



Clarifications on the letter  
from PM Silvio Berlusconi  
to the President of the European Council  
and the President of the European  
Commission

Answers to the request for clarifications on the letter from PM Silvio Berlusconi  
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Provisional draft

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### **SUSTAINABLE PUBLIC FINANCE (QUESTIONS 2-7)**

#### Budget balance

A major constitutional change is currently underway to amend Article 81 of the Italian Constitution and introduce a balanced budget rule as already adopted in other European countries and suggested by the EU.

According to the new article, the Government ensures equilibrium between budget revenues and expenditures. Any budget law involving new or major expenditures for public finances must provide for its own coverage.

The modification of Art. 81 says that budget equilibrium must be assured throughout the business cycle, which could imply *ex ante* and *ex post* controls together with corrective measures. No deficit spending is allowed, except in the case of exceptional events or deep economic recession. In this case, deficit spending must be approved by the two Chambers of the Parliament with an absolute majority of votes on the same deliberation. The Court of Auditors (*Corte dei Conti*) is entitled to undertake legal actions before the Constitutional Court if a breach can be presumed. Local authorities' budget rules (art. 117 and 119 of Italian Constitution) are modified accordingly.

The related secondary legislation must be approved by the end of June 2013. The rule will then be integrated into the revised art. 81 of the Constitution, in line with the EU budgetary framework. Nonetheless, the parliamentary debate will likely improve the above mentioned text; for this reason some of the following considerations might partly be modified.

As for the effect of the economic cycle on public accounts, a symmetric approach has been adopted in the revised version. The text states that budget balance must be achieved considering both downside and upside risks to the projected cyclical developments in order to comply with the medium term objective (MTO) and the EU debt criterion.

Expenditure rules are envisaged in Art. 40 of the Law n. 196/2009 (Public Finance and Accounting Law), as a supplement to the balanced budget requirement. This Article defines the criteria and procedures for setting limits to expenditure within the budget. According to Law 39/2011 (amending Law 196/2009 to accommodate the introduction of

the European budget framework) the deadline for implementation of the expenditure ceiling is end 2012.

These limits, set in principle by the Economic and Financial Document (DEF) and adopted with the subsequent budget law, must be consistent with the three-year resource plan. Furthermore, this rule is consistent with the three-year planning horizon of the budget and subject to a consultation between the Minister for the Economy and Finance and the other ministries. Further work is underway on this issue, including a comparative study among some selected EU countries (Austria, France, Finland, the Netherlands, Sweden, Switzerland, UK).

Further measures foreseen by Law 196/2009 aimed at strengthening fiscal discipline include:

Higher-than-expected revenues must be used to increasing public surpluses or reducing public deficit and debt;

surpluses cannot be used for expenditure on top of what already planned, although they can be used to cover revenue reductions legislated by the Stability Law.

### Spending Review

The spending review process has been set up in the budget process by Law 196/2009. Special expenditure analysis and evaluation groups (*NAVS: Nuclei di analisi e valutazione della spesa*) are introduced by Article 39.

Currently, the situation related to the spending review procedure is as follows:

- Since the spring of 2011, thirteen spending review groups have started work.
- Each of them is in charge of the analysis of a single Ministry.
- At the end of July 2011 each group defined an annual working programme covering a three-year period. Each programme includes a common part with the other groups and other sections dealing with issues specific to each administration.

The common part concerns:

An in-depth analysis of intermediate consumption with further analysis on potential out-of-budget debt arising because of insufficient resources devoted to some fundamental and unavoidable activities of the administration.

A census of territorial branches of ministries, both in terms of resources employed and services provided, will feed an harmonised dataset to be used for the definition of standard needs/requirements (*fabbisogni standard*).

The definition of indicators to provide preliminary measures of efficiency and effectiveness of spending programmes.

In the August 2011 budget measures a special committee was established to define a work plan with the aim of reassessing public expenditure. It includes, among other measures, merge of fiscal agencies, rationalisation of local government offices, merge of social security funds, and other measures related to the reorganisation of public safety.

According to this setting, and to avoid the 'linear cuts' adopted in recent years, in the July and August 2011 budget measures (D.L. 98/2011 and 138/2011), a procedure for selection of cuts was established, leaving decisions up to ministries on what expenditures to reduce. The Ministry of Economy and Finance supported the whole process in order to better integrate these measures into the budget in compliance with the targets established in the budget measures. This procedure based on selected cuts in expenditure, according to priorities set by ministries, could also be used in the future, in case a further reduction of public expenditure is necessary.

The total amount of expenditure cuts realised so far are: 10.7 billion Euro in 2012, 5 billion Euro in 2013 and 5 billion Euro in 2014.

#### Public debt reduction

As for the reduction of public debt, the Government amendment to the Stability Law 2012 implies a decrease of the upper debt limit allowed to local Government and Regions, already set in previous legislation (Article 204 of legislative Decree 18 August 2000, No 267 and Article 10, paragraph 2 of Law May 16, 1970, No 281).

Beyond the strict respect of this threshold local authorities are required to reduce their stock of debt from 2013 onwards. The effective implementation of this process will be established by a decree (non-regulatory decree) of the Minister of Finance, after consultation with the Joint Conference (Conferenza Unificata). More specifically, the reduction plan must be based on the following specifications:

- a) description of the limit, calculated as percentage difference compared with the average per capita debt, above which local authorities are obliged to proceed with reduction of debt, for regions, provinces and municipalities;
- b) annual percentage target of debt reduction;
- c) key actions to be adopted in order to effectively achieve the goal of debt reduction.

Sanctions established in the legislation of the domestic Stability Pact (prohibition of recruitment of staff and limits on current expenditure) will apply to institutions which fail to comply with the provisions.

#### Real estate management and local expenditure

The Real Estate Investment Fund will acquire premises not used for residential purposes, identified through several Prime Minister decrees (the first by the 30th of April 2012). These real estate units will include unutilised prisons and military premises. The revenue from the sales will be used to reduce public debt.

As for state-owned companies, any additional revenue from the distribution of profits or reserves can be used for capital increases or creation of new companies.

Buildings located abroad will be sold by private agreement, except when there are special conditions. Estimates can also be done using local agents. Agreements are monitored by the Court of Auditors.

Moreover, the Ministry of Agriculture and Forestry and the Ministry of Economy and Finance will identify agricultural state land to be sold. If it is worth less than 400,000 Euro, it will be sold by private agreement. Otherwise it will be sold by public auction. Government will acquire 75% of the extra value deriving from changes in urban destination. For real estate units located in protected areas the consent of the responsible protecting body will be necessary.

New accounting requirements have been set for local governments' debt. The interests expenditure will be less than 8% of ordinary revenues in 2012 (this requirement becomes more restrictive in the subsequent period). Non-compliant local governments are prevented from increasing their expenditures above the last three-year average and hiring staff.

### Tax evasion

The new organisational model of the Italian Revenue Agency (Agenzia delle Entrate) will strengthen the fight against tax evasion and enhance its services to taxpayers. A new approach has been adopted to enhance compliance of large taxpayers (with a total turnover of €100 million), also through the 'tutoring activity', a permanent monitoring of the behaviours and attitudes of large taxpayers. The so-called 'income-meter' (*redditometro*) is currently under deep review to increase its effectiveness.

Significant results have been achieved so far on tax collection, especially on large arrears, for a total of € 1.8 million Euro in 2010 and 1.7 million Euro over January–October 2011. Total collection amounts to more than 8 million Euro in 2010 and will probably reach 11 million Euro in 2011.

For further information see the attached document provided by the Italian Revenue Agency (Annex 2).

### Pensions

**Statutory retirement age criteria in force in the Italian pension system.** Under current legislation, the statutory retirement age for the entitlement of ordinary pensions is 65 years for men. Women working in the public sector can currently retire at 61 but, as of 1 January 2012, their statutory retirement age is set to increase to 65. The retirement age for women working in the private sector is 60 and it will steadily increase to bring it into line with the retirement age for all other workers.

Early retirement is allowed in the following cases: i) at least 40 years of accrued contributions without any age requirement; ii) at least 35 years of accrued contributions

and at an age requirement which will gradually increase from 60 in 2010 to 62 in 2013 for employees and from 61 in 2010 to 63 in 2013 for the self-employed. Having accrued at least 36 years of contributions entitles workers to be eligible for early retirement one year in advance with respect to the age thresholds described above.

In both ordinary and early retirement regimes, the actual pay-out of pension benefits and, hence, the actual pension eligibility age, is further delayed by 12 months for employees and 18 months for the self-employed (the so-called 'windows mechanism').

For those who, irrespectively of the age criterion, are eligible for a pension after 40 years of contributions, the actual payment of pension benefits is further delayed. On top of the 12 month delay for employees and 18 months for self-employed due to the 'windows mechanism', workers eligible in 2012 will wait for one additional month, those eligible in 2013 two additional months and those eligible in 2014 and onwards, three supplementary months.

As of 2013, every three years the statutory age for ordinary old-age and early retirement schemes (and for social assistance benefits) will be automatically increased in line with gains in life expectancy at 65, as measured by the National Statistical Institute (Istat) with reference to the previous three-year period. According to Istat baseline demographic scenario (with base 2007), the increase in life expectancy in 2013 is projected to be equal to four months. However, the current legislation establishes that for the first revision in 2013, the increase in retirement age cannot be greater than three months. In line with Istat baseline demographic scenario, adjustments in retirement age after 2013 are projected to be equal to four months up to about 2030. Shorter adjustments of approximately three months are projected up to 2050. As a result, according to current projections, the cumulative increase by 2050 in retirement age due to gains in life expectancy is expected to be about 3 years and ten months. In any case, the actual ex post adjustment established by Istat will be applied.

The Stability Law for 2011 (Law n.220/2010) introduces a 'safeguard clause' to be applied in case total gains in life expectancy are not sufficient to bring the age requirement for those entitled to retire in 2026 to at least 67 (including the effects of the 'windows mechanism'). The increase in retirement age reflecting gains in life expectancy will be adjusted accordingly so as to guarantee that the effective retirement age for those entitled to retire in 2026 is indeed at least 67. The Stability Law establishes that the adjustment will be carried out through an administrative enactment to be delivered no later than 31 December 2023.

#### *Evolution of the retirement age in the old age ordinary pension schemes in Italy vis-à-vis other EU countries.*

Recent pension reforms approved in Italy since 2010 (Laws n. 122/2010, n. 111/2011 n. 148/2011 and the Stability Law for 2011) have contributed to significantly raise the statutory retirement age vis-à-vis other EU countries.

Table 1 shows the projected evolution of the effective retirement age for old age ordinary retirement in Italy taking into account jointly the increase in the statutory retirement for women, both in the public and private sectors, as well as the application of the 'windows mechanism' and the evolution of the retirement age according to life expectancy until

2050 as projected on the basis of Istat baseline demographic scenario, with 2007 as base year.

Already in 2013, the effective retirement age for men (employees) and women of the public sector will be equal to 66 years and 3 months. The self-employed will retire at 66 years and 9 months. By contrast, in Germany, the effective retirement age in 2013 will be 65 years and 2 months.

By 2027, Italian workers - both women and men - will retire at 67 years and 7 months (or 68 years and 1 month if self-employed). German workers will retire one year earlier at 66 and 6 months. The German pension system will converge to the steady state, that is to the statutory retirement age of 67, only in 2031, whereas UK workers will converge to 68 from 65 only by 2046 (see tables in annex 1). By 2046, the effective retirement age in the Italian pension system is projected to be 69 years and 7 months (or 70 years and 1 month if self-employed).

Regarding the retirement age of women in the private sector, the reform approved by the Italian government in August established that their statutory retirement has to increase gradually by 5 years between 2014 and 2026, in addition to increases deriving from adjustments to changes in life expectancy. Currently, taking into account both the effect of the 'window mechanism' as well as the increase in retirement age due to gains in life expectancy, Italian female workers are expected to reach an effective retirement age of 65 in 2021-2022 already (see table 1). This development in retirement age of women in Italy is in line with that of women in the UK where eligibility requirements for women will gradually increase from 60 to 65 between 2010 and 2020.

In such a framework, Italian authorities are confident that the pension reforms approved so far are fully consistent with the objective of increasing the retirement age to 67 by 2026, as announced at the European Council of 26 October 2011.

*Developments in retirement age in the early pension schemes, Italy vis-à-vis other EU countries.*

Table 2 presents the effective eligibility age for Italy for early retirement schemes, taking into account the increasing effects of the 'windows mechanism' and the revisions in retirement age due to its alignment in accordance with gains in life expectancy.

With 35 years of contribution, early retirement age in Italy in 2013 will be equal to 63 years and 3 months for employees, and 64 years and 9 months for the self-employed. Thanks to the operational link between retirement age and life expectancy, effective eligibility age in the case of early retirement is projected to increase significantly in Italy, reaching almost 65 years and 1 month for the self-employed already in 2016, and 65 years and 3 months for employees by 2031. By contrast, with 35 years of contributions, early retirement age is constantly set at 63 years in Germany.

For further information on other countries' schemes see Annex 1.

*Table 1*

Effective retirement age in Italy – old age ordinary pension schemes

Year in which the eligibility for the requirement is accrued (the actual payout starts generally one year after)	Men		Women		
	employees + public sector	self-employed	public sector	employees	self-employed
2011	66y	66 y 6m	62y	61y	61y 6m
2012			66y		
2013	66y 3m	66y 9m	66y 3m	61y 3m	61y 9m
2014				61y 4m	61y 10m
2015				61y 6m	62y
2016	66y 7m	67y 1m	66y 7m	62y 1m	62y 7m
2017				62y 5m	62y 11m
2018				62y 10m	63y 4m
2019	66y 11m	67y 5m	66y 11m	63y 8m	64y 2m
2020				64y 2m	64y 8m
2021				64y 8m	65y 2m
2022	67y 3m	67y 9m	67y 3m	65y 6m	66y
2023				66y	66y 6m
2024				66y 6m	67y
2025	67y 7m	68y 1m	67y 7m	67y 4m	67y 10m
2026				67y 7m	68y 1m
2027				67y 7m	68y 1m
2028	67y 11m	68y 5m	67y 11m	67y 11m	68y 5m
2029					
2030					
2031	68y 3m	68y 9m	68y 3m	68y 3m	68y 9m
2032					
2033					
2034	68y 7m	69y 1m	68y 7m	68y 7m	69y 1m
2035					
2036					
2037	68y 10m	69y 4m	68y 10m	68y 10m	69y 4m
2038					
2039					
2040	69y 1m	69y 7m	69y 1m	69y 1m	69y 7m
2041					
2042					
2043	69y 4m	69y 10m	69y 4m	69y 4m	69y 10m
2044					
2045					
2046	69y 7m	70y 1m	69y 7m	69y 7m	70y 1m
2047					
2048					
2049	69y 10m	70y 4m	69y 10m	69y 10m	70y 4m
2050					
2051					

Table 2

Effective retirement age in Italy – early retirement pension schemes

Year in which the eligibility requirement are accrued (the actual payout starts generally one year after)	men + women		men + women	
	35 years of contribution		no age limit	
	employees + public sector	self-employed	employees + public sector	self-employed
2011	62y	63y 6m	40 years of contributions (retirement start after 12 months the eligibility is accrued in 2011, after 13 months in 2012, after 14 months in 2013 and after 15 months from 2014 onwards)(*)	40 years of contributions (retirement start after 18 months the eligibility is accrued in 2011, after 19 months in 2012, after 20 months in 2013 and after 21 months from 2014 onwards)(*)
2012	62y	63y 6m		
2013	63y 3m	64y 9m		
2014				
2015	63y 7m	65y 1m		
2016				
2017				
2018	63y 11m	65y 5m		
2019				
2020				
2021	64y 3m	65y 9m		
2022				
2023				
2024	64y 7m	66y 1m		
2025				
2026				
2027	64y 11m	66y 5m		
2028				
2029				
2030	65y 3m	66y 9m		
2031				
2032				
2033	65y 7m	67y 1m		
2034				
2035				
2036	65y 10m	67y 4m		
2037				
2038				
2039	66y 1m	67y 7m		
2040				
2041				
2042	66y 4m	67y 10m		
2043				
2044				
2045	66y 7m	68y 1m		
2046				
2047				
2048	66y 10m	68y 4m		
2049				
2050				
2051				

### Taxation

The delegated law for tax and welfare reform (*legge delega per la riforma fiscale e assistenziale*) currently before Parliament provides for the reduction and rationalisation of personal income tax and revision of indirect taxation.

The two Decree Laws issued during the summer (Decree Law No 98/2011 converted into Law No 111/2011 and Decree Law No 138/2011 converted into Law No 148/2011) define the corrective measures for 2011-2014 and incorporate the effects envisaged in the final article of the tax and welfare reform.

As regards taxation of labour, and personal income tax (Irpef) in particular, the 'legge delega per la riforma fiscale e assistenziale' provides for:

three statutory rates (20%, 30% and 40%) in place of the current five rates (23%, 27%, 38%, 41% and 43%)

a taxable base 'as far as possible not eroded by tax measures introduced over the years (tax exemptions, exclusions and benefit regimes)'

deductions and allowances to ensure the progressivity and fairness (both horizontal and vertical) of taxation in order to:

1. identify, as a function of the poverty threshold, a minimum level of exempted personal income;
2. reduce benefits and concentrate tax relief schemes essentially on birth rates, labour, and young people;
3. apply a differentiated system of tax reliefs to the part of remuneration corresponding to efficiency gains and business results;
4. simplify and rationalise current special taxation schemes to foster new businesses and make the tax system as neutral as possible with respect to the choices of taxpayers.

For the purpose of ensuring the amount of resources needed for the achievement of the planned budget targets, Decree Law No.98/2011 has introduced a 'safeguard clause', subsequently amended with Decree Law No.138/2011. In particular, if the tax and welfare reform is not adopted by 30 September 2012 or does not produce the expected budget effects, the following is provided:

- i. a horizontal cut (equal to 5% for 2012 and 20% from 2013 onwards) in the exemptions, exclusions and preferential tax and welfare regimes, as listed in an annex;
- or,
- ii. where the above-mentioned horizontal cut '*cannot be directly and immediately implemented*', the possibility, with one or more decrees by the Minister of

Economy and Finance, to establish the *'technical arrangements for the implementation of the cuts with respect to each of the schemes involved'*;

or,

- iii. as a partial alternative to the above-mentioned cuts, the possibility to provide with a DPCM (*Decree of the Prime Minister*) for a revision of indirect tax rates, including excise duties.

Currently, the Annex C-bis to Decree Law No 98/2011 lists 483 measures (tax expenditures) that reduce tax revenue by 161 billion Euro on an annual basis. The sizable financial effects associated with these benefits make it possible to achieve the planned objectives (4 and 16 billion Euro for the years 2012 and 2013 respectively, and 20 billion from 2014 onwards). In addition, as mentioned above, it is possible to ensure the achievement of these effects by issuing a DPCM that provides for a revision of indirect tax rates including excise duties. As an example, consider that:

1. the increase of one percentage point of the 10% reduced rate and the 21% ordinary tax rate for VAT can grant an expected increase in tax revenue of over 6 billion Euro;
2. a revision of excise duty rates may be designed to secure tax receipts of about 4 billion Euro on an annual basis.

In order to achieve the planned budget objectives, additional resources can be recovered by selective cuts in existing tax expenditure, also aimed at simplifying and rationalising the tax code.

For the purpose of acquiring technical evaluations useful for the design of the tax and welfare reform, four ad-hoc working groups have been set up by the Minister of Economy and Finance. One of these has been entrusted with the task of "analysing the area of tax erosion", and in particular the very large discrepancy between the rule (the general principle of taxation) and the exception (a legal deviation from this principle through exemptions, benefits, substitute relief schemes, etc.). The working group, formed by 32 members among trade union organisations, trade and professional associations, has recently drawn up a comprehensive list of about 700 measures (including, inter alia, substitute relief schemes and favourable regimes). The working group has also classified each measure with one or more codes (14 codes in all), in order to provide clear-cut evaluation criteria. In fact, not all listed measures can be immediately or easily removed: some measures, such as income tax deductions for employment or dependants, represent structural aspects of the present tax system and their elimination (or reduction) should be included in broader reforms, in order to balance their revenue and redistributive effects; some others are aimed at avoiding double taxation; others are needed to ensure that our tax system is compatible with the EU Treaty and other international agreements, or to encourage the surfacing of taxable income.

As to the request to re-introduce the municipal property tax (ICI) on owner-occupied dwellings, from a strictly technical viewpoint, it is necessary to clarify that this cannot be provided for in the implementation of the delegated law on fiscal federalism.

Indeed, Article 12, paragraph 1, letter b) of Law No 42 of 5 May 2009 on "Delegation of fiscal federalism to the Government, pursuant to Article 119 of the Constitution", in providing the "Principles and guidelines for co-ordination and autonomy of revenue and expenditure of local authorities" to be complied with by the Government in the exercise of this delegation, explicitly excludes "the property tax on owner-occupied dwellings in accordance with existing laws at the date of entry into force of this law, pursuant to Article 1 of Decree-Law No 93 of 27 May 2008, as amended, converted into Law No 126 of 24 July 2008".

However, the Council of Ministers No 159 of 24 October 2011 approved, in the preliminary examination, the first legislative amending decree provided for by the delegated law on fiscal federalism No 42 of 2009. The decree provides for a different form of taxation of the services supplied by municipalities to occupants of residential properties, even in the case that these are used as owner-occupied dwellings.

In any case, all the above is without prejudice to the possibility of adopting new legislative measures to modify the above legislative framework. The estimated increases in tax revenue from a re-introduction of ICI on owner-occupied dwellings is about 3.5 billion Euro.

## **CREATING STRUCTURAL CONDITIONS FAVOURABLE TO GROWTH**

### **STRUCTURAL FUNDS (QUESTIONS 8-12)**

Italy intends to focus EU Structural Funds on well performing programmes in the field of education and on priority sectors (e.g. broadband) where conditions are conducive to swift and effective implementation. The rate of absorption (share of funds spent according to the latest available data, i.e. up to 31 August 2011) for education programmes is 32% as opposed to an average of 11% for the Convergence Regions in the European Regional Development Fund (ERDF), and 40% as opposed to an average of 15% for the Convergence Regions in ESF.

The broadband sector offers conditions for a fast implementation of the Digital Agenda, in full compliance with the Europe 2020 Strategy. These interventions will increase significantly the pace of absorption of funds which, by the way, has already improved thanks to a set of actions aimed at an efficient new planning, in agreement with the European Commission, the Interministerial Committee for Economic Planning (Regulatory Act n.1 of 11 January 2011) and the National Committee for the coordination and monitoring of the unitary regional policy within the context of the National Strategic Reference Framework 2007/2013 (decision of 30 March 2011). These decisions set

expenditure targets, commitments and terms of applications for payments to the European Commission. Failure to meet such targets will imply specific financial sanctions.

Administrative capacity will be improved by strengthening the performance review mechanisms through the introduction of new result-based indicators and targets, and a more efficient use of the existing ones. This system is expected to improve the commitment to produce results by mobilising top level human resources.

Italy is committed to work, in partnership with the Commission, to remove swiftly the causes of the suspension of EU funds, by reinforcing management and control systems.

The Funds will be drained from the non-performing areas, already identified together with the Regions<sup>1</sup>. By the end of the year, the changes to the Operational Programmes will be formally submitted to the Commission for adoption. This will follow the work of the technical Italy-European Commission Action Group, proposed in the Prime Minister's letter of 26 October 2011, to start on 15 November, on the basis of the agreement achieved on 7 November, between the Commissioner for Regional Policy and the Minister for Regional Affairs and Territorial Cohesion (see Annex 4).

The reduction of national co-financing will be used to fund a railway programme planned for the next decade, well beyond the 2015 deadline for spending the 2007-2013 Structural Funds. As a consequence, expected national public expenditure for 2012-2015 will be reduced by delaying expenditure to subsequent years, according to the timetable for the implementation of the defined projects.

The extent of reduction in national co-financing will be quantified within the Action Group by 15 December 2011, once the amount of resources needed for the investment in 'railways/networks' will be assessed.

The *Eurosud programme*, to be drafted together with the European Commission will be presented on 15 November.

## **HUMAN CAPITAL (QUESTIONS 13-16)**

The evaluation of the Italian education system is divided between three institutions: INVALSI, INDIRE and Housing Inspectors.

- The evaluation of schools will be conducted through a system already defined in two legislative measures: Law No. 10 of February 2011 and Law No. 98 of July 2011. INVALSI defines and manages every year all the standard evidence of learning assessment. They submit an evaluation test to all pupils in the second and fifth year of primary education, in the first and third year of secondary level and second upper secondary level, corresponding to the period of compulsory education. In addition, new tests are under study for the final year in high school. The same tests will be used to promote the merits of the most deserving students through scholarships and loans to continue their university studies.

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<sup>1</sup> On the basis of the agreement achieved on 3 November 2011 by the Minister for Regional Affairs and Territorial Cohesion with the Presidents of the relevant Regions

In order to evaluate schools, INVALSI measures the 'value added' in terms of outcomes of learning produced by each school, taking into account the socio-economic context. The tests are designed according to criteria and methods similar to those of OECD-PISA.

School evaluations will be conducted by the Corps of Inspectors, defined as an autonomous and independent body, that also analyse the work environment, the quality of processes and parameters, using information not only related to learning. Employment outcomes after upper secondary or further education are among the variables analysed, according to specific protocols. Families and the local context in which the school operates are also considered in the assessment.

The evaluation of schools leads to the definition of a ranking used to give schools better incentive rewards in terms of funding. In any case, the entire system tends to activate a process of continuous improvement within schools.

INDIRE intervenes in the context of the most critical schools through a variety of actions such as staff training and counselling on improving organisational, educational, communication and educational research.

Inspectors will evaluate the results and will propose the most appropriate measures, which may also include, where necessary and in accordance with the regions, a restructuring of the Institution including the remodeling of the size of the individual school or school network within the local context.

The entire system has now been defined through regulation, the two national authorities have been strengthened and the process for the recruitment of inspectors will be concluded in June.

All tools for school evaluation, necessary also in relation to the international surveys where INVALSI participates, are developed through an initial implementation in schools located in four provinces. As part of the assessment of schools, school principals are also evaluated using the same procedure. The system will become operational from the school year 2012-2013 onwards.

To evaluate the careers of the best teachers, an innovative system which provides new criteria for rewards has been tested. An extra month of salary is assigned to the best teachers (on average 20-30% per school). The trial process is now over and final results will be presented later this year, in collaboration with the OECD.

The extension of the tested criteria will then be implemented starting from the next teachers' contract agreement. The guidelines for the professional development of teachers are already contained in the DL No.150 of 2009.

The framework of the University Reform Law (Law No. 240 of 2010) is mainly aimed at increasing the degree of autonomy and competition among universities; a previous government decision (Decree No. 180 of 2008, ratified by Law No. 1 of 2009) had already anticipated key points to this purpose, with specific reference to competition enhancement. For more details, please take into consideration the following measures:

- Since 2009, a significant percentage of the special State fund for universities (FFO) has been allocated on merit basis: (7% in 2009, 10% in 2010, 13,5% in 2011).

According to Law No. 240, this share is expected to progressively grow on a yearly basis. The new allocative model is based on the evaluation of teaching and research universities and involves a shifting of FFO funds from less virtuous universities towards the most virtuous. Moreover, the focus on research has led to a renewed interest in this area by many universities, as the ability of universities to attract funds from calls for European research and other sources is taken into consideration for the management of funds;

- Law No. 240 provides for the transition from an actual public funding system, largely based on time series on historical costs, towards a new funding model based on two criteria: a) standard cost per student, properly calibrated to include the evaluation of the quality and effectiveness of education (including the analysis of the placement) and b) quality of research. In other words, the entire FFO will be distributed on merit, through actions aimed at encouraging the mobility of the best off-site students between universities. The implementation legislative measures of Law No. 240 will be emanated at short notice and as a consequence the complete transition to the new funding model should be accomplished in 5-7 years:
- A new program of research quality assessment (VQR) has been introduced. It will be conducted by the National Agency for the Evaluation of University and Research (ANVUR) which will assess, on the model of the RAE/REF UK, the quality of research produced by universities and research centres. The results will be announced in early 2013 and a major share of funding will be based on them, as specified above.
- The Fund for merit, created by Law No. 240 and subsequent implementing measures, will enable best students to choose best universities without being limited by geographic considerations or cost.

These and other measures have introduced for the first time in the Italian university system an element of strong competition among universities, the results of which can already be recorded. In fact, many universities have improved their performance relative to evaluation parameters of rewards in 2009-2011, thus achieving a better position in the ranking of fund allocation. The route described above will result in a significant reinforcement of competitive mechanisms and greater benefits in terms of efficiency, effectiveness and quality of universities.

In relation to the contribution of students, two measures provided by Law No. 240 and in the process of enactment have particular importance. The law has delegated to the Ministry the reform of the Right to Education, the Legislative Decree implementing this sets that, over the limit guaranteed by the State, the Regions and the universities are free to establish different thresholds of access to scholarships based on merit, for the most capable and deserving students, even those lacking in financial resources. The new fund will also cover the most deserving students' tuition fees for the direct benefit of the best universities.

Finally, as for university reforms, what are the implementation measures yet to be adopted?

The law of 30 December 2010, n. 240 "Regulations on the organisation of the University, academic staff and recruitment, enabling Government to enhance the quality and efficiency of the university system" came into force January 29, 2010.

This Law Reform provides, for its full implementation, the adoption of 38 decrees, many of which have an 'enhanced' approval process, that is to say that countersignature of other ministers, or the prior opinion of the Council State/Parliamentary Committees/Conference State-Regions or those of its other advisory bodies of the university sector and research (e.g. ANVUR / CUN / CEPR) are foreseen.

All these measures are then subject to verification by the Court of Auditors and are published in the Official Gazette of the Italian Republic.

To date:

- 16 measures have been published in the Official Gazette, and exert their effects;
- 7 decrees have already been completed and are going to be published shortly in the Official Gazette;
- 6 were signed by the Minister of Education, University and Research and await the signing of other ministries;
- 6 are awaiting the relevant bodies (Council of State, Parliamentary Committees, the State-Regions) to express their opinions as required by law;
- of the remaining 3 decrees, 1 will be completed within the current month and the other 2, which are legislative decrees, must be approved by the Council of Ministers by the end of 2011.

## **LABOUR MARKET (QUESTIONS 17-21)**

During the crisis, unemployment stayed reasonably low given the weak economic situation thanks to the *Cassa Integrazione Guadagni* (CIG) and other income support schemes that kept unemployment largely below the EU average.

Employment is characterised by low participation rates, particularly for young people and women, related in part to an increasing mismatch between education/training skills and market needs. To tackle this problem, the government, in agreement with Regions and social partners, reformed apprenticeship contracts significantly. It considered them as the most important tool to enter the labour market on a permanent basis.

Concerning the labour market, the amendment to the draft Stability Law envisages a series of fiscal measures aimed at lowering the tax wedge on labour, especially for female and youth workers.

Apprenticeship contracts are encouraged in order to promote youth employment. Social contributions for new contracts entering into force between 2012 and 2016 are not due

for the first 3 years for firms employing up to nine workers (afterwards the contribution will be 10%). Moreover, starting from 2012 the Welfare Minister set a quota (not exceeding 200 million euro) for the Social Fund for employment and training aimed at reinforcing the current apprenticeship schemes.

The revision of labour regulation concerning 'contratti para-subordinati' is part of the package envisaged to reduce dualism in the labour market and is included in the draft stability law. The measure reduces the incentive for firms to use these subordinated contracts by increasing social security contribution rates by 1%.

Regarding female employment, the Stability Law has given legislative basis to the 'contratti di inserimento' that encourage the insertion of long term unemployed women in disadvantaged areas by providing for reductions in social contributions.

In particular, women of any age, who have been jobless for at least 6 months residing in geographical areas where the gender gap in employment is at least 20% or the unemployment gender gap exceeds 10%<sup>2</sup> can be employed with start-up contracts (so called *contratti di inserimento*). This provision does not imply any additional public expenditure.

From 2012, Regions can allow firms to detract from the IRAP-liable income the productivity component of wages paid in the private sector.

In addition, there are some measures aimed at facilitating or simplifying the application of existing provisions. For example:

- The use of flexible working arrangements, (like the extension of part-time and working from home), is facilitated to improve the work/life balance and increase labour market participation of potentially less attached workers, like women and disabled people, with no additional fiscal burden.
- Tax reductions on productivity pay are harmonised for all kinds of collective wage arrangements (both at national and firm level).

Furthermore, tax credit measures, introduced in July, will come into force over the next weeks following an agreement with the Regions of Southern Italy and an agreement among Ministries of Labour, Economy and Finance and the Revenue Agency. This measure, which received the approval of the European Commission, should incentivise the creation of permanent jobs in Southern Regions by all firms under given conditions. It will be financed mainly by the Regional European Structural Fund. At the moment this is a temporary (1 year) measure.

Revisions of the labour regulation on dismissals should be made in order to increase the firm propensity to hire. Given the current economic situation, the government is prepared –after a consultation with social partners- to intervene on dismissal (collective and individual) rules and procedures. The aim of this reform is to substitute the current

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<sup>2</sup> According to the law, the gender gap can be calculated as the difference between men's and women's employment rates; while the unemployment gender gap is the difference between women's and men's unemployment rates.

discipline of *“reintegrato”* (compulsory re-inclusion after a trial judgement in favour of the worker) with monetary compensations based on age, seniority and tenure. Such a measure could also reduce the degree of intervention of the judicial system in the dismissal procedures (that is at the moment a source of uncertainty for enterprises) and stimulate firms to hire more on a permanent basis.

The government has already acted in this field, submitting to the social partners the new *“Statuto dei Lavori”* introducing Art. 8 in the August 2011 law that allows social partners at firm level to derogate some labour regulations, including dismissal rules.

Finally, concerning the welfare system, as already stated in the Council Recommendation on EU 2020, the review of the unemployment benefit system should be undertaken considering budgetary constraints, because any reform in this field will entail additional financial resources. There is a *“elega”* or legal waiver, that would allow the Government to enact such a reform, with a consultative role of the Parliament, but the decision to do so before the end of 2011 depends on economic and financial conditions. It should be clear that, at present, all workers and most firms benefit from unemployment benefit schemes and all reforms should be based on the principles of rights and duties linked to a minimum period of work, availability to take part in trainings and other active labour markets programs.

The Credito d'imposta per nuovo lavoro stabile nel Mezzogiorno (Tax credit for new stable employment in the South) was introduced by Article 2 of DecreeLaw No 70 of 13 May 2011, converted into Law No 106 of 12 July 2011 ('European Semester - First urgent measures to support economy').

The measure provides for favourable tax treatment aimed at promoting and fostering productivity in regions lagging behind in development, i.e. the regions of Abruzzo, Basilicata, Calabria, Campania, Puglia, Molise, Sardinia and Sicily.

The purpose of the measure is to increase the level of employment in Southern Italy by providing a tax incentive - awarded in the form of tax credit - to reduce labour cost and boost labour demand.

The measure is of a temporary nature according to the rules related to the admissibility of the expenditure of EU funds.

In particular, the beneficiaries of the tax relief are all employers that, in the twelve months following the date of entry into force of the Decree (14 May 2011), increased the number of workers employed under an open-ended contract, compared with the average of those employed in the previous twelve months.

In compliance with Article 40 of Commission Regulation (EC) No 800/2008 of 6 August 2008, the tax credit is equal to 50% of the wage costs borne in the twelve months following recruitment if the hired worker is defined as 'disadvantaged', whereas, if the worker is defined as 'severely disadvantaged' (i.e. unemployed for at least twenty-four months), the incentive is granted to the extent of 50% of the costs incurred in the twenty-four months following recruitment.

With regard to its operation, the measure providing for the joint use of national and Community resources of the European Social Fund has been recently approved by the European Commission.

Simulations based on data referring to similar incentive schemes previously adopted indicate an expected increase in employment amounting to 42,300 units with a corresponding wage cost for 12 months of about 817 million Euro. The overall cost of this tax credit is, therefore, estimated at 500 million Euro for 2011-2014.

### **COMPETITION (QUESTIONS 22-25)**

As for the annual law on competition, mentioned in the European Commission's letter, some measures regarding competition have been or are currently being scrutinised through legislative means other than the adoption of the annual law. This does not mean that the competition law will not be considered, it only implies that the measures already planned in the draft have been inserted in other laws.

The Italian government stated in its letter that implementation of most interventions originally planned in the annual competition law have been channelled through specific legal measures characterised by a swifter implementation.

Moreover, the Italian government is committed to ensuring timely implementation of the liberalisation programme and market opening, in line with the recommendation by the European institutions concerning a prompter implementation of sectoral policies via the adoption of streamlined legislative tools which can be faster than the annual Law on competition.

In this regard, we highlight:

- a) The decree implementing the Directive on services in the internal market directives;
- b) The transposition of (the EU Directive) on the liberalisation of the services' market (electricity, postal services, professional services) by way of the budget package in August 2011 and of communication services electronics (within the framework of Community Law 2010).

Nevertheless, the Italian government intends to pursue the liberalisation of markets so far not covered by such legislation through the annual competition Law. Following paragraphs presents a summary of measures already integrated into national law (or in the final phase of adoption).

### Rationalisation of fuel distribution

The Government and the Italian Parliament set a new framework for the rationalisation of the fuel distribution network (Art. 28 of Decree No. 98 of 6 July 2011, converted into law July 15, 2011, No. 111). More specifically:

- The fund for the rationalisation of the distribution of fuel (already provided for in Article 6 of Legislative Decree 11 February 1998, No. 32) will be used to grant subsidies for the dismissal of small stations and for restoring the environmental costs of sites following such dismissals. The capacity of the fund will be determined by decree of the Minister of Economic Development to be adopted before the end of 2011.
- By 2011, the regions and autonomous provinces of Trento and Bolzano will issue guidelines to municipalities for the effective dismissal of stations not compliant with the national and regional sectoral legislation;
- In order to increase market efficiency, service quality, the correct and uniform management of the distribution network, fuel distribution stations must be equipped with facilities for self-service refuelling without pre-payment service also during the hours in which resident staff is present;
- In order to increase competitiveness, market efficiency and quality of services in the field of fuel distribution, it will be possible to sell food, drinks, newspapers and magazines (on a non-exclusive basis). Alternative methods of contracts for the supply of service stations may be introduced instead of single supply contracts.

A Draft Bill (AS 2906), passed by the House of Representatives and on which final approval is now pending at the Senate, contains provisions on the use of methane in the automotive sector with the aim to encourage its use due to its reduced environmental impact.

### Compulsory automotive vehicle insurance

As regards compulsory motor vehicle insurance, Draft Bill No. 2809 is pending in the Senate provides for establishing a system of fraud prevention in the field of civil liability arising from the use of motor vehicles.

The text of the measure, already approved by Commission VI of the House of Representatives in June 30, 2011 (CA 3544), provides a coordinated system of measures to prevent the phenomenon of fraud in civil liability, reducing its size and negative financial impact on both insurance companies and individual premiums paid by policyholders. The measures include the establishment of a public facility of fraud prevention, a unified computer database, the establishment of a telematic risk certificate, the tightening of sanctions and an annual report to Parliament highlighting the cost savings resulting from the proposed measures.

### Postal service

The postal services sector has been subject to a recent legislative action during the transposition of Directive 2008/6/EC into Italian law by Legislative Decree 31 March 2011, No. 58.

The legislative intervention provided measures to ensure universal service and the establishment of maximum limits for postal services reserved to the universal service provider in the light of the implementation of competition rules.

In particular, a National Agency was established to regulate the postal sector, acting as an independent authority with the task of ensuring the application of competition rules in the postal market, continuing the path of liberalisation already underway. The Agency is in fact given tasks of regulation and market surveillance including: adoption of measures relating to postal service quality and network access and services, pricing, control and monitoring of the service.

### Energy sector

Italy entirely and fully implemented the EU rules on distribution of electricity through the transposition of the Directives 2003/54/EC and 2009/72/EC concerning common rules for the internal electricity market (Decree No. 93, 2011).

In particular, we have taken all necessary measures to ensure the accounting and administrative separation (unbundling) for legal entities operating in that sector. National law has been implemented through the resolutions of the Authority for electricity and gas that have ensured the simplification and effectiveness of these measures of accounting separation.

The Italian State, through the work of the Authority for Electricity and Gas, introduced a system of incentives designed to encourage the proper development of electricity distribution networks, consistent with binding targets dictated by the EU within the '20-20-20 Package'.

In view of the expected and consistent development of energy from renewable sources in upcoming years, the opportunity to increase the rate of return on invested capital to 2% for 12 years is scheduled for distribution companies, in order to promote the introduction of innovative technologies (smart grids) that can smartly integrate the behaviour and actions of all users connected to the network (generators, consumers and mixed points), in order to ensure the provision of electricity in an efficient, sustainable and safe way.

### Professional services

The Italian government has already undertaken the path of opening the market for professional services with the implementation of the Services Directive and more recently with the budget package of last August, in which it was stated the principle that access to

the profession is free (Article 3, paragraph 5 of the Decree Law No. 138 of 2011, enacted into law 148 of 14 September 2011).

The Italian government now intends to complete the process of opening the market for professional services. To this end, the following measures have been included in the amendment to the Draft Stability Law:

- within 12 months after entry into force of the Stability law, regulations previously in force will be repealed and a comprehensive reform of professional regulation will be adopted instead, based on the principle of free access to the profession, with a view of fully opening the market;
- Company between professionals: the provision of professional services will be allowed in corporate form, in order to improve their ability to compete with more resources and more efficiently, in the wake of the path already set by the transposition of the Services Directive.
- Minimum fees: in the same amendment it is provided that the minimum fees will have value only as the criterion employed by the judge in the case of insolvent liquidation of the compensation to the professional, while in the case of determination of the compensation between professionals and clients the relevant minimum fee will not be applicable and it will not be used as a legal reference parameter.

#### Local public services

Modifications to Art. 4 of the Decree law 138/2011, included in the amendment to the Draft Stability Law, will be enacted in order to strengthen the liberalisation of these markets and ensure continuous quality improvement.

To this end, local authorities will have the possibility to entrust service management of a plurality of local public services via a public tender if this process is deemed more efficient. A ban is introduced to prevent the amount of a single service from being split into multiple bids. A possibility has been introduced, for those managing a local service through a direct assignment, to participate in public tenders on national territory called during the last year of their assignment. However, a pre-condition for their participation is that a tender is already called or decided for the entrustment of a service that they currently manage. The obligation for service managers to publish data on their activity will make it possible for users to compare the quality, average price and investments carried out by other firms. These provisions will be extended to the local and regional transport service sector.

## **ENTREPRENEURSHIP AND INNOVATION (QUESTIONS 26-28)**

### R&D

Among the measures aimed at encouraging research and development, Article 1 of Decree Law No 70 of 13 May 2011 introduces - experimentally for 2011 and 2012 - a tax credit for firms that finance research projects carried out with universities or public research institutions.

The tax credit is provided for investment made as from the tax period following that in progress at 31 December 2010 and until the end of the taxable period in progress at 31 December 2012, to the extent of 90% of the amount exceeding the average investment in research carried out in the 2008-2010 period. The amount of investment in research projects is fully deductible from corporate taxable income.

A Decree by the Revenue Agency Director states the terms of use of the tax credit and the method of calculating the tax credit due.

The measure is financed with an expenditure authorisation of:

- 55 million Euro for 2011;
- 180.8 million Euro for 2012;
- 157.2 million Euro for 2013;
- 91 million Euro for 2014.

Estimates of the financial effects are based on data reported in the ISTAT 2010 Yearbook on research and development, supplemented by sectoral data, which show that annual investment in R&D by enterprises for contracts with all public entities, research institutions and research centres, amount to more than 3.4 billion Euro, vis-à-vis a total of investment in R&D of around 15 billion Euro. Assuming that the portion of investment in R&D made by public institutions, private non-profit institutions and universities funded by private individuals is, cautiously, more than half - also in consideration of some likely changes in investment strategies - the share of investment in R&D attributable to the entities concerned by the provision is estimated to amount to about 1.8 billion Euro.

According to the performance of previous investments, the 'incremental' share of these investments is estimated at about 15%. This yields an annual eligible incremental investment of approximately 275 million Euro (about 1.8 billion X 15%).

For 2011, however, an amount of 'eligible investment operations' equal to 95% is assumed, taking into account possible existing investments in private research centres. Applying the percentage of tax credit to incremental investment, the estimated tax credit is 236 million of Euro for 2011 and 248 million Euro for 2012, available in three annual tranches.

Additionally, among the measures recently adopted to promote the capitalisation of companies, by Art. 31 of Legislative decree No 98 of 6 July 2011, incentives have been

introduced to benefit subscribers of specific EU-harmonised common funds specialised in 'launching' and 'support' for businesses (so-called venture capital funds - VCFs) according to the guidelines set by the European Commission in its Communication 'Europe 2020'.

The goal of VCFs is the acquisition of equity in enterprises with high growth potential, characterised by technological excellence but having insufficient access to capital markets, both at the early stages of their life cycle and during their innovation processes.

In particular, paragraph 4 of Art. 31 introduces a tax incentive on returns on equity in the aforesaid VCFs that invest at least 75% of their capital in unlisted companies that are either in their testing stage (seed financing), or in the incorporation stage (start-up financing), or in the stage of setting up a business activity (early stage financing), or in the product development stage (expansion financing). Income (i.e. the capital gains referred to in art. 44, subparagraph 1, letter g) of the Income Tax Consolidation Act) arising from stakes in these funds is exempt from taxation. For business income recipients the exemption applies subject to prior authorisation of the European Commission, following the procedures provided for in Art. 108, paragraph 3, of the Treaty on the Functioning of the European Union.

Enterprises funded by VCFs must have, among other things, the following features: a) not being listed companies; b) having their registered office in the territory of a EU Member State or in the territory of a Member State of the European Economic Area, provided that they have an agreement with Italy allowing an adequate exchange of information for tax purposes; c) being owned, directly or indirectly, mostly by individuals, d) being subject to corporate income tax or a similar tax set by local law with no scope for total or partial exemption from its payment; e) being engaged in business for no more than 36 months; f) having turnover, as shown in the last approved balance sheet before the investment of VCFs, not exceeding 50 million Euro.

Cautiously, assuming that the provision will be in full operation as from 2012 and assuming a full substitution effect in investment policies in favour of a more profitable instrument (the Venture Capital Fund) the estimated revenue loss (compared with the current legislation) amounts to 14.3 million Euro.

### *Special Programmes for crisis areas*

The Draft Stability Law proposes measures to support competitiveness and improve industrial structures at a local level through Special Programmes for crisis areas.

The proposals are designed to accelerate and to make procedures more flexible for interventions in industrial areas in crisis. In particular, the National Agency for Inward Investment Promotion and Enterprise Development (Agenzia Nazionale per l'Attrazione di Investimenti e lo Sviluppo d'Impresa) will be responsible for the definition of Special Programs for crisis areas aimed at supporting economic development, regional competitiveness, inflows of new investments, labour market stabilisation including the reoccupation of workers out of job.

The Special Programmes, in compliance with EU rules on state aid promote:

- safety,
- rehabilitation of affected areas
- recovery of abandoned industrial areas
- energy efficiency of the sites
- initiatives for industrial promotion and development of business

To ensure a timely and effective implementation of the Programmes, provisions include:

A constant monitoring system set out to verify the fulfillment of the programmes' schedules and requirements.

The possible declaration of public utility and emergency works to be attached to the programmes implementation files.

The terms and conditions for the resolution of any delays and failures, through the activation of alternative procedures

#### Measures for research in SMEs

- 1) Using the resources of the 'Fondo Rotativo delle Imprese' (Companies Revolving Fund, FRI) for SMEs (By Decree Law No 70/2011, converted into Law No. 106 dated 12.7.2011,) it was already foreseen (art. 8, paragraph 5, letter c) that 50% of the resources of the FRI not utilised at 31 December of each year were to be dedicated to financing businesses with priority being given to small and medium size enterprises.

Now the government is intentioned to better target those resources, directing them mainly to the support of networks of SMEs and investment, including research and innovation projects carried out in collaboration between companies and research organisations.

Given the current use of resources of the FRI, it is estimated that in the first phase of implementation, the amount to be allocated to these measures will be approximately 500-700 million Euro. The implementation of these measures does not entail a new or greater burden on public finances since there is no increase in the original budget of the FRI and, therefore, the corresponding coverage of the differential interest paid by the State.

- 2) Since September 29, 2011, 134 applications have already been received for 500 investment programmes for a total potential investment of approximately 6 billion Euro.

The main purpose of development contracts is to attract investments, including from abroad and to implement enterprises' development projects relevant to the strengthening of the productive structure of the country, especially in disadvantaged areas and particularly in the South.

The investment projects cover not only industry but also tourism and trade, and can be implemented by one or more companies.

Incentives in the form of interest subsidies, capital contribution accounts (plants) or a combination of these as part of a negotiation process, are regulated under the General Block Exemption Regulation (Regulation EC n. 800/2008, 6.8.2008). The current budget, immediately available, is over 500 million Euro, targeting mainly the four areas in the Convergence objective Regions (Calabria, Campania, Puglia and Sicily).

- 3) The Statute of Companies was finally approved on November 3, 2010, at the Chamber of Deputies.

The Law provides: a) a reserve of at least 60% of an automatic nature or evaluative incentives for small and medium-size enterprises; b) that 25% of this reserve should be allocated to micro enterprises; c) in public procurement, simplified access for aggregations of micro, small and medium-size enterprises, favouring ATI, as well as forms of enterprise networks and consortia.

### Firms Capitalization

To promote capitalisation of firms, the tax and welfare reform bill (AC 4566) delegates the Government (Article 7) to introduce a deduction from business income (A.C.E. is the Italian acronym for *Aiuto alla Crescita Economica*) connected with the return on equity, evaluated by applying a notional rate of return on new equity. The reference to 'new equity' suggests that the regulation shall specifically cover capital increases. On the other hand, the deduction is not dependent on the allocation of equity increases to new investment.

Under the current business income taxation system, the introduction of a deduction for the return on new equity is aimed at re-balancing the tax burden related to different sources of financing through a reduction of the taxation on income from equity financing, taking into account the need of strengthening corporate capital structure of the Italian production system.

This incentive for companies that raise new equity is unreservedly supported by the business community. In addition, A.C.E. appears to be a policy choice specifically aimed at encouraging new businesses or new market capitalisation of already active companies.

Further, the ACE regime appears to be more beneficial than other instruments used in the past, such as DIT (the dual income tax). Indeed, the return on incremental capital would not be subject to a lower rate, as in the past, but would be deducted from taxable income and therefore the measure will be more effective. Moreover, A.C.E. could overcome one

of the main limits in the application of DIT, i.e. the different applicability of the incentive to entrepreneurs and companies.

Budgetary effects are estimated by using a database that matches tax returns of Italian enterprises of the last four years with balance sheet ratios resulting from their financial statements. Based on this database and taking into account the annual new equity flows in the first years of implementation of this measure, revenue losses are estimated as follows: 0.6 billion Euro in the first year of implementation; 1 billion Euro in the second year, 2 billion Euro in the third year and about 3 billion Euro on average from the fourth year onwards.

### **REGULATORY AND ADMINISTRATIVE SIMPLIFICATION (QUESTIONS 29-30)**

In line with the Action Programme for reducing administrative burdens in the European Union (COM (2007) 23), the Italian government measures the administrative burdens related to the procedures in the competence of central administrations in order to achieve the objective of reducing by at least 25% by 2012 the administrative costs charged on businesses ('Taglia oneri amministrativi' initiative introduced with Law Decree n° 112/2008).

A total of 81 high impact procedures on business – selected in collaboration with business associations – have been subjected to measurement under the *'taglia oneri amministrativi'* initiative: so far administrative burdens have been estimated at 23 billion per year. On this basis reduction interventions have recently been adopted in the following areas:

- Fire Prevention: regulation for simplification established by Presidential Decree n° 151/2011 and Plan to reduce administrative burdens;
- Environment: regulation for simplification for SMEs, to be published soon in the Official Gazette;
- Privacy: simplification of formalities in respect of privacy for enterprises (Article 6, paragraph 2, Law Decree n° 70/2011);
- Contracts: public announcements and self-certification (Article 4, paragraph 2, Law Decree 70/2011).

A further acceleration of activities aimed at measuring and reducing the administrative burdens is under way: there will be new interventions in key regulatory areas such as workplace safety, agriculture, transports and controls on business. The measurement of administrative burdens has been extended to Regions and Local Authorities (Article 6, paragraph 2, Law Decree n° 70/2011). The Joint Committee for the Coordination of measurement between State, Regions and Local Authorities, set up in July, has already started its work to measure and reduce administrative burdens with the cooperation of all levels of government and the involvement of business associations, starting with key sectors such as construction.

As for SMEs, in line with the EU 2020 strategy and the Small Business Act, the principle of proportionality for administrative requirements has been introduced, in order to differentiate between them according to size, sector and the actual need for protection of public interests. This principle has already become operational with the simplification measures in the areas of environment and fire prevention.

Important measures to improve the quality of existing regulation are provided in the amendment to the draft Stability law:

- a) Elimination of certificates: It firmly established the principle that the certificates are completely eliminated and replaced by self-certification. Certification awarded by public administrations will be valid only for private transactions. Furthermore, in order to ensure the effectiveness of the new discipline it is established that the certifying public administration will have to find an office responsible for data transmission.
- b) Gold-plating: In line with the principles of Smart Regulation it is provided that there will be a review of Regulatory Impact Assessment (RIA) legislation aimed at discouraging the gold-plating phenomenon related to the internal harmonisation with the European Directives.
- c) Citizens and companies will no longer have to present certificates already available in other offices of the Public Administration. Public administration will acquire all the relevant information through direct contacts with other offices.
- d) Throughout 2013 the 'zero bureaucracy areas' will be applied provisionally on all national territory. The Local Office of Government is chaired by the Prefect, and composed by representatives of the regions, provinces, metropolitan cities and municipalities. Its role will be to coordinate the initiatives and regulations at national and local level related to the 'zero bureaucracy areas', excluding fiscal, environmental, health and public security regulations.

### **MODERNISATION OF PUBLIC ADMINISTRATION (QUESTIONS 31-33)**

The Commission for the evaluation, transparency and integrity of public administrations has been settled according to the Legislative Decree n° 150/2009 and it effective since 22th December 2009. The Commission directs, coordinates and supervises activities within three areas: evaluation of individual and organizational performance; public services' standards determination; transparency of public administrations. More precisely, the Commission:

- a) promotes systems and methodologies aimed at improving the performance of public administrations;
- b) ensures the transparency of achieved results;
- c) compares performance against standards and experiences, at domestic and international levels;

- d) promotes the culture of transparency through means of preventing and fighting corruption;
- e) promotes the culture of equal opportunities policies and related practices applications.

Moreover, the Commission formulates the guidelines for the adoption of evaluation models and defines the criteria for appointing the independent performance evaluation units (OIV) operating within each administration. These OIV check the adoption of an evaluation system and certify the performance report.

The final approval of the act "Regulations for the Prevention and Punishment of Corruption and Illegality in Public Administration" (already approved by the Senate on 15th June 2011 and now before Chamber of Deputies) will extend the duties of the Commission to Anti-Corruption surveillance. In particular, Article 1 entrusts the Commission with the task to act as the National Anti-Corruption Authority and to ensure a coordinated action, control activities, prevent and combat the phenomenon of bribery and illegality in the public administration (implementation of Article 6 of the UN Convention against Corruption and Articles 20 and 21 of the Criminal Law Convention on Corruption – Strasbourg, January 1999). To this aim, the Commission will:

- a) cooperate with foreign institutions, regional and international organizations;
- b) approve the National Anti-Corruption Plan prepared by the Department of Civil Service;
- c) exercise supervision and control on the actual implementation and effectiveness of measures taken by the public administrations, while having powers of inspection;
- d) report to Parliament each year by December 31.

The central public administrations will prepare and submit to the Commission – National Anti-Corruption Authority their action plans containing: i. an assessment of the corruption risk exposure for different offices; ii. procedures to select; iii. trainings schemes for employees who will work in high corruption risk areas; iv. solutions aimed at early detection and prevention of any unlawful conduct.

For more details on past activity (2010), please find the following link:

<http://www.civit.it/wp-content/uploads/Relazione-Annuale-2010-formato-PDF-scansionato.pdf>

The measures adopted in 2008-2011 in order to enact a freeze of staff turnover will lead to a significant reduction of public employees (about 300.000 units in 2014). In such a policy environment the mobility becomes essential in order to better allocate employees among public administrations, thus avoiding potential problems arising from an effective staff turnover block.

As a consequence, the budget approved in August (Decree Law n° 138/2011) already provided measures in order to facilitate mobility. In particular: i) the administrations, before advertising a competitive examination for recruitment, have to activate the procedures for incoming mobility (Article 1, paragraph 19); ii) the procedures for internal mobility are simplified in order to allow for greater flexibility in human resources management (Article 1, paragraph 29).

New measures are included in the amendment to the draft Stability Law, now pending before Parliament. In particular, for public employment is established that public administrations, during an annual recognition of staff, can single out surpluses and, after 10 days of the communication sent to the trade unions, can relocate the redundant personnel within the same administration or to other administrations, also via flexible work forms (compulsory mobility). The employees that cannot be reallocated will receive for the subsequent 24 months a benefit equal to 80% of the last salary.

It is expected that efficiency gains and cost savings due to streamlining of rules for the recruitment and management of human resources will be high. The effectiveness of this measure is expected to be particularly high due to the introduction of new constraints, automatic mechanisms and sanctions for unfulfilling public administrations.

With regard to the criteria and procedures for the transfer of employees from Provinces to Regions and Municipalities, they will be specifically defined after the approval of the Constitutional Law for the suppression of Provinces (now before the Senate, A.S. n°2941 and others), in any case in accordance to the changes of Legislative Decree n° 165 of 2001 described above (compulsory mobility).

The *Brunetta* reform (Legislative Decree n° 150/2009) is aimed at increasing efficiency, effectiveness and transparency in public administrations mainly by introducing a comprehensive performance management cycle.

Nowadays there are many public administrations already equipped with a system of performance measurement and evaluation and with a fully operational internal independent assessment body. Therefore the framework and the procedures in order to attribute performance-related pay are fully in place. However, the Decree Law n° 78/2010 establishes the suspension without recovery of national basic wage bargaining procedures for 2010-2012 and freezing until 2013 of the 2010 level of individual wage for all public sector employees. As a result, in 2013 there will be a substantial realignment of public and private sector level of nominal growth of wages with respect to 2000. According to the current rules (the so-called 'efficiency dividend') productivity bonuses could be financed with part of the resources resulting from operating cost savings arising from the expenditure streamlining procedures established with Article 16 Decree Law n° 98/2011.

For more details, see:

<http://www.aranagenzia.it/index.php/pubblicazioni/rapporti-trimestrali>

The Italian policy for the modernisation of the public administration is based also on a comprehensive strategy for “innovation and digitalisation within the public administration and the country”. The e-Gov 2012 plan includes all the projects aimed at the full digitalisation of Education, Health and Justice systems. In the framework of e-Gov 2012 plan, new measures in order to speed the process of digitalisation will soon be introduced. In particular: the transmission of school reports, the communication of information on school careers and the payment of school fees will be processed electronically, as well as medical prescriptions, services and administrative procedures in Universities. Significant digitalisation measures to reduce the length of civil justice proceedings are included in the amendment to the draft Stability Law.

For details on the implementation of e-Gov 2012 plan, see:

<http://www.e2012.gov.it/egov2012>

As for the class action, the Legislative Decree n° 198/2009 established the opportunity for citizens and firms to take collective action suits against public administrations in case of inefficient provision of services. The Ministry of Economy and Finance, the Ministry of Agriculture, the Ministry of Infrastructures, the Ministry of Interior and the Ministry of External Affairs have already defined the quality standards for the delivery of their services. In June 2011, thirteen class action suits were pending before Administrative Courts.

#### **IMPROVING EFFICIENCY AND STREAMLINING THE ADMINISTRATION OF JUSTICE (QUESTIONS 34-35)**

Over the past few years several measures have been implemented to increase the efficiency of the administration of justice. For instance, the Art. 51 of Decree Law No 112 of 2008 (Law No. 133 of 2008) provided judicial offices with the opportunity to carry out procedural communications electronically; Law No. 69/2009 provides, *inter alia*, the introduction of the application for short procedure, that is a more flexible and faster for simple disputes; the Law No. 191/2009 (Budget Law 2010) imposed the payment of the unified fees, in order to discourage non-admissible or manifestly unfounded instances; the Legislative Decree No. 28/2010 extended the use of the mediation institute in all civil and commercial disputes.

Furthermore, the Decree Law No 98/2011 (2011 budget) introduced:

- a) The obligation of management planning of civil cases: acknowledging a practice affirmed in the courts, the heads of offices have been obliged to make a special programme every year for the reduction of litigation, to set goals and determine office performance priorities in dealing with cases, so binding on judges;

- b) Vocational training of young graduates in judicial offices, with staff carrying out tasks in favour of the judges;
- c) A fund for urgent action in the field of civil, administrative and tax justice, fuelled by an increase of the unified contribution (the fee for the commencement of litigation), which will use the resources to hire new magistrates, and to provide economic incentives to staff offices that will be able to achieve a reduction of court pending of at least 10% ;
- d) Specific measures for the reduction of social security litigation, with the extinction of all the automatic processes worth less than 500 Euro, for which INPS shall automatically accept applications, with the requirement for a medical-legal examination for all cases relating to disability, in order to resolve them in an extra-judicial stage, without requiring the initiation of a process.

Legislative Decree 1 September 2011, No 150 on the simplification of procedures, which brought back more than 30 civil proceedings to only 3 models in the Code of Civil Procedure, also facilitates the organisation of work of the judicial offices, which were previously forced to deal with the unequal procedural rules;

Law No 14 September 2011 148, gave to the Government the power to adopt, within twelve months, one or more legislative decrees to implement the revision of the judicial districts, reorganising the territorial distribution of courts by removal of smaller courts, in order to achieve expenditure savings and increase efficiency.

Further measures include:

1. If the instance is non-admissible or manifestly unfounded, the court, by order for which no appeal is admitted, can order that the proposing party pay a fine of not less than 250 Euro and no more than 10,000 Euro (Art. 4-quarter et vices Maxi-amendment 2011).
2. If the party changes the question, or makes a counterclaim or formula called into question, which determines the increase in the value of the claim, then they will be required to make a positive declaration and proceed to immediate additional payment. The other parties, when they change the question or make counterclaims called into question or formulate speech or act independently, are required to submit an express statement and proceed to the payment of a separate context unified contribution, determined by the value of the application proposal (Art. 4-quinquies et vices).

A technical working group has already been established at the Ministry of Justice, formed by magistrates of the Judicial Department for the Organisation of the legislative and the judiciary, which monitors the status of implementation of civil procedures, identifies and disseminates knowledge of the most efficient and effective patterns of organisation that are present in judicial offices, and identifies critical standards, to develop models of intervention, both at administrative and regulatory level, to make the response of the

justice system more efficient with particular reference to sectors affected by greater litigation.

The working group, after examining the relative statistics as described above, has expressed the need to adopt the following further measures:

1. The extension to all Italian courts of the obligation to use certified mail as a tool of choice for procedural communications, having full legal force;
2. The further simplification of sentencing, by providing a measure of oral short form with an option for those who want to challenge to request the motivation in a written expanded form;
3. The requirement for parties of the processes that have been pending the longest before the courts of appeal, and the court of cassation, to declare if they still express interest in the discussion;
4. The further adjustment of the fiscal costs of civil justice to those in other EU Member States and the raising of funds to invest in the completion and upgrading of computerisation of the courts;
5. The introduction of the possibility to extract, collect and process statistical data of the administration of justice directly through automated systems in a centralised database that already exists, allowing rapid analysis of current workflows of judicial offices, the disposal capacity of such flows, and the adequacy of the administrative apparatus that supports the activities of the courts, as well as those of the past;
6. Further expansion of mediation as a condition of admissibility and dissemination through training initiatives, among the judges of the culture of mediation.

## **INFRASTRUCTURE AND CONSTRUCTION (QUESTIONS 36)**

To further boost private investments in railways infrastructures through project finance, a fiscal incentive is foreseen in the form of a tax exemption on revenues generated during the period of infrastructure concession. The public participation (including through fiscal incentives) in these investments may not exceed 50% of the total.

To ensure the realisation of the high speed railway line Torino-Lione, all surrounding building sites are considered areas of strategic national interest and severe measures are foreseen for adapting the site.

The simplification of the competencies of ANAS, following the Development decree passed last May, will be completed with the transfer of ANAS to Fintecna as from January 2012. Unlike the previous decree, ANAS' share will be transferred at the net book value, not for free.

## CONSTITUTIONAL REFORMS (QUESTIONS 37-39)

For question 36 and 37 see the answer to question 6. Question 39 will be addressed by future policy action for which no details are currently available.

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