafico can obtain without having to ensure repayment can be estimated at about ITL 1 100 billion (EUR 568 million).

(45) Loans are a necessary form of financing in the life of a company as they can be used to finance running costs, investments or extraordinary transactions, such as acquisitions. However, the fact that companies have to repay the principal and a market interest rate on their loans forces them to require higher returns from their investments in order to be able to repay the loans and secure a sufficient return for shareholders.

(46) In this case, Poligrafico is to receive a loan without having to repay it since the State will repay it over the next twenty years. It is clear that the measure in question reduces the charges that Poligrafico would have incurred if it were a normal commercial undertaking without any State support.

(47) Accordingly, the funds provided by Law No 144 of 1999 to Poligrafico favour the undertaking vis-à-vis its competitors not benefiting from the same measure and provides an economic benefit within the meaning of Article 87(1) of the Treaty.

(48) The Italian authorities argue that Poligrafico will use part of the loan to repay the debts it has incurred in order to provide financial resources to CMF (ITL 370 billion — EUR 190 million) and Editalia (ITL 49 billion — EUR 25 million). CMF in turn has used most of the funds received to inject capital into some of its subsidiaries, i.e. Cellulosa Calabra (ITL 272 billion), Naco (ITL 5 billion) and NWT (ITL 25 billion). Therefore, according to the Italian authorities, the resources granted to Poligrafico did not constitute State aid as they were simply transferred to CMF, which in turn transferred them to Cellulosa Calabra, Naco and NWT. As these latter companies had a very limited turnover, if any, no distortion of competition can be detected.

(49) The Commission cannot concur. Poligrafico operates as an integrated group that produces directly or through subsidiaries. As a result, although CMF is a separate entity from Poligrafico, it forms part of the group and has to be considered, for the purposes of this procedure, as part of a single economic group. It operates in fact as a subholding of Poligrafico with shareholdings in more than fifteen companies, as well as being an integrated production company.

(50) The measures granted to Poligrafico are to be regarded as being intended for the whole group, regardless of whether they benefited certain products or services provided by Poligrafico directly, by CMF or by any other subsidiary.

(51) Consequently, in assessing whether the measures under examination have provided an economic benefit to the recipients within the meaning of Article 87 the

Commission has to apply the market economy investor test to the funds granted by the State to Poligrafico since they also comprise those granted by Poligrafico to its subsidiaries to finance their restructuring.

(52) In this connection, it is necessary to examine whether the funds received by Poligrafico have been granted according to the principle of the private investor operating under normal market economy conditions (market economy investor principle) ([3]). If this is not the case, these measures produce an economic benefit for the recipient. The recipient may, in fact, use these resources to finance expenditure and investments without needing to obtain loans from financial institutions or to provide an adequate return on the resources received.

(53) According to the market economy investor principle, a financial transaction between a State and a public undertaking involves aid when it would have not been carried out by a private investor operating under normal market economy conditions. In particular, State aid can be presumed where 'the financial position of the company and particularly the […] volume of its debts, is such that a normal return (in dividends or capital gains) cannot be expected within a reasonable time from the capital invested' ([4]).

(54) As can be seen from Figures 2 and 3, both Poligrafico and CMF were in a difficult economic situation at the time they received the funds from their respective shareholders. As regards Poligrafico, Figure 2 shows that the company had been facing a serious downturn in its economic situation: its operating margin became negative in 1996 and worsened appreciably in 1997. Even leaving aside the outright write-offs in 1997, the operating margin (which may be likened to the economic performance of 'industrial' activities) was negative to the tune of some ITL 100 billion. Despite a significant improvement in 1997, the operational viability of the company remained negative.

(55) Furthermore, in both 1997 and 1998 Poligrafico had negative equity. In normal conditions, companies with negative equity cannot operate.

(56) The same reasoning can be applied *mutatis mutandis* to CMF. As shown in Figure 3, the company suffered a sudden downturn in its turnover and saw its operating margin become negative in 1997 and 1998. Over the same period, it incurred heavy losses which completely wiped out its share capital. It was only thanks to the capital contributions received from Poligrafico that the company was able to remain in operation. It is clear therefore that, on the basis of the past performance of the company, its financial structure and its economic prospects, Poligrafico could not expect a return on its investment which would have been acceptable to a private investor.

(57) In such circumstances, the State could not reasonably expect a normal market return from its investment in the undertaking. Accordingly, the provision of financial resources to Poligrafico has to be regarded as conferring an economic benefit on the recipient within the meaning of Article 87 and could therefore constitute State aid within the meaning of Article 87 of the EC Treaty if they were to affect trade between Member States.

Effect on Community trade

(58) The third condition to be met for State measures to be caught by Article 87 is that they have a real or potential effect on trade between Member States. In the case in question, it is necessary to assess the effect on intra-Community trade since, as the Commission pointed out in its decision to initiate the procedure, Poligrafico and its subsidiaries operate in various sectors, pulp and paper production, minting and publishing, which are open to competition and in which intra-Community trade is significant.

(59) Moreover, in initiating the procedure, the Commission clearly Stated that in the abovementioned sectors actual or potential trade between Member States exists. In particular, it referred to the minting service, the provision of paper for administrative use and to publishing services. As regards the effect on trade, the Commission reiterates its view that the State aid measures granted to Poligrafico or to its subsidiaries distort or threaten to distort trade between Member States.

(60) In addition, the Commission would point out that, according to the Court of Justice, for a State measure to be caught by Article 87, a direct impact on the actual trade between Member States is not necessary. It is sufficient that the measures strengthen the position of

([3]) Commission communication on the application of Articles 92 and 93 of the EC Treaty and of Article 5 of Commission Directive 80/723/EEC to public undertakings in the manufacturing sector (OJ C 307, 13.11.1993, p. 3, Section III).

([4]) See aforementioned communication, paragraph 16.

the recipient compared with other undertakings which are competitors in intra-Community trade ([5]). This is the case for Poligrafico's competitors but also for other companies operating in the minting, publishing and printing sectors.

(61) It can therefore be concluded that the measures under examination also meet the third criterion spelt out in paragraph 31, and therefore constitute State aid within the meaning of Article 87(1).

Compatibility with the common market

(62) Having confirmed that the measures in question constitute State aid within the meaning of Article 87(1), the Commission has to assess whether they can be declared compatible with the common market under the relevant provisions of the EC Treaty.

(63) Article 87(2) can be excluded as the measures do not have a social character, are not granted to individual consumers and are not intended to make good the damage caused by natural disasters.

(64) As for Article 87(3)(a) and the part of Article 87(3)(c) regarding regions, the aid does not appear to be intended to promote the development of specific regions, given the variety of locations in which Poligrafico as a group is present. Nor is it aimed at promoting 'the execution of an important project of common European interest' remedying 'a serious disturbance in the economy of a Member State' within the meaning of Article 87(3)(b).

(65) Given the nature of the measures in question, Article 87(3)(d) does not seem to be applicable either.

(66) In conclusion, the aid measures in question qualify only for the derogation in Article 87(3)(c). In such cases, the Commission assesses the compatibility of aid measures on the basis of the guidelines for rescuing and restructuring firms in difficulty ([6]) as the procedure was initiated in 1998 in respect of the aid granted up to that moment. According to those guidelines, if the Commission is to approve measures to restructure a firm in difficulty, the following conditions must be satisfied:

(i) the measures must restore the long-term viability of the firm;

(ii) they must avoid undue distortions of competition;

(iii) they must be in proportion to the costs and benefits of restructuring;

(iv) the restructuring plan must be fully implemented;

(v) the implementation of the restructuring plan must be monitored by the Commission.

(67) Only if all of these criteria are met can the Commission declare the effects of the aid not to be contrary to the Community interest and approve it under Article 87(3)(c).

(68) To this end, the Italian authorities submitted a comprehensive restructuring plan for Poligrafico as a group and for CMF in particular that had three main aspects:

— focus on Poligrafico's 'core' business as product and service provider for the public administration and hence termination of its 'external' activities,

— privatisation/liquidation of most of Poligrafico's subsidiaries, CMF and most of CMF's subsidiaries,

— reduction in costs by increasing internal efficiency and restructuring.

(69) Poligrafico reckons to restore sound profitability in 2002, while satisfactory cash flows are already expected in 1999 and 2000 (see Figure 4 below).

([5]) Case 730/79 Philip Morris v Commission [1980] ECR 2671.
([6]) OJ C 368, 23.12.1994.

Figure 4

Poligrafico's restructuring plan

(ITL billion)

	1998	1999	2000	2001	2002	Reference year [1]
Turnover	870	850	800	760	752	752
— Operating costs	(850)	(820)	(740)	(680)	(650)	(640)
Operating margin	20	30	60	80	102	112
Ordinary result	(30)	(21)	9	20	40	48
Cash flow	2	12	35	55	n.a.	n.a.

[1] Excludes minting of euro coins.

(70) The above results will be obtained by drastically reducing the company's operating costs, in particular staff costs, by almost 50 %, carrying out a wide range of internal reorganisation measures and discontinuing the production of several products and services intended for the market. For example, the plants producing normal paper and envelopes are already being dismantled. In terms of turnover (in 1997), this represents a decline of some ITL 170 billion (around EUR 87 million) per year.

(71) On completion of the restructuring plan, Poligrafico will concentrate production on two product categories:

— products and services destined for the public administration for which the authorities impose specific quality and security requirements in terms of non-reproducibility, public confidence, etc. (category (a)). This category includes products such as passports, personal identification documents, lottery tickets, government bonds and the Official Gazette as well as minting operations on behalf of the Central Bank. It is estimated that, on completion of the plan, these products will account for 85 % of the company's turnover. It is clear that, because of their very nature, the competition for these products is fairly limited,

— products destined for the public administration but not necessitating the same strict security requirements as category (a) above, such as tax documents, voting cards, etc. (category (b)). On completion of the restructuring plan, these products should provide the remaining 15 % of Poligrafico's turnover.

(72) As Poligrafico is to terminate production of all its current 'commercial' products, the plan provides for the closure of all existing plants in order to concentrate production in a single new plant that will permit greater efficiency and improved product quality. A separate plant will be necessary only for minting operations.

(73) In addition, the plan provides for the sale of all Poligrafico's subsidiaries except for Verres and Editalia. Verres will continue to produce the materials necessary for the minting operations, while Editalia is important for the publishing side of the business, which may be useful for Poligrafico's core business. The plan also provides for the possibility of selling these subsidiaries at a later stage.

(74) The restructuring plan envisages a significant reduction in the prices paid by the public administration for Poligrafico's products and services. It is estimated that, on the basis of the 1997 production figures, this will reduce the company's turnover by some ITL 90 billion at the end of the plan.

(75) From an organisational point of view, the restructuring plan aims to bring about a reduction in Poligrafico's workforce from 5 302 in 1997 to 2 650 in 2002 and to 2 550 in the reference year, when production will be concentrated at a single site. It also seeks to lower staff unit costs by modifying some legal aspects of the employment contract and by replacing older and more expensive employees with young and less expensive workers. The combined action on staff numbers and on unit costs will allow the company to reduce its overall staff costs from about ITL 475 billion (EUR 244 million) in 1997 to ITL 228 billion (EUR 117 million) in the reference year.

(76) By 30 June 2000 the workforce had already been cut by about 1 850 to 3 130, i.e. at a faster rate than envisaged in the plan.

(77) The plan puts the total cost of the above measures at around ITL 1 400 billion (EUR 720 million) over the period 1999 to 2002. Of this figure, ITL 600 billion is to be used to restructure Poligrafico's financial situation, ITL 430 billion to relocate the production facilities to a single plant and ITL 370 billion to cover the social costs of redundancies. Poligrafico will contribute some ITL 300 billion to the financing of the plan, including ITL 120 billion from the sale of assets and subsidiaries, ITL

100 billion from cash flows for the period and ITL 80 billion from the reduction in working capital.

(78) As explained in recital 44, the remaining ITL 1 100 billion will be in the form of loans on which the State will repay the principal and the interest.

(79) Lastly, Poligrafico will implement an analytical accounting system which will make it possible to separate the costs and revenue relating to products sold exclusively to the public administration from those relating to any products sold on the market. This will prevent any risk of cross-subsidisation between the business for which Poligrafico operates as a supplier to the public administration and those for which it decides to compete on the market.

(80) The main component of Poligrafico's restructuring will be the reduction in its operating costs (ITL 200 billion over the period concerned), which will be achieved by redundancies, production rationalisation and other organisational measures. Implementation of these measures depends on the will of the company's management and not on favourable market developments.

(81) As far as Poligrafico is concerned, it can be seen from Figure 4 that the measures envisaged in the restructuring plan will allow the company to restore sound viability as from 2001. Already in 2000, the company will have a reasonable cash flow which will enable it to finance some of the remaining restructuring measures. It is also worth noting that these results will be achieved entirely by means of internal restructuring measures, without relying on favourable market assumptions. Condition (i) is therefore met.

(82) In parallel with the restructuring of Poligrafico, the plan submitted by the Italian authorities provides for a radical restructuring of CMF with a view to privatising it as soon as possible. As CMF is the largest subsidiary, its restructuring prior to privatisation should be analysed.

(83) CMF's restructuring plan is based on the following measures, which are to be carried out within three years:

— shifting of the product range to products with higher value added, such as banknote paper,

— closure of the carbonless copy paper business,

— restructuring of the current power supply plants, which account for a large percentage of the operating costs,

— reorganisation of the commercial and marketing areas,

— reduction of staff numbers.

(84) The plan also envisages the sale of most of CMF's subsidiaries and of non-strategic assets. With regard to the companies to be sold, CMF has already completed the sale of Cellulosa Calabra, a heavily loss-making subsidiary. As mentioned in recital 48, the Italian authorities maintain that aid granted to this company, as well as to Naco and NWT, should be assessed separately. The Commission, for the reasons given above, considers that these companies, each with a very low turnover and production, if any, have to be considered as forming part of CMF's paper and pulp production activities.

(85) However, CMF's difficulties are attributable primarily to Cellulosa Calabra, Naco and NWT. In particular, Cellulosa Calabra, which received 90 % of the funds given by CMF to its subsidiaries, was to become a site in Calabria, a disadvantaged region under Objective 1 for the production of paper using a special process requiring the use of fewer trees and capable of reducing the polluting effects of chlorine-based production processes. Despite huge investments and a large workforce, the company never achieved significant production levels, limiting itself to production and marketing tests. Its turnover during the first half of 1998, just before privatisation, was only ITL 140 million (EUR 72 000). It was sold by means of an open and transparent procedure to a group of investors which dismantled all its paper production plants and used the industrial site to produce electricity. There is, therefore, no need to examine any restructuring plan for Cellulosa Calabra.

(86) The same reasoning can be applied to Naco and NWT. Both companies were engaged in developing new processes for producing paper and paper-like products. Naco's turnover in 1997, before privatisation, was only ITL 170 million (EUR 86 000), while NWT's turnover in 1998 was a little under ITL 1 500 million (EUR 770 000). Both subsidiaries have also already been sold by means of open and transparent procedures to private

investors. The proceeds, 8 % and 2 % of the funds given by CMF to its subsidiaries, were used to offset earlier losses.

(87) Under CMF's plan, the sale and closure of most of its subsidiaries will continue. For example, in addition to the abovementioned sales of Cellulosa Calabra, Naco and NWT, CMF has already sold Polimoore SpA and FAD SpA, while Cargest SpA and Cogest SpA have been put into liquidation.

(88) Similarly, the Cerreto Castello plant, owned by Fabriano Soft, has already been sold and CMF's carbonless copy paper production line has been shut down.

(89) In addition, the plan envisages various measures aimed at repositioning the company in terms of products and distribution channels, as well as raising efficiency to the level of that of its competitors. One of these measures is to reduce the company's workforce from its current size of 970 to around 600 (-40 %).

(90) These measures should turn the company around. CMF should be able to achieve an operating profit of some ITL 60 billion (EUR 31 million) in 2002 (compared with an ITL 1 billion (EUR 0,5 million) loss in 1998), as Figure 5 shows.

Figure 5

CMF's restructuring plan

(ITL billion)

	1997	1998	2000	2001	2002
Turnover	348	350	…	…	418
— Operating costs	(362)	(351)	…	…	(358)
Operating margin	(14)	(1)	…	…	60
Net result	(187)	(181)	…	…	34

(91) As part of the plan, CMF is to be privatised in accordance with the restructuring plan of its shareholder Poligrafico. To this end, the sale procedure has already started.

(92) As mentioned in recital 67, the Commission has to assess whether the restructuring plan submitted by the Italian authorities fulfils the five conditions laid down in the relevant guidelines.

(93) The first condition is that the measures must restore the long-term economic and financial viability of the recipient within a reasonable time scale and on the basis of realistic market assumptions.

(94) The Commission also notes that, as far as CMF is concerned, the restructuring measures are expected to return the company to sound profitability in 2002, the reference year, when CMF will have an estimated cash flow of around ITL 60 billion, sufficient to cover the company's investment and operating needs. Restructuring will be made possibly largely as a result of the measures envisaged by CMF to increase its efficiency and reduce its operating costs. For example, staff costs are estimated to fall from ITL 75 billion in 1997 to ITL 45 billion in 2002 (-40 %). These measures are largely dependent on the company's management and not on external market conditions.

(95) In addition, the Commission takes note of the Italian authorities' commitment to privatise CMF as soon as possible as part of Poligrafico's restructuring plan. It considers that the presence of private investors will underpin the company's profitability prospects.

(96) In this respect, it has to be noted that Poligrafico has already selected the adviser for the sale of CMF and that the privatisation procedure is about to start.

(97) The Commission takes note of the Italian authorities' commitment to implement in full the above restructuring plan according to the timetable indicated and to submit half-yearly progress reports starting from 30 June 2001.

(98) The second condition requires the avoidance of undue distortions of competition. Generally speaking, any aid granted by a State to a firm causes undue distortions of competition since it places that firm in a more favourable economic situation compared with its competitors. This effect therefore has to be offset by reductions in production capacity.

(99) In the present case, the restructuring plan shows that Poligrafico will significantly reduce its production capacity. In particular, as mentioned above, it will

terminate all its current production destined for the commercial market and limit itself to products and services for the public administration. This implies, at 1998 values, a loss of production of some ITL 170 billion, out of a total turnover of ITL 977 billion (17 %).

(100) Moreover, Poligrafico will sell most of its subsidiaries, and in particular CMF, which is by far the largest in terms of production capacity and turnover. As shown in Figure 4, Poligrafico's turnover will fall to ITL 752 billion in 2002, from ITL 998 billion in 1996 and, most importantly, from a consolidated figure of ITL 1 530 billion that same year. This represents a reduction of about 25 % in terms of Poligrafico itself and of some 50 % in terms of the consolidated group. Even when it is borne in mind that Verres and Editalia will remain within the group, the reduction in capacity is still large and significant.

(101) As mentioned above, Poligrafico will close its three plants and concentrate production at a single new facility. This may also result in a significant reduction in the group's available production capacity.

(102) The Commission notes that CMF will significantly reduce its workforce (-40 %) and restructure its production facilities, resulting thereby significantly cutting back its production capacity. In particular, the company will close the new Rocchetta plant, which was built between 1991 and 1993 with a potential capacity of 150 000 to 200 000 tonnes. CMF will use the facility as a logistics terminal and gradually scale down its actual production: this will further reduce its potential production capacity.

(103) Consequently, the Commission considers that, on the basis of the plan submitted by the Italian authorities, Poligrafico has already reduced and will substantially reduce its production capacity, both by concentrating production and selling off most of its subsidiaries, in particular CMF. In its view, therefore, the aid granted to Poligrafico will not unduly distort competition, provided that the measures in the restructuring plan are implemented as envisaged. Condition (ii) is therefore met.

(104) Condition (iii) requires that aid be in proportion to the costs and benefits: if State aid is to be declared compatible, it must be limited to the strict minimum needed to finance the return to economic and financial viability and must not therefore be used for aggressive, market-distorting activities, except to the extent necessary to restore the firm to profitability.

(105) As explained in paragraph 77, the restructuring plan envisages total financial costs of ITL 1 400 billion. Poligrafico will contribute significantly to the funding of the plan by means of the cash flow (ITL 100 billion over the whole period) generated by the rationalisation measures, by the sale of its assets and subsidiaries (ITL 120 billion) and the reduction in its working capital.

(106) From the information provided by the Italian authorities, it appears that the funds received by Poligrafico will be used to reduce the company's financial debts, to reconstitute its net equity, to finance the restructuring of operations and to cover the social costs of redundancies.

(107) At the end of 1998 Poligrafico had a negative equity of about ITL 600 billion (EUR 308 million) as a result of its 1997 and 1998 losses. These losses were due largely to inventory and assets write-offs and to the need to allocate financial resources to its subsidiaries, CMF in particular. The Commission considers that the amount granted by the State to Poligrafico is limited to the strict minimum necessary to cover the costs of its financial, organisational and industrial restructuring.

(108) As mentioned above, Poligrafico will use the resources granted by the State, together with its own resources, to cover the social costs of redundancies (ITL 370 billion), to restructure its production sites (ITL 430 billion - EUR 221 million) and to reconstitute its equity (ITL 600 billion - EUR 308 million). At the end of the plan, Poligrafico will have a sound financial structure with a normal level of debt relative to its equity.

(109) The Commission therefore considers that the aid to be granted to Poligrafico is in proportion to its restructuring costs and does not provide surplus resources which could be used to finance aggressive commercial practices. It also notes in this respect that Poligrafico will implement a separate accounting system which will separate the costs and revenues relating to products sold exclusively to the public administration from those relating to products sold to private sector customers. This will subsequently help to ensure that no

aid will spill over into the (limited) commercial activities that will remain once the plan has been implemented.

(110) The Commission takes the view, therefore, that the aid granted did not bring Poligrafico and CMF any additional liquidity which was unrelated to the process of restructuring and might have helped to finance aggressive commercial activities or new investment not necessary for the restructuring.

(111) With regard to condition (iii), it has been Stated above that the recipients will make a significant contribution to the financing of restructuring operations. As far as Poligrafico is concerned, it has been shown that the company will participate fully in its restructuring by providing some ITL 300 billion (EUR 154 million) of internal resources from the sale of assets, subsidiaries and industrial plants, as well as from the cash flow resulting from the rationalisation of its operations.

(112) As far as CMF is concerned, the Commission notes that the company is to use for restructuring purposes, about ITL 150 billion (EUR 77 million) of internal resources out of an estimated future requirement of ITL 200 billion (EUR 103 million). CMF will also sell most of its subsidiaries (as mentioned earlier, several of them have already been sold or are being sold) and use the proceeds to finance its own restructuring.

(113) The Commission considers that both companies will make a significant contribution to the financing of their respective restructuring plans. Condition (iii) is therefore met.

(114) Lastly, the Italian Government has undertaken to ensure that the restructuring plan is fully implemented and to submit half-yearly reports on the economic and financial situation of Poligrafico and on the progress of the company's restructuring measures, in order to enable the Commission to monitor the implementation of the restructuring plans submitted. Conditions (iv) and (v) are therefore met.

VI. **CONCLUSIONS**

(115) The Commission finds that Italy has unlawfully implemented the aid measures described above, in breach of Article 88(3) of the Treaty. However, it considers that the aid granted to Poligrafico is compatible with the common market under Article 87(3)(c) of the Treaty, subject to full implementation of the restructuring plan submitted to the Commission as part of this procedure,

HAS ADOPTED THIS DECISION:

Article 1

The aid which Italy has granted to Istituto Poligrafico e Zecca dello Stato, amounting to ITL 80 billion a year for the next twenty years (equivalent to ITL 1 100 billion at present value), is compatible with the common market subject to the conditions set out in Article 2.

Article 2

Italy shall implement the restructuring plan of Istituto Poligrafico e Zecca dello Stato and shall submit half-yearly reports on the progress of the restructuring plan, starting on 1 July 2001.

Article 3

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

Article 4

This Decision is addressed to the Italian Republic.

Done at Brussels, 25 April 2001.

For the Commission

Mario MONTI

Member of the Commission