

Günther Oettinger
European Energy Commissioner
B - 1049 Brussels (Belgium)

Milan, 26th June 2014

Prot. n. 141/2014

**Re: Legislative decree approved by the Italian government 13th June 2014, on the retroactive reduction of support schemes for photovoltaic plants.
assoRinnovabili's warning and request for intervention.**

Dear Commissioner,

assoRinnovabili is the biggest Association for Producers, Industry and Services of Renewable Energy in Italy and one of the largest in Europe for its number of associates and installed power. It currently has over 500 members and more than 1,300 plants for a total of more than 20,000 MW of installed capacity in Italy and abroad.

assorinnovabili represents and protects the interests of Italian producers and foreign investors who have launched numerous energy initiatives in Italy in the field of renewable energy, particularly solar energy.

As you may have learned from the international press (including the 22th June issue of the Wall Street Journal and the 19th June issue of the Financial Times), the Italian Government has recently approved a decree containing, inter alia, provisions on cutting costs of energy bills for SMEs by 10%.

Specifically, the l.d. 91/2014 (effective from 25th June) that worries the Italian Producers Association and foreign investors concerns a reduction in the feed-in tariff for electricity generated by photovoltaic power plants with a capacity greater than 200 kW. This is to be distributed over a period of 24 years (a mechanism better known as "spalmaincentivi").

The mechanism is optional: producers may choose a sharp reduction in the value of the incentive equal to 8%.

Basically producers would be in a no-win situation: to take part in the "spalmaincentivi", with a decreased tariff value, or to opt for a reduced tariff. In both cases, **the decree** (which affects about **11 000 MW out of 18 000 MW** of installed PV capacity) **retroactively imposes a cut to the original tariff.**

This measure adds to a number of legislative, fiscal and regulatory measures adopted over the past year substantially eroding the already inconsequential profits of photovoltaic producers.

The Association agrees with the opinion you expressed on August 28th 2013, strongly advising against retroactive measures, pointing out that "all those that have installed solar panels, biogas plants or wind parks should receive the level of support that was guaranteed at the time of installation".

Professor Valerio Onida (President Emeritus of the Italian Constitutional Court), asked to give his opinion (attached hereto) on the compatibility of the decree to Italian Constitution, confirms that the mechanism provided for in the decree is in breach with the Italian Constitution.



According to Professor Onida, the decree if it were to become law would also come into conflict with international obligations under the Treaty on the European Energy Charter requiring the signatory countries (including Italy) to provide investors with "stable conditions" as well as "fair, favourable and transparent conditions " for the development of investment which should not be affected by changes (in the pejorative sense) in the legal and economic conditions under which they were made.

On the strength of the attached opinion, the Association has already notified the President of the Italian Republic on the unconstitutionality of the measure.

With regard to the points mentioned here, assoRinnovabili asks you to invite the Italian government and parliament to reconsider the mechanism better known as "spalmaincentivi".

Yours sincerely

Agostino Re Rebaudengo

Chairman assoRinnovabili