COMMISSION

COMMISSION DECISION

of 6 October 2004

on State aid which Italy plans to grant to the agricultural undertaking *Cooperativa Agricola Moderna* Scrl

(notified under document number C(2004) 3639)

(Only the Italian version is authentic)

(2006/224/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 called on [1] interested parties to submit their comments pursuant to the provision cited above and having regard to their comments,

Whereas:

I. PROCEDURE

(1) By letter dated 8 February 2001, registered on 9 February 2001, the Italian Permanent Representation to the European Union notified the Commission of the measure indicated above in accordance with Article 88(3) of the EC Treaty.

(2) By letters of 21 August 2001, registered on 24 August 2001, of 3 December, registered on 5 December 2001, and of 11 April 2002, registered on 17 April 2002, the Italian Permanent Representation to the European Union sent the Commission the further information requested from the Italian authorities by letters of 9 April 2001 and 27 September 2001 and via informal contacts.

(3) By letter dated 5 June 2002, the Commission informed Italy that it had decided to initiate the procedure laid down in Article 88(2) of the EC Treaty in respect of the said aid.

(4) The decision to initiate the procedure was published in the Official Journal of the European Communities [2]. The Commission invited interested parties to submit their comments on the aid.

(5) The Commission did not receive any comments from interested parties.

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[1] OJ C 251, 18.10.2002, p. 3.
[2] See note 1.

(6) By letter dated 16 September 2002, registered on 17 September 2002, Italy sent the Commission further information on the planned aid.

II. **DETAILED DESCRIPTION OF THE AID**

(7) *Cooperativa Agricola Moderna* Scrl is one of the undertakings eligible to receive the rescue aid examined and approved by the Commission in case N 354/2000 [3]. The approving decision makes provision for converting the rescue aid into restructuring aid provided that within six months of the aid being authorised Italy submits a restructuring plan for the undertaking, in accordance with point 23 of the Community Guidelines on State aid for rescuing and restructuring firms in difficulty (hereafter "the Guidelines") [4]. The Italian authorities sent notification of the restructuring plan in accordance with the commitment made. This Decision therefore focuses on the restructuring aid.

(8) In line with the restructuring plan, the rescue aid disbursed, amounting to ITL 900 000 000 (€ 464 810), was converted into a subsidy in the form of a capital grant.

A. *Description of the undertaking*

(9) *Cooperativa Agricola Moderna* Scrl is a small-scale cooperative society comprising 69 partners specialising in wine and cereal growing (primary production). It currently manages 75 hectares which it owns and 207 hectares which it leases, and receives the production from a further 178 hectares.

B. *Market study*

(10) According to the Italian authorities, *Cooperativa Agricola Moderna* Scrl's main activity is the production of grapes for winemaking (80% of its gross saleable production). The market concerned is the wine market. The total wine production of the Marche Region, which has a surface area of 23 500 hectares, 13 000 of which produce wine with a registered designation of origin, is ITL 147 billion. With its 125 hectares of vineyards, *Cooperativa Agricola Moderna* Scrl covers 0,53% of the total surface area in the region devoted to wine growing and 0,96% of that dedicated to wine with a registered designation of origin and it accounts for 0,38% of the region's average production (data from the last three years).

(11) The current trends in the wine sector are towards the consumption of better quality wine (the consumption of wine with a registered designation of origin is increasing and the consumption of table wine is decreasing [5]. The international markets are growing all the time and the reputation of Italian wine abroad is improving even though it has to face vigorous competition from traditional producers and other emerging countries in the sector. Almost three quarters of Italian wine firms export abroad: these are generally small and medium-sized undertakings with an annual turnover of less than 50 billion. Marche Region wines with a registered designation of origin have good prospects of success. The Verdicchio dei Castelli di Jesi wine, which has been judged one of the best Italian white wines, is, together with Rosso Conero, one of the most popular Marche Region wines in Italy and throughout the world. The quantity exported amounts to 30% [6]. Its future prospects in the context of the restructuring reveal a moderately optimistic view of developments in the wine market, anticipating no slump in the demand for high-quality wines produced in restricted geographical areas. *Cooperativa Agricola Moderna* Scrl's restructuring plan provides for a proportion of production to be converted to wines of that kind.

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[3] Letter SG(2000) D/106283 dated 14.8.2000.
[4] OJ C 288, 9.10.1999, p. 2.
[5] Ismea-Nielsen study.
[6] Market survey carried out by ASSIVIP, the Inter-Provincial Association of Quality Wine Producers.

C. *Source of Cooperativa Agricola Moderna Scrl's difficulties*

(12) According to the Italian authorities, the cooperative's financial difficulties are due to:

a) Excessive financial costs associated with financing investments through short-term loans.

b) A constant downward trend in market prices not linked with similar reductions in production costs (manpower, technology). The low level of mechanisation of production and the age of certain vineyards in particular cannot assure adequate profit margins.

c) Insufficient reserves. The depreciation fund reserves over the last five years have not been sufficient in relation to the useful lifetime of equipment, and this has exacerbated the financial situation.

d) Natural disasters. The poor weather conditions which marked the 1998-1999 season (hail) and the 1999-2000 season (hail and drought) caused losses which were only partially offset by the insurance cover and were not eligible for compensatory aid under any national or regional schemes.

e) Investment in new vineyard equipment for which the public funding turned out to be considerably less than the maximum amount laid down by Community legislation. The Region had set the ceiling for eligible expenditure at ITL 17 000 000 per hectare and the rate of aid at 35%. In steeply sloping areas the equipment costs considerably exceeded this ceiling (ITL 32 000 000 per hectare).

Cooperativa Agricola Moderna Scrl's debt burden

(13) According to the Italian authorities, *Cooperativa Agricola Moderna* Scrl's losses can be summed up as follows:

Difference in economic performance 1995–2000 (*)	ITL 776 432 609 (€ 400 994)
Difference in public aid for investments	ITL 179 363 240 (€ 92 633)
Loss of gross production due to weather conditions 1998/1999	ITL 165 120 000 (€ 85 277)
Loss of gross production due to weather conditions 1999/2000	ITL 194 599 000 (€ 100 502)
Total losses	ITL 1 315 514 849 (€ 679 406)

(*) The sum of ITL 776 432 609 (€ 400 994), which does not figure as an item in the liabilities in the cooperative's accounts, is calculated in the light of the following:
a) in the last five years production from members' land was reimbursed at prices lower than the market value, which meant that the members absorbed a real loss of ITL 434 233 484 (€ 224 262,88);
b) in order to guarantee that labour provided was remunerated in accordance with the wage agreements in force, the cooperative set aside only 50% of the necessary depreciation fund reserves for machinery, equipment and land improvements, the loss totalling ITL 375 911 000 (€ 194 142) over five years.

D. *Rescue aid*

(14) Under aid scheme N 354/2000 the Commission had agreed that Italy could use the criteria listed below in order to assess the extent of the difficulties of the five companies receiving rescue aid. The eligible undertakings had to show at least two viability indices and two financial and structural indices.

Indices	Index	Value
Viability indices	Operating losses	Losses during the last three-year period
	Operating income/operational capital	Less than 3% in the last 5 financial years or a reduction in the last 5 financial years to a value of less than 3% in the last financial year (1,5% for cooperative societies)
	Operating income/value of production	Reduction of 50% in the last 5 financial years with an annual rate of reduction of at least 5% and no more than 20% in the last financial year
	Turnover/stocks	Reduction between 20 and 40% in the last 5 financial years with a rate of reduction of no more than 15% in the last financial year
	Financial charges/turnover	Between 4 and 15% in the last 5 financial years
Financial and structural indices	Time to pay suppliers	Increase of 70% in the last 5 financial years with a rate of growth of at least 10% and no more than 30% in the last financial year
	Operating income/financial costs	Reduction of 25-30% in the last 5 financial years with an annual rate of reduction of at least 3-4% and no more than 15% in the last financial year
	Working capital-Stocks/Current liabilities	Less than 0,6 in the last 3 financial years or reduction in the last 5 financial years up to a value of less than 0,6 in the last financial year
	Working capital/Current liabilities	Less than 0,8 in the last 3 financial years or reduction in the last 5 financial years up to a value of less than 0,8 in the last financial year
	Permanent capital /tangible assets	Less than 0,6 in the last 3 financial years or reduction in the last 5 financial years up to a value of less than 0,6 in the last financial year
	Short term bank debt/current liabilities	Not less than 0,35 and not more than 0,6 in the last 5 financial years, with an absolute increase in the last financial year of no more than 0,2

Cooperativa Agricola Moderna Scrl meets these requirements. The undertaking was assessed as being in difficulty on the basis of the following relationships: financial charges/turnover, turnover/stocks, (working capital-stocks)/current liabilities, short term bank debt/current liabilities.

E. *Restructuring*

(15) *Cooperativa Agricola Moderna* Scrl's restructuring plan calls for a proportion of the vineyards to be converted to the production of the registered designation of origin wines most representative of the region (Verdicchio dei Castelli di Jesi and Rosso Conero) and for investment in machinery in order to reduce manpower costs and increase profitability. The planned action is as follows:

a) renovating and restructuring 10 hectares of vineyard with a registered designation of origin, in accordance with a five-year investment programme, to be carried out in accordance with Community regulations (Regulations (EC) No 1493/1999 and No 1227/2000);

b) establishing (in progress) 10,5 hectares of vineyard to produce wine with a registered designation of origin (2,5 hectares of Verdicchio dei Castelli di Jesi and 8,5 hectares of Rosso Conero);

c) purchasing a grape harvesting machine at a cost of ITL 386 900 000 (€ 199 820) in order, by mechanising certain harvesting operations, to reduce manpower costs by approximately ITL 184 800 000 (€ 95 440) per year.

(16) The costs of investments for the vineyard renovation and restructuring to be carried out in the five-year period covered by the plan are as follows:

Description	Amount (in ITL)
Vineyard (10 hectares x ITL 45 million)	450 000 000
[Eligible investment (10 hectares x ITL 40 million)]	[400 000 000]
Investment aid (40% of ITL 400 million)	–160 000 000
Remainder to be financed	**290 000 000 (€ 149 773)**

(17) The members of the cooperatives further increased the undertaking's share capital by ITL 100 million (€ 51 650). The share capital therefore increased from ITL 92,7 million (€ 47 880) to ITL 192,7 million (€ 99 520) in the 2000 financial year. In addition, the members granted the cooperative a loan of ITL 500 million (€ 258 230).

(18) The restructuring aid also covers the costs of consultancy and accompanying the restructuring plan, totalling ITL 120 000 000 (€ 61 975). These tasks were assigned to the Moncaro cooperative for a period of three years. The financial structure of the restructuring plan will therefore be as follows:

A. Previous debt (as shown on the preceding table)	ITL –1 315 514 849
B. Charges borne by the members (reduced reimbursement of production from their land, plus the increase in share capital)	534 233 484
Net debt (A-B)	–781 281 365
50% contribution to the purchase of equipment	–193 450 000
Plan accompaniment costs	–120 000 000
Total	**–1 094 731 365**

F. *Use of the rescue aid*

Losses for the operating year 1996	ITL 181 878 103
Difference in public aid for investments	179 363 240
50% contribution to the purchase of equipment	193 450 000
Plan accompaniment costs	120 000 000
Reduction in depreciation fund allocations (part)	225 308 657
Total	**900 000 000**

(19) Converting the ITL 900 000 000 (€ 464 811) of rescue aid into a subsidy in the form of a capital grant will make it possible to reduce the aforementioned total debt by ITL 792 000 000 (€ 409 034) and to cover, in part, the purchase of the grape harvesting machine and the costs of accompanying the restructuring plan.

(20) To offset this, the cooperative has undertaken to reduce its own production capacity in the wine sector. On 31 December 2001 its wine-growing capacity, taking into account the varieties grown and the standards for production stipulated by the chapters on the various wines with a registered designation of origin, was 1 674,10 tonnes. With the planned reduction of 16% over a period of five years, in accordance with point 74(i) of the Guidelines, production capacity will be reduced to 1 406,20 tonnes. This level will be maintained until 2005; the restructuring plan was submitted at the beginning of 2001.

G. *Reasons for initiating proceedings*

The Commission initiated proceedings in respect of the scheme in question for the following reasons:

(21) The cooperative's annual balance sheet showed profits until 1996. The Commission therefore had doubts regarding the real extent of the indebtedness and difficulties being experienced by the cooperative in the period 1995-1999.

(22) The Commission had doubts concerning the undertaking's ability to restore viability while reducing its production capacity by 16% and, in particular, concerning the figures provided by Italy, which showed that the reduced production would have a negligible effect on the economic balance of the undertaking (obtained from a fall in sales of just 1-2% in the period 2002-2005).

(23) The Commission also had doubts regarding the amount of aid planned, which seemed more than the minimum necessary to permit restructuring to be carried out. In particular, for the purposes of calculating real needs, the Commission doubted that the depreciation fund reserves which had not been set aside could be counted as losses and expressed doubts regarding the eligibility, in the context of a restructuring plan, of aid for investment in equipment in an area of production that was not in deficit.

(24) Lastly, the Commission expressed some uncertainty regarding the restructuring plan accompaniment costs, since it could not be ruled out that the cooperative assigned to carrying out these tasks would receive indirect aid.

III. **COMMENTS FROM ITALY**

(25) By letter dated 16 September 2002 Italy provided further information and clarifications.

(26) Regarding the long-standing nature of the cooperative's difficulties, Italy confirmed that *Cooperativa Agricola Moderna* Scrl fulfilled the four criteria used by the Region, as approved in the context of State aid N 354/2000. It cited the specific nature of cooperative societies, which generally tend to balance their accounts even if they find themselves in difficulty, as witnessed also by the considerable financial charges following the very high level of debt, and to show an operating income such as to offset the financial charges.

(27) Italy specified that, in order to balance its accounts in the period 1994-1999, the undertaking had acted on certain items in the accounts: (a) reducing the payments for the production from members' land (to rates lower than market prices), effectively requiring a significant financial contribution (ITL 434 million) from the cooperative members; and (b) cutting the funds set aside to offset depreciation to 50% of what was needed in order to keep machinery and other equipment in proper working order. This meant that there was a lack of financial resources for renewing equipment, which also had adverse effects on financial management.

(28) In addition, the heavy losses in the 1996 financial year (ITL 182 million, or 13% of turnover) were not offset by earnings in later financial years. In 1998 and 1999 there were contingencies, of ITL 78 million and ITL 134 million, due to revenue from the production of agricultural products being less than estimated.

(29) On restoring viability in spite of reducing production capacity, Italy stressed and confirmed that the requirement to reduce the undertaking's wine production by 16% over a period of five years (keeping the maximum production within the limit of 1 406,20 tonnes of grapes) did not entail a corresponding percentage reduction in the value of production inasmuch as changing the production mix to better quality grapes would bring about a much more minor reduction of the income from sales. Italy confirmed the calculations submitted in the course of the proceedings.

(30) Regarding the eligibility of the investment aid for machinery (specifically, the grape harvesting machine), Italy pointed out that this purchase was essential to restoring the viability of the undertaking, since the machine concerned would make it possible to mechanise certain cultivation and harvesting operations, reducing the man-hours necessary for the management of the vineyards and thus reducing production costs (by ITL 185 million), making the wine-growing division of the undertaking profitable again.

(31) Italy provided a table showing that the real costs of equipment for vineyards in steeply sloping areas in comparison with the reference values for which public aid were disbursed entailed a loss of income of ITL 179 363,240.

(32) Italy also provided clarifications regarding the costs of the consultancy and accompaniment activities. Specifically, the sum of ITL 120 000 000 covered the costs of analysing the financial situation and assets in the years 1994-1999, drawing up the restructuring plan, drawing up forecast accounts until 2005, the technical and administrative assistance required to implement the action detailed in the plan, monitoring of the action undertaken and evaluation of any corrective action. Concerning the quantification of the costs of consultancy and accompaniment and the appropriateness of the amount, Italy refers to Presidential Decree No 645 of 10 October 1994, which sets the fees for the professional services of economists.

IV. **ASSESSMENT OF THE AID**

(33) Article 87(1) of the Treaty provides that 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 shall, in so far as it affects trade between Member States, be incompatible with the common market.

(34) The aid in question fits this definition inasmuch as it confers an economic advantage upon a specific undertaking, is funded from the public purse (regional funds) and is likely to affect trade, given Italy's position in the wine sector (Italy is the European Union's second largest wine producer and in 1998 was responsible for 32% of EU production).

(35) However, in the cases provided for in Article 87(2) and (3) of the Treaty, such measures may, by derogation, be considered compatible with the common market.

(36) The only possible derogation in the case in point is laid down in Article 87(3)(c), according to which an aid may be considered compatible with the common market if it is found to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

(37) Taking account of its nature, in order to benefit from the above derogation, the aid in question must comply with the conditions set out in the Guidelines.

(38) The Guidelines stipulate the following general conditions in order for restructuring aid to be authorised:

a) The firm must qualify as a firm in difficulty;

b) A restructuring plan such as to restore the long-term viability of the firm within a reasonable timescale must be presented;

c) Measures must be taken to mitigate any adverse effects of the aid on competitors (compensatory measures);

d) The amount and intensity of the aid must be limited to the strict minimum needed to enable restructuring to be undertaken;

e) The aid must be issued on the "one time, last time" principle.

Cooperativa Agricola Moderna Scrl's difficulties

(39) After noting that there is no Community definition of what constitutes "a firm in difficulty" (point 4), the Guidelines stipulate that, *for the purposes of these Guidelines, the Commission regards a firm as being in difficulty where it is unable, whether through its own resources or with the funds it is able to obtain from its owner/shareholders or creditors, to stem losses which, without outside intervention by the public authorities, will almost certainly condemn it to go out of business in the short or medium term. The usual signs of a firm being in difficulty are increasing losses, diminishing turnover, growing stock inventories, excess capacity, declining cash flow, mounting debt, rising interest charges and falling or nil net asset value*.

(40) In the case in point, the undertaking's difficulties were already recognised in the context of a rescue aid scheme (N 354/2000 approved by the Commission by Decision SG(2000) D/106283) on the basis of the assessment method described in point (14) above, which formed an integral part of the authorising decision. The cooperative was declared to be in difficulty on basis of the following criteria: financial charges/turnover, turnover/stocks, working capital-stocks /current liabilities, short term bank debt/current liabilities.

(41) Nonetheless, the rescue aid previously approved and the restructuring aid covered by this Decision are assessed and authorised in different ways and, in the case in point, rescue and restructuring are two parts of a single operation, even if they involve different processes (point 9 of the Guidelines). The Commission therefore considers that the fact that the firm is in difficulty may be taken as read (inasmuch as this finding has previously been established).

(42) Indeed, this conclusion is corroborated by detailed analysis of the information provided by Italy. The balancing of the accounts, which gave rise to the Commission's doubts, is an accounting method which, in the case in point and taken in isolation, does not give a complete picture of the undertaking's real financial soundness. The balancing of the *Cooperativa Agricola Moderna* Scrl's accounts was artificial, and was achieved thanks to the cooperative members' absorbing a substantial proportion of the losses by accepting lower rates of remuneration ([7]) for the production from their land and thanks to the failure to set aside the necessary depreciation fund reserves, which – although it is permitted under Italian law ([8]) – demonstrates that the undertaking was unable to finance the normal process of renewing production equipment from its own cash flow.

([7]) 50% of the market price as given by the Price observatory (Osservatorio dei prezzi) published by the magazine Terra e Vita, issue No 2, 2002.

([8]) Ministerial Decrees of 29.10.74 and of 31.12.88.

(43) Evidence that the undertaking was in difficulty should be sought in the short-term debt and lack of cash flow associated with a downturn in turnover. With debts of ITL 1 254 832 000 (€ 648 070) in 2000, loss-making financial management (ITL 238 951 430 (€ 123 408) in 2000) and a liquidity index of 0,555 in 2000, faced with a falling turnover, *Cooperativa Agricola Moderna* Scrl seems unable to restore viability through its own resources or those of its members, which have in fact already been used on several occasions (in the form of loans and reduced rates of reimbursement for the production from their land).

Restructuring plan

(44) *The granting of aid is subject to the establishment of a restructuring plan, the duration of which must be as short as possible, must restore the long-term viability of the firm within a reasonable timescale and on the basis of realistic assumptions as to future operating conditions. In particular, a market study should be carried out. The improvement in viability must derive mainly from internal measures. Restructuring must involve the abandonment of activities which would remain structurally loss-making even after restructuring (point 32 of the Guidelines).*

(45) The Italian authorities have presented a restructuring plan accompanied by a market study and by the assessment of the cooperative's prospects with and without the public funding of ITL 900 000 000.

(46) The restructuring plan described in point (15) and covering three years identifies the reasons for the undertaking's crisis and puts forward a series of internal measures to restore viability.

(47) The planned action is as follows:

a) conversion of a section of the vineyard to the production of wine with a registered designation of origin (Verdicchio and Rosso Conero grapes), which market studies have shown to have good commercial prospects, with the help of public aid;

b) creation (in progress) of 10,5 hectares of vineyard producing wine with a registered designation of origin (based on replanting rights);

c) purchase of a grape harvesting machine to mechanise production and reduce costs.

(48) The Commission had doubts regarding the eligibility of the aid for investment in equipment which did not seem essential to restoring viability (the grape harvesting machine). However, more detailed examination of the information provided showed that mechanising production is a key element in restoring the viability of the undertaking. According to the calculation provided by Italy, the purchase of this item of equipment would entail annual savings of ITL 185 000 000 in vineyard management, which would generate 80% of the gross saleable production of the cooperative without any increase in production.

(49) Italy has undertaken to reduce the cooperative's wine production capacity by 16% over a period of 5 years. The Commission had doubts regarding Italy's claim that this reduction in production would not entail significant reductions in the revenue from sales. However, careful examination of the tables submitted by Italy (points 50 and 51) bore out the theory that conversion to registered designation of origin grape varieties (Verdicchio Superiore, Verdicchio Riserva, Verdicchio Passito) with a better market price, would generate greater income, thus offsetting to a large extent the planned reduction in capacity. Restoring the viability of the undertaking is not therefore compromised by the planned reduction in capacity.

(50) Calculation of sales revenue without reduction in capacity:

Grape	ha	t/ha	Production capacity Max/t	Price €/100 kg	Total value
Verdicchio Castelli Jesi	0,62	14,00	8,7	42,09	3 653,52
Verdicchio Castelli Jesi	99,00	14,00	1 386,0	46,48	644 228,34
Verdicchio Superiore	0,00	11,00	0,0	50,61	0,00
Verdicchio Riserva	0,00	11,00	0,0	61,97	0,00
Verdicchio Passito	0,00	11,00	0,0	103,29	0,0
Rosso Conero DOC riserva	2,22	14,00	31,1	87,80	27 287,52
Esino rosso	8,96	15,00	134,4	33,31	44 770,62
Marche IGT bianco	4,89	18,00	88,0	20,66	18 183,41
Marche IGT rosso	1,44	18,00	25,9	22,21	5 756,22
TOTAL	**117,13**	**14,29**	**1 674,1**		**743 879,62**
Total ITL					1 440 351 800

(51) Calculation of sales revenue with the reduction in capacity:

Grape	ha	t/ha	Production capacity Max/t	Price €/100 kg	Total value
Verdicchio Castelli Jesi	0,62	12,32	7,6	42,09	3 215,10
Verdicchio Castelli Jesi	59,00	12,60	743,4	46,48	345 540,65
Verdicchio Superiore	20,00	10,45	209,0	50,61	105 780,70
Verdicchio Riserva	15,00	10,45	156,8	61,97	97 145,54
Verdicchio Passito	5,00	9,22	46,1	103,29	47 607,00
Rosso Conero DOC riserva	9,18	12,60	115,7	87,80	101 553,81
Esino rosso	2,00	12,60	25,2	33,31	8 394,49
Marche IGT bianco	4,89	16,20	79,2	20,66	16 365,07
Marche IGT rosso	1,44	16,20	23,3	22,21	5 180,60
TOTAL	**117,13**	**12,01**	**1 406,3**		**730 782,97**
Difference					–1,76%

(52) Point 32 of the Guidelines stipulates that restructuring must involve the abandonment of activities which would remain structurally loss-making even after restructuring. In the case in point, the relevant production activities are not structurally loss-making, since the undertaking's difficulties are essentially financial in nature and, with the purchase of the equipment in question, the cooperative can increase its profit margins from wine growing. The restructuring plan is not, therefore, at variance with the terms of the Guidelines.

Avoidance of undue distortions of competition

(53) In line with points 35-39 of the Guidelines, *measures must be taken to mitigate as far as possible any adverse effects of the aid on competitors (compensatory measures) usually in the form of a limitation on the presence which the company can enjoy on its market*. The methods for applying such a general principle to the agricultural sector are specified in Chapter 5 of the Guidelines. In principle, because even aid to very small undertakings in the agricultural sector can distort competition, *the Commission requires a compensatory measure to be undertaken by all beneficiaries of restructuring aid, in the form of a reduction in capacity*. In the event of primary production, either reduction in capacity or closure for a minimum period of five years is required.

(54) For measures targeted on particular products or operators, the production capacity reduction must normally attain 16% of that for which the restructuring aid is effectively granted. The figure may be reduced to 14% in assisted areas. In the case in point, Italy has provided for capacity to be reduced by 16% of the undertaking's production capacity for a period of 5 years. The condition is accordingly met.

Aid limited to the minimum necessary

(55) According to point 40 of the Guidelines, *the amount and intensity of the aid must be limited to the strict minimum needed to enable restructuring to be undertaken in the light of the existing financial resources of the company. Therefore, aid beneficiaries will normally be expected to make a significant contribution to the restructuring plan from their own resources, or from external commercial financing. To limit the distortive effect, the form in which the aid is granted must be such as to avoid providing the company with surplus cash which could be used for aggressive market-distorting activities not linked to the restructuring process.*

(56) In examining whether this requirement under the Guidelines has been fulfilled, the Commission took the following factors into account:

(57) Overall, the restructuring plan will benefit from the following public aid:

— ITL 900 000 000 (€ 464 810) as a subsidy in the form of a capital grant, plus

— ITL 160 000 000 (€ 82 630) for the establishment of the vineyards (40% of the eligible expenditure).

(58) Part of the ITL 900 000 000 will cover the real costs already incurred (losses due to adverse weather conditions, loss-making investments, inadequate depreciation fund reserves) and part will be used towards implementing the restructuring plan (accompaniment costs and a contribution towards the purchase of equipment). In essence, the aid will be limited to clearing the undertaking's debts and funding the investments necessary to restructuring.

(59) The business plan submitted by the undertaking shows that, in the financial years following the restructuring, the cash flow generated will not be sufficient to allow the undertaking to carry out aggressive operations not directly linked to the investments provided for in the restructuring plan. Furthermore, the small scale of the undertaking and its minor importance in the Region's wine sector (0,38% of the region's production) ensure that the aid will have a negligible impact on competition.

(60) The explanations provided by Italy (viz. point 31 above) with regard to the plan accompaniment costs have convinced the Commission that the planned fees are appropriate and have dispelled any doubts that the sums paid to the Moncaro cooperative, which is to perform the relevant services, may be viewed as aid.

Cooperativa Agricola Moderna Scrl's contribution to the restructuring

(61) As to the contribution made by the cooperative and its members to the restructuring plan, it should be pointed out that the investments under the restructuring plan will be financed up to at least 50% by the cooperative itself. In order to generate the necessary resources, the members increased the share capital by ITL 100 000 000 in 2000 and gave the cooperative a loan of ITL 500 000 000. The relevant requirement under the Guidelines can therefore be considered to have been met.

"One-off" aid

(62) Point 48 of the Guidelines states that *restructuring aid should be granted once only*. Italy has confirmed that it will adhere to this principle.

V. **CONCLUSIONS**

(63) The measure is in line with the Community Guidelines on State aid for rescuing and restructuring firms in difficulty,

HAS ADOPTED THIS DECISION:

Article 1

The State aid of ITL 900 000 000 (€ 464 810) which Italy is planning to implement for *Cooperativa Agricola Moderna* Scrl is compatible with the common market.

Implementation of the aid is accordingly authorised.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 6 October 2004.

For the Commission
Franz FISCHLER
Member of the Commission