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LEGISLATIVE DECREE No 387 of 29 December 2003

Implementation of Directive No 2001/77/EC on the promotion of electricity produced from renewable energy sources in the internal electricity market

THE PRESIDENT OF THE REPUBLIC

Having regard to Articles 76, 87 and 117 of the Constitution;

Having regard to Directive No 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market;

Having regard to Law No 39 of 1 March 2002 concerning provisions for the fulfilment of obligations deriving from Italy's membership of the European Communities – Community Law 2001 and in particular Article 43 and Annex B thereto;

Having regard to Law No 179 of 31 July 2002, concerning provisions relating to the environment;

Having regard to Legislative Decree No 22 of 5 February 1997, concerning the implementation of Directive No 91/156/EC on waste, Directive No 91/689/EC on hazardous waste and Directive No 94/62/EC on packaging and packaging waste;

Having regard to Legislative Decree No 79 of 16 March 1999, concerning the implementation of Directive No 96/92/EC concerning common rules for the internal electricity market;

Having regard to Law No 120 of 1 June 2002, concerning the ratification and implementation of the Kyoto Protocol to the United Nations Framework Convention on Climate Change, signed in Kyoto on 11 December 1997;

Having regard to CIPE Decision No 123 of 19 December 2002 (*CIPE = Interministerial Committee for Financial Planning*) concerning revision of the guidelines for national policies and measures for the reduction of greenhouse gas emissions, published in the Official Journal No 68 of 22 March 2003;

Having regard to the White Paper on Renewable Energy Sources, approved by the CIPE with Decision No 126 of 6 August 1999, published in the Italian Official Journal No 253 of 27 October 1999;

Having regard to Legislative Decree No 490 of 29 October 1999, consolidating the legislative provisions relating to cultural and environmental assets, in accordance with Article 1 of Law No 352 of 8 October 1997;

Having regard to Law No 481 of 14 November 1995, concerning rules for competition and the regulation of public utility services. Institution of Authorities to regulate public utility services;

Having regard to Article 10(7) of Law No 133 of 13 May 1999;

Having regard to Law No 9 of 9 January 1991, concerning rules for the implementation of the new National Energy Plan: institutional aspects, hydroelectricity and generating stations, hydrocarbons and geothermal production, autoproduction and taxation provisions;

Having regard to Law No 10 of 9 January 1991, concerning rules for the implementation of the National Energy Plan as regards the rational use of energy, energy saving and the development of renewable sources of energy;

Having regard to Legislative Decree No 164 of 23 May 2000, concerning the implementation of Directive No 98/30/EC concerning common rules for the internal market in natural gas, in accordance with Article 41 of Law No 144 of 17 May 1999;

Having regard to the preliminary Decision of the Cabinet, adopted at the meeting of 25 July 2003;

Acting in accordance with the opinion of the Joint Conference referred to in Article 8 of Legislative Decree No 281 of 28 August 1997, rendered at the sitting of 23 September 2003;

Acting in accordance with the opinion of the competent Committees of the Chamber of Deputies and the Senate of the Republic;

Having regard to the Decision of the Cabinet, adopted at the meeting of 19 December 2003;

Whereas the Minister for Community Policies and the Minister for Production Activities, in agreement with the Minister for Foreign Affairs, the Minister for Justice, the Minister for Economic Affairs and Finance, the Minister for the Environment and the Minister for Cultural Assets and Activities have submitted a proposal;

HAS ADOPTED

the following Legislative Decree:

Article 1

Purposes

1. In compliance with the national, Community and international rules in force and in compliance with the principles and guidelines laid down in Article 43 of Law No 39 of 1 March 2002, the purposes of the present Decree are:

- a) to promote a greater contribution of renewable sources of energy to the production of electricity in the related Italian and Community market;
- b) to promote measures to attain the national indicative targets referred to in Article 3(1);
- c) to contribute to the creation of the basis for a future Community framework in the field;
- d) to foster the development of electricity microgeneration plants supplied from renewable sources, in particular on farms and in mountainous areas.

Notice:

The text of the notes published here was prepared by the administration with competence in the field, pursuant to Article 10(3) of the sole text of the provisions on the promulgation of laws, on the issuing of decrees by the President of the Republic, and on official publications of the Republic of Italy, approved by Presidential Decree No 1092 of 28 December 1985, for the sole purpose of facilitating the reading of legal provisions to which reference is made. The validity and effect of the legislative acts transcribed here remain unchanged.

For EEC directives, the details of their publication in the Official Journal of the European Communities (OJEC) are given.

Introductory notes:

- Article 76 of the Constitution establishes that the exercise of the legislative function shall only be delegated to the Government provided that guiding principles and criteria have been determined, and only for a limited time and for defined objectives.

- *Article 87 of the Constitution confers upon the President of the Republic, inter alia, the power to promulgate laws and issue decrees having the force of law and regulations.*

- *Reference is made to the text of Article 117 of the Constitution:*

“Article 117. – Legislative power shall be exercised by the State and by the regions in accordance with the Constitution, and the commitments deriving from Community law and international obligations.

The State shall have exclusive legislative power in the following areas:

- a) foreign policy and the State’s international relations; relations of the State with the European Union; right of asylum and legal status of citizens of States not belonging to the European Union;*
- b) immigration;*
- c) relations between the Republic and the religious denominations;*
- d) defence and the armed Forces; State security; arms, munitions and explosives;*
- e) currency, guardianship of savings and the money markets; guardianship of competition; currency system; fiscal system and State accounts; proper distribution of financial resources;*
- f) State bodies and related electoral laws; State referenda; election of the European Parliament;*
- g) ordering and administrative organisation of the State and of national public bodies;*
- h) public order and security, excluding the local administrative police;*
- i) citizenship, civilian status and civic records;*
- l) jurisdiction and rules of procedure; civil and penal regulations; administrative law;*
- m) determination of the essential levels of provisions related to the civil and social rights that must be guaranteed throughout the national territory;*
- n) general regulations on education;*
- o) social welfare;*
- p) electoral legislation, government bodies and basic functions of municipalities, provinces and metropolitan cities;*

- q) customs, protection of national frontiers and international prophylaxis;*
- r) determination of weights, measures and time; coordination of statistics and the processing of state, regional and local administrative data; intelligence work;*
- s) protection of the environment, the ecosystem and cultural assets.*

Issues of concurrent legislation are those relating to international relations of the regions and their relations with the European Union; external trade; labour protection and safety; education, respecting the autonomy of academic institutions and excluding professional education and training; the professions; scientific and technological research and support for innovation in the productive sectors; health care; food; sport regulations; civic protection; government of the territory; civilian ports and airports; major transport and navigation networks; regulation of communications; national production, transport and distribution of energy; complementary and integrative welfare; harmonisation of public budgets and coordination of public finance and the taxation system; development of cultural and environmental assets and promotion and organisation of cultural activities; savings banks, rural development funds, regional credit institutions; regional land and agrarian credit bodies. In matters of concurrent legislation legislative power shall be in the hands of the regions, except in that the determination of the fundamental principles is reserved for legislation by the State.

The regions shall have legislative power in relation to any issue not expressly reserved for legislation by the State.

In the fields of their competence, the regions and the autonomous provinces of Trento and Bolzano shall participate in direct decisions on the formulation of Community regulatory acts and ensure the enactment and implementation of international agreements and the acts of the European Union, in accordance with the rules of procedure established by State law, which governs the procedures for the exercise of substitutive power in the event of non-fulfilment.

Regulatory power shall belong to the State in matters of exclusive legislation unless delegated to the regions. Regulatory power shall belong to the regions in all other matters. The municipalities, provinces and metropolitan cities shall have regulatory powers in relation to the organisation and implementation of the functions assigned to them.

The regional laws shall eliminate every obstacle that stands in the way of the full equality of men and women in social, cultural and economic life and shall promote equality of access for women and men to elected office.

Regional law shall ratify the agreements of the region with other regions for the better exercise of their own functions, including the identification of common bodies.

In the context of its competence a region can conclude agreements with States and understandings with territorial bodies internal to the other State, in the cases and in the forms laid down by the laws of the State.

- Directive No 2001/79/EC is published in OJEC L 238 of 27 October 2001.

- Law No 39 of 1 March 2002 concerns: "Provisions for the fulfilment of obligations deriving from Italy's membership of the European Communities – Community Law 2001". Article 43 and Annex B are worded as follows:

"Article 43. (Delegation to the Government of the transposition of Directive 2001/77/EC on the promotion of electricity produced from renewable sources). – 1. The Government is delegated, within eighteen months from the entry of the present law into force, and as specified in Article 1 (2 and 3), to issue one or more legislative decrees for the transposition of European Parliament and Council Directive No 2001/77/EC of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market, in accordance with the following guiding principles and criteria:

a) identification of the significant targets of future electricity consumption from renewable energy sources on the basis of realistic forecasts economically compatible with the development of the Country;

b) arranging for the targets referred to in a) above to be achieved by virtue of electricity production by plants located within the national territory, or by importing electricity from renewable sources exclusively from countries which adopt instruments for the promotion and encouragement of renewable sources similar to those in Italy, and which acknowledge the same possibility for plants located on Italian territory;

c) ensuring that the support systems are compatible with the principles of the electricity market and are based on mechanisms that favour competition and cost reduction;

d) streamlining of administrative procedures for installing plants, in accordance with the competences of the State, the regions and local bodies;

e) including wastes, including the non-biodegradable fraction, among the energy sources eligible to benefit from the system reserved for renewable sources;

f) ensuring that the application of the provisions of this Article do not give rise to new or greater burdens upon, nor reduced revenues for the State budget."

Annex B

Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time.

Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees.

Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control.

Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste.

Directive 1999/42/EC of the European Parliament and of the Council of 7 June 1999 establishing a mechanism for the recognition of qualifications in respect of the professional activities covered by the Directives on liberalisation and transitional measures and supplementing the general systems for the recognition of qualifications.

Council Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST).

Commission Directive 1999/64/EC of 23 June 1999 amending Directive 90/388/EEC in order to ensure that telecommunications networks and cable TV networks owned by a single operator are separate legal entities.

Directive 1999/92/EC of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (15th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC).

Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs.

Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC (Fourth motor insurance Directive).

Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce').

Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000 amending Council Directive 93/104/EC concerning certain aspects of the organisation of working time to cover sectors and activities excluded from that Directive.

Directive 2000/35/EC of the European Parliament and of the Council of 29 June 2000 on combating late payment in commercial transactions.

Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000 relating to cocoa and chocolate products intended for human consumption.

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles - Commission Statements.

Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues - Commission declaration.

Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue.

Directive 2000/77/EC of the European Parliament and of the Council of 14 December 2000 amending Council Directive 95/53/EC fixing the principles governing the organisation of official inspections in the field of animal nutrition.

Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

Council Directive 2000/79/EC of 27 November 2000 concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation concluded by the Association of European Airlines (AEA), the European Transport Workers' Federation (ETF), the European Cockpit Association (ECA), the European Regions Airline Association (ERA) and the International Air Carrier Association (IACA).

Directive 2001/12/EC of the European Parliament and of the Council of 26 February 2001 amending Council Directive 91/440/EEC on the development of the Community's railways.

Directive 2001/13/EC of the European Parliament and of the Council of 26 February 2001 amending Council Directive 95/18/EC on the licensing of railway undertakings.

Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification.

Commission Directive 2001/15/EC of 15 February 2001 on substances that may be added for specific nutritional purposes in foods for particular nutritional uses.

Directive 2001/16/EC of the European Parliament and of the Council of 19 March 2001 on the interoperability of the trans-European conventional rail system.

Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC - Commission Declaration.

Directive 2001/19/EC of the European Parliament and of the Council of 14 May 2001 amending Council Directives 89/48/EEC and 92/51/EEC on the general system for the recognition of professional qualifications and Council Directives 77/452/EEC, 77/453/EEC, 78/686/EEC, 78/687/EEC, 78/1026/EEC, 78/1027/EEC, 80/154/EEC, 80/155/EEC, 85/384/EEC, 85/432/EEC, 85/433/EEC and 93/16/EEC concerning the professions of nurse responsible for general care, dental practitioner, veterinary surgeon, midwife, architect, pharmacist and doctor.

Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.

Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society.

Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment.

Directive 2001/45/EC of the European Parliament and of the Council of 27 June 2001 amending Council Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC).

Directive 2001/46/EC of the European Parliament and of the Council of 23 July 2001 amending Council Directive 95/53/EC fixing the principles governing the organisation of official inspections in the field of animal nutrition and Directives 70/524/EEC, 96/25/EC and 1999/29/EC on animal nutrition.

Directive 2001/65/EC of the European Parliament and of the Council of 27 September 2001 amending Directives 78/660/EEC, 83/349/EEC and 86/635/EEC as regards the valuation rules for the annual and consolidated accounts of certain types of companies as well as of banks and other financial institutions.

Directive 2001/77/EC of the European Parliament and of the Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market.

Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art.

Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees.”

- *Law No 179 of 31 July 2002 concerns: “Provisions relating to the environment”.*

- *Legislative Decree No 22 of 5 February 1999 concerns: “Implementation of Directives Nos 91/156/EEC on waste, 91/689/EEC on hazardous waste and 94/62/EC on packaging and packaging waste.”*

- *Directive No 91/156/EEC is published in OJEC L 078 of 26 March 1991.*

- *Directive No 91/689/EEC is published in OJEC L 377 of 31 December 1991.*

- *Directive No 94/62/EC is published in OJEC L 365 of 31 December 1994.*

- *Law No 120 of 1 June 2002 concerns: “Ratification and implementation of the Kyoto Protocol of the Framework Agreement to the United Nations Framework Convention on Climate Change, signed in Kyoto on 11 December 1997”.*

- *Legislative Decree No 490 of 29 October 1999 concerns: “Sole text of the legislative provisions concerning cultural and environmental assets, pursuant to Article 1 of Law No 352 of 8 October 1997”.*

- *Law No 352 of 8 October 1997 concerns: “Provisions concerning cultural assets”.* Article 1 thereof is worded as follows:

“Article 1 (Single text of the regulations concerning cultural assets). – 1. The Government of the Republic is delegated, within one year from the entry of this law into force, to issue a legislative decree comprising a single text which combines and coordinates all the legislative provisions in force that relate to cultural and environmental assets. On entry into force of that single text, all previous relevant provisions, which the Government shall list in an annex to the said single text, shall be abrogated.

2. In preparing the single text referred to in paragraph 1, the Government shall abide by the following guiding principles and criteria:

a) the legislative provisions in force on the date when the present law enters into force, and those which will enter into force during the six months thereafter into the single text may be inserted;

b) the provisions shall include only such amendments as are necessary for their formal and substantive coordination, and for ensuring the reorganisation and streamlining of the procedures.

3. The draft of the single text shall be submitted within seven months from the date when the present law enters into force, to the Chamber of Deputies and the Senate of the Republic, so that the competent parliamentary committees can express their opinion. The procedure applied shall be that of Article 14(4) of Law No 400 of 23 August 1988.

4. The single text may be revised, in accordance with the guiding principles and criteria referred to in paragraph 2 b), within three years of its entry into force, by means of one or more legislative decrees whose drafting shall be decided by the Cabinet, having regard to the opinion expressed by the Council of State within forty-five days from the request. After consulting the Permanent Conference for relations between the State, the regions and the autonomous provinces of Trento and Bolzano, the draft shall be sent together with a report to which are attached the opinions of the Council of State and the said Conference, to the competent parliamentary committees, which shall express their opinion within forty-five days of receipt. Each legislative decree shall be issued at the proposal of the Minister for Cultural Assets and Activities, together with the Minister for Regional Affairs.

5. The single text shall be issued by decree of the President of the Republic, at the proposal of the Minister for Cultural and Assets and Activities, after a decision by the Cabinet, after consultation with the Council of State, whose opinion shall be expressed within forty-five days from the forwarding of the draft in question.

6. For the preparation of the draft legislative decrees envisaged by this Article, the Minister for Cultural Assets and Activities may make use of the work of a committee consisting of experts, external or belonging to the administration, who have particular knowledge of the field. Related fees shall be met by using the resources available in the context of the ordinary budgetary appropriations provided for the Ministry of Cultural Assets and Activities”.

- Law No 481 of 14 November 1955 concerns: “Rules for competition and the regulation of public utility services. Establishment of Authorities to regulate the public utility services”.

- Law No 133 of 13 May 1999 concerns: “Provisions relating to fiscal standardisation, rationalisation and federalism”. Article 10(7) is worded as follows:

“7. The operation of electrical power plants from renewable sources not exceeding 20 kW, even if connected to the grid, shall not be subject to the obligations referred to in Article 53(1) of the single text approved by Legislative Decree No 504 of 26 October 1995, and the energy consumed, whether self-generated or received in transaction, shall not be liable to the public tax and related supplements on electrical

energy. The Authority for electricity and gas shall establish the conditions for the exchange of electricity supplied by the distributor to the operator of the plant”.

- Law No 9 of 9 January 1991 concerns: “Rules for the implementation of the National Energy Plan: institutional aspects, hydroelectric power plants and power transmission lines, hydrocarbons and geothermal energy, co-generation and fiscal provisions”.

- Law No 10 of 9 January 1991 concerns: “Rules for the implementation of the National Energy Plan in relation to the rational use of energy, the saving of energy and the development of renewable energy sources”

- Legislative Decree No 164 of 23 May 2000 concerns: “Implementation of Directive No 98/30/EC concerning common rules for the internal market in natural gas”, pursuant to Article 41 of Law No 144 of 17 May 1999”.

- Directive No 98/30/EC is published in OJEC L 204 of 21 July 1998.

- Law No 144 of 17 May 1999 concerns: “Measures related to investments, delegation to the Government of the reorganisation of employment incentives and the regulations governing the National Institute for Industrial Accident Insurance (INAIL), and provisions for the reorganisation of insurance bodies”. Article 41 is worded as follows:

“Article 41. (Rules for the natural gas market). – 1. For the purpose of promoting the liberalisation of the natural gas market, with particular reference to the activities of transport, storage and distribution, the Government is delegated to issue, within one year from the entry of this law into force, one or more legislative decrees, after consultation with the Joint Conference referred to in Legislative Decree No 281 of 28 August 1997, to implement Directive No 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas, and consequently redefining all the relevant components of the national gas system, including those related to the public utility service, in accordance with the following guiding principles and criteria:

a) ensuring that the opening of the natural gas market takes place within a framework of rules which guarantee, in accordance with the powers of the Authority for electricity and gas, the provision of the public service, including the related obligations, the universality, quality and safety thereof, and the interconnection and interoperability of the systems,

b) ensuring that considering the growing use of natural gas and to achieve a greater level of interconnection to the European gas system, the infrastructural works for the development of the gas system are declared as public utilities and are urgent and not to be delayed, within the meaning of Law No 2359 of 25 June 1865;

c) *elimination of any regulatory disparity between the various operators in the gas system, to guarantee that in cases in which contributions, concessions, authorisations or other approvals are envisaged for the construction of installations or infrastructures of the gas system, undertakings operate under equal conditions and receive non-discriminatory treatment;*

d) *ensuring measures such that in plans and programmes related to works of transporting, importing and storage of gas, security of supply is safeguarded, by promoting the construction of new infrastructures for production, storage and importation, favouring the development of competition and the rational use of existing infrastructures;*

e) *ensuring that undertakings integrated in the gas market shall constitute, where functional in the development of the market, separate companies and that in each case they keep within their internal accounts separate accounts for the activities of importing, transport, distribution and storage, and consolidated accounts for activities unrelated to the gas sector, in order to avoid discriminations or distortions of competition;*

f) *guaranteeing transparent and non-discriminatory conditions for regulated access to the gas system;*

g) *establishing measures so that the opening of the national gas market takes place within the framework of European market integration, both as regards the definition of criteria for favoured customers on the basis of consumption by locality, and to facilitate the transition of the Italian gas sector to the new European arrangements, and to ensure by means of conditions of reciprocity with the other Member States of the European Union that Italian undertakings enjoy equal competition conditions on the European gas market.*

2. *The drafts of the legislative decrees referred to in paragraph 1, decided by the Cabinet and accompanied by an appropriate report, shall be sent to both Houses of Parliament for the expression of opinions by the competent permanent parliamentary committees within nine months from the date when this law enters into force. If this forwarding deadline is not respected, the Government shall forego the exercise of its delegation. The competent parliamentary committees shall express their opinion within sixty days from the date of forwarding. If the deadline for the expression of the opinion lapses without result, the legislative decrees may be issued in any case"*

- *Legislative Decree No 281 of 28 August 1997 concerns: "Definition and extension of the competences of the Permanent Conference for relations between the State, the regions and the autonomous provinces of Trento and Bolzano and unification, in the context of issues of common interest to the regions, provinces and municipalities, with the Conference between the State and the Cities and local governments". Article 8 is worded as follows:*

“Article 8 (Conference between the State and the Cities and local governments, and Joint Conference). – 1. The Conference between the State and the Cities and local governments shall be unified, in the context of issues of common interest to the regions, provinces, municipalities and mountain communities, with the Conference between the State and the Regions.

2. The Conference between the State and the Cities and local governments shall be presided over by the Prime Minister or, as his deputy, the Minister for the Interior or the Minister for Regional Affairs; it shall also include the Minister for the Treasury, the Budget and Financial Planning, the Minister for Finance, the Minister for Public Works, the Minister for Health, the President of the National Association of Municipalities in Italy – ANCI, the President of the Union of Italian Provinces – UPI and the President of the National Union of Municipalities, Committees and Mountainous areas – UNCEM. Also included shall be fourteen mayors designated by the ANCI and six provincial presidents designated by the UPI. Of the fourteen mayors designated by the ANCI, five shall represent the cities identified by Article 17 of Law No 142 of 8 June 1990. Other members of the Government and representatives of state, local or public body administrations can be invited to the meetings.

3. The Conference between the State and the Cities and local governments shall be convened at least every three months, and in any case whenever the President deems it necessary or when requested by the President of ANCI, UPI or UNCEM.

4. The Joint Conference referred to in paragraph 1 shall be convened by the Prime Minister. Its sittings shall be presided over by the Prime Minister or, as his deputy, the Minister for Regional Affairs or, when none has been appointed, the Minister for the Interior:

has declared unfounded, in relation to the reasons given, the question of constitutional legitimacy of Article (5 and 6), raised by the Region of Puglia with reference to Articles 5, 115, 117, 118 and 119 of the Constitution;

has declared unfounded, in relation to the reasons given, the question of constitutional legitimacy of Article 3, raised by the Region of Puglia with reference to Article 5, 115, 117, 118 and 119 of the Constitution”.

Notes on Article 1:

- For Article 43 of Law No 39 of 1 March 2002, see the introductory notes.

Article 2

Definitions

1. For the purposes of the present Decree, the following definitions shall apply:

- a) renewable energy sources or renewable sources: renewable non-fossil energy sources (wind, solar, geothermal, wave motion, tidal, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases). In particular, biomass shall mean: the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries, as well as the biodegradable fraction of industrial and municipal waste;
- b) plants fuelled by programmable renewable sources: plants fuelled by biomass and by hydropower, excluding in the latter case plants using flowing water, and hybrid plants, as referred to in d) below;
- c) plants fuelled by non-programmable renewable sources or at any rate ones that cannot be assigned to the peak-hour regulation services: plants fuelled by renewable sources not included among those of b) above;
- d) hybrid plants: power stations that produce electricity from both non-renewable and renewable sources, including co-combustion plants, i.e. those that produce electricity from the combustion of both non-renewable and renewable sources;
- e) microgeneration plants: plants which produce electricity with a generation capacity not exceeding one MW of electricity, fuelled by the sources referred to in a) above;
- f) electricity produced from renewable energy sources: the electricity produced by plants using only renewable energy sources, whose attributable production is as defined in g) below, and electricity obtained from renewable sources used for filling storage systems, but excluding electricity produced as the result of storage systems;
- g) attributable production and producibility: the production and producibility of electricity attributable to renewable sources in hybrid plants, calculated on the basis of the directives referred to in Article 11 of Legislative Decree No 79 of 16 March 1999;
- h) consumption of electricity: national electricity production, including self-generation plus imports, minus exports (gross national electricity consumption);
- i) Manager of the grid: the Manager of the national transmission grid referred to in Article 3 of Legislative Decree No 79 of 16 March 1999;
- l) Grid manager: physical or legal person responsible, even if not the owner, for managing an electricity grid with the obligation to connect third parties, and for the activities of maintaining and developing the same, including the Manager of the grid and the distribution undertakings referred to in Legislative Decree No 79 of 16 March 1999;
- m) user's installation for connection: part of an installation used for the connection to the electricity grid of the installations referred to in b), c) and d), whose construction,

management, operation and maintenance remain the responsibility of the subject requesting connection;

n) grid installation for connection: part of an installation used for the connection to the electricity grid of the installations referred to in b), c) and d), which is the responsibility of the grid manager whose obligation it is to connect third parties within the meaning of Legislative Decree No 79 of 16 March 1999;

o) green certificates: rights as referred to in Article 11(3) of Legislative Decree No 79 of 16 March 1999, granted in the context of the implementation of the directives referred to in Article 11 (5) of the same legislative decree.

Notes on Article 2:

- *For the subject of Legislative Decree No 79 of 16 March 1999, see the introductory notes. Article 3 and Article 11 are worded as follows:*

“Article 3 (Manager of the national transmission grid).

- 1. The manager of the national transmission grid, hereinafter “manager”, shall operate the activities of transmission and dispatch of electrical energy, including the integrated management of the national transmission grid. The manager shall be obliged to connect to the national transmission grid all those who so request, without compromising the continuity of the service and provided that the technical rules referred to in paragraph 6 of the present Article, and the technical-economic conditions of access and interconnection set by the Authority for electricity and gas, are respected. Any refusal of access to the grid must be duly justified by the manager. The manager of the national transmission grid shall provide those responsible for the management of any other grid in the European Union interconnected with the national transmission grid with sufficient information to ensure safe and efficient operation, coordinated development and interoperability of the grids interconnected.

2. The manager of the national transmission grid shall manage the flows of energy, the related interconnection equipment and the necessary auxiliary services; he shall guarantee the fulfilment of all other obligations related to ensuring the safety, reliability, efficiency and lowest cost of the service and provisions; he shall manage the grid, whose owner he may be, without discrimination between users or categories of users; he shall decide on maintenance and development interventions on the grid, at his own expense if he owns the grid or at the expense of the companies that own it, so as to ensure security and continuity of supply, and the development of the grid itself in accordance with the directions of the Minister for Industry, Trade and Crafts. To the manager shall be transferred the competences, rights and powers of private and public persons, including those of autonomous status, envisaged by the laws in force related to the activities reserved for the manager himself. The manager of the national transmission network shall treat as confidential all restricted commercial information acquired while carrying out his activities.

3. *The Authority for electricity and gas shall set conditions appropriate for guaranteeing all grid users freedom of access under equal conditions, impartiality and neutrality of the transmission and dispatch service. In exercising this competence the Authority shall pursue the objective of the most efficient use of the electricity produced or at any rate fed into the national electrical system, compatible with the technical restrictions of the grid. The Authority shall also provide for the obligation to use as a priority the electricity produced from renewable energy sources and that produced by co-generation.*

4. *Within thirty days from the entry of this Decree into force, the Italian National Electrical Energy Agency (ENEL S.p.a.) shall set up a limited company to which it shall transfer, within the next sixty days, all the assets, except for the ownership of the grids, the legal relationships inherent in the management activity itself, including the appropriate share of liabilities related to the property transferred, and the personnel required for the activities of its competence. With decrees of his own the Minister for Industry, Trade and Crafts, having consulted the Authority for electricity and gas, shall within thirty days from the date of the above transfers provide for any further transfers necessary for the manager's activities and approve those already made. The same Minister shall decide on his own initiative the date when the company is to assume the title and functions of manager of the national transmission grid; from the same date the shares of the said company shall be assigned free of charge to the Ministry of the Treasury, the Budget and Financial Planning. Shareholder rights shall be exercised by agreement between the Minister for the Treasury, the Budget and Financial Planning and the Minister for Industry, Trade and Crafts. The strategic and operative orientations of the manager shall be defined by the Ministry of Industry, Trade and Crafts. Until the date in question ENEL S.p.a. shall be responsible for the correct operation of the national transmission grid, for dispatch activities, and for compliance with paragraph 12.*

5. *The manager of the grid shall be the concessionary of the activities of transmission and dispatch; the concession shall be regulated, within one-hundred and eighty days from the date when this decree enters into force, by a decree of the Minister for Industry, Trade and Crafts. With an analogous decree, the concession granted shall be supplemented or amended in all cases when the equipment and functions of the manager are modified, and in any event when the Minister for Production Activities considers it necessary for the improved operation of the concession to carry out the activities entrusted to the manager.*

6. *On his own initiative the manager shall establish the rules for transmission and dispatch in accordance with the conditions referred to in paragraph 3 and the orientations referred to in paragraph 2 of Article 1. On the basis of directives issued by the Authority for electricity and gas within ninety days from the date when this Decree enters into force, the manager of the national transmission grid shall adopt objective and non-discriminatory technical rules concerning the planning and operation of the generating plants, the distribution grids, the directly connected*

equipment, the interconnection circuits and the direct lines, to ensure the best possible connection to the national transmission grid and safe and effective connection between grids. The Authority for electricity energy and gas shall check the compliance of the technical rules adopted by the manager with the directives it has issued, and having consulted with the manager, shall comment within ninety days; if no comment is made within that time, the rules shall be deemed approved. In no case may rights be accorded to the owners of parts of the national transmission grid, or to those to whom it is available, except for the manager of the national transmission grid, in relation to the activities of transmission and dispatch, in respect of exclusivity or priority or more favourable conditions of any type in the use of the grid. The use of the national transmission grid for purposes unrelated to the electricity service cannot in any case be subject to constraints or restrictions on the use of the grid itself for the purposes governed by the present Decree. The technical rules referred to in this paragraph shall be published in the Official Journal of the Republic of Italy and shall be notified to the Commission of the European Communities in accordance with Article 8 of Council Directive No 83/189/EC of 28 March 1983.

7. Within ninety days from the entry of this Decree into force, the Minister for Industry, Trade and Crafts, after consultation with the Authority for electricity energy and gas and other interested parties, shall define with a decree of his own the scope of the national transmission grid including grids with voltage equal to or higher than 220 kV and parts of the grid with voltages between 120 and 220 kV, to be identified in accordance with functional criteria. Following the issue of the said decree, the manager shall be able, with prior authorisation from the Minister for Industry, Trade and Crafts and on the basis of agreements approved by the Authority for electricity and gas, to entrust to third parties the management of limited portions of the national transmission grid not directly functional therein. Within thirty days from the issue of the decree defining the national transmission grid, the owners of the grid or those to whom it is at any rate available, shall establish one or more limited companies to which, within the next ninety days, shall be transferred exclusively the property and relations, assets and liabilities related to the transmission of electricity. The Minister for Industry, Trade and Crafts and the Minister for the Treasury, the Budget and Financial Planning may promote the aggregation of the above companies, also in consortium form, to favour the participation of all market operators.

8. The manager shall also conclude agreements with the companies owning the transmission grids, to regulate interventions for the maintenance and development of the grid and of the equipment for interconnection to other grids which they do not own; otherwise the manager shall be directly answerable to the Minister for Production Activities for the timely performance of the grid maintenance and development interventions that have been decided. The above agreements shall be drafted in conformity with a defined model agreement, within one-hundred and twenty days from the entry of this Legislative Decree into force, by a decree of the Minister for Industry, Trade and Crafts, on a proposal from the Authority for electricity and gas, in accordance with Law No 481 of 1995, after consultation with the Joint Conference established pursuant to Legislative Decree No 281 of 28 August 1997.

The said model agreement shall provide for:

- a) the competence of the manager to adopt decisions on the maintenance, management and development of the grid;*
- b) appropriate remuneration for activities and investments, having regard to the legal obligations of the operators;*
- c) the methods for ascertaining poor performance and non-fulfilment and the determination of the consequent penalties, the possibility of substitutive interventions, and that of possible indemnities to parties affected adversely;*
- d) the arrangements for involvement of the regions affected in relation to the aspects of location, rationalisation and development of the grids.*

9. If the agreements with the companies owning transmission grids are not concluded within one-hundred and twenty days from the issue of the decree defining the national transmission grid, referred to in paragraph 7, the said agreements shall be defined and put into effect within the next sixty days by a decree of the Minister for Industry, Trade and Crafts, on a proposal from the Authority for electricity and gas. Until the assumption of title by the manager as referred to in paragraph 4, the owners of the grids shall remain responsible for the correct maintenance and operation of the grids and equipment that they own; the related costs can be acknowledged by the manager of the national transmission grid in the context of the related agreement. Any non-fulfilment or inefficiency shall be penalised by the Authority for electricity and gas. The said Authority shall check that the relations covered by the agreements are conducted in accordance with the provisions therein, and shall be empowered to impose the penalties envisaged by Article 2(20, c) of Law No 481 of 14 November 1995 when the violations ascertained prejudice the use of the national transmission grid under equal conditions. The Minister for Industry, Trade and Crafts shall receive prior notification of the provisions and initiatives adopted pursuant to the present paragraph.

10. For access to and the use of the national transmission grid an amount shall be payable to the manager, which is determined regardless of the geographical location of the power plants and of the end users, and in any case on the basis of non-discriminatory criteria. The amount payable shall be determined by the Authority for electricity and gas within ninety days from the entry of the present Decree into force, also having regard to the responsibilities related to the duties referred to in paragraph 12, and shall be such as to motivate the manager to carry out the activities that fall within his competence in accordance with criteria of economic efficiency. With the same provision, the Authority shall also determine the transition period until the manager assumes the title referred to in paragraph 4.

11. *Within one-hundred and eighty days from the entry of this Legislative Decree into force, one or more decrees by the Minister for Industry, Trade and Crafts, in agreement with the Minister for the Treasury, the Budget and Financial Planning and at the proposal of the Authority for electricity and gas, shall also identify the general responsibilities related to the electricity system, including the responsibilities concerning research activities and the activities referred to in Article 13(2, e). The Authority for electricity and gas shall see to the consequential adjustment of the amount payable pursuant to paragraph 10. The proportion of the amount payable to cover the above responsibilities by the end users, in particular for activities with high energy consumption, shall be defined on a decreasing scale in proportion to higher consumptions.*

12. *The Minister for Industry, Trade and Crafts, by a provision of his own pursuant to Article 1(3), shall determine the assignment of the rights and obligations of the manager of the national transmission grid relating to the purchase of electricity, produced by other national operators on behalf of ENEL S.p.a. The manager shall also withdraw the electricity referred to in Article 22(3) of Law No 9 of 9 January 1991, offered by producers at prices determined by the Authority for electricity and gas in application of the criterion of avoided cost. By appropriate agreements previously authorised by the Minister for Industry, Trade and Crafts after consultation with the Authority for electricity and gas, the electrical energy and related rights referred to in section IV(b) of CIP Provision No 6/1992 (CIP = Interministerial Committee on Prices) shall also be sold to the manager by the undertakings that produce and distribute it; the duration of those agreements shall be fixed at eight years from the date when the plants begin operating and the corresponding price shall also include the avoided cost.*

13. *From the date when an economical dispatch system begins operating, the manager, remaining the guarantor of compliance with the contractual clauses, shall sell the energy acquired pursuant to paragraph 12 to the market. To ensure coverage of the costs incurred by the manager, the Authority for electricity and gas shall include among the liabilities of the system the difference between the manager's acquisition costs and the sum of the proceeds obtained from the sale of energy to the market and from the sale of the rights referred to in Article 11(3).*

14. *Authorisation for the construction of direct lines shall be granted by the competent administrations, after an opinion by the manager concerning lines with a voltage higher than 120 kV. Refusal to provide authorisation must be properly justified.*

15. *The Minister for Industry, Trade and Crafts, in taking the necessary steps to implement this Decree, may avail himself of the manager's technical support with appropriate organisational solutions. To ensure continuity of operation, the assignment referred to in Article 22(2) of Law No 10 of 9 January 1991 may be renewed twice”.*

“Article 11 (Electricity from renewable sources). – 1. To encourage the use of renewable forms of energy, energy saving, the reduction of carbon dioxide emissions and the use of national energy resources, from the year 2001 onwards importers and those responsible for plants which, in each year, import or produce electricity from non-renewable sources shall be obliged to feed into the national electricity system during the following year a quota produced by plants from renewable sources that have come into operation or been reactivated, to an extent limited to supplementary producibility, after this Decree has entered into force.

2. The obligation referred to in paragraph 1 shall apply to imports and to the production of electricity, exclusive of co-generation, self-consumption by the power station and exports, exceeding 100 GWh, and exclusive of electricity produced by gasification plants which also use coal of national origin, the use of this source also being exempt from the consumption tax and excise referred to in Article 8 of Law No 488 of 23 December 1998; the quota referred to in paragraph 1 shall initially be set at two percent of the said energy in excess of 100 GWh.

3. The same subjects can also fulfil the above obligation by acquiring, in whole or in part, the equivalent quota or the related rights from other producers, provided that they feed the energy from renewable sources into the national electricity system, or from the manager of the national transmission grid. The rights related to the installations referred to in Article 3(7) of Law No 481 of 14 November 1995, shall be assigned to the manager of the national transmission grid. To compensate annual production fluctuations or insufficient supply, the manager of the national transmission grid may acquire and sell rights of production from renewable sources, disregarding effective availability, with the obligation to compensate any issue of rights in the absence of availability on a tri-annual basis.

4. The manager of the national transmission grid shall give priority to electricity produced by plants that use, in order, renewable energy sources, co-generation systems - on the basis of specific criteria defined by the Authority for electricity and gas - and indigenous primary fuel energy sources, the latter in a maximum annual proportion not exceeding fifteen percent of all the primary energy required to generate the electricity consumed.

5. By a directive of the Minister for Industry, Trade and Crafts in agreement with the Minister for the Environment, directives shall be adopted to implement the provisions of paragraphs 1, 2 and 3 and the percentage increase referred to in paragraph 2 for the years subsequent to 2002, bearing in mind the associated variations in accordance with the rules concerning the content of polluting gas emissions, with particular reference to the international commitments deriving from the Kyoto Protocol.

6. To promote the use of the various types of renewable sources, by a decision of the CIPE adopted at the proposal of the Minister for Industry, Trade and Crafts after consultation with the Joint Conference established pursuant to Legislative Decree No 281 of 28 August 1997, for each source multi-annual objectives shall be determined

and the resources devoted to incentives distributed among the regions and autonomous provinces. The regions and autonomous provinces, using also their own resources, shall foster the involvement of local communities in the initiatives and by means of competition procedures shall provide encouragement for the use of renewable sources.

Article 3

National indicative targets and promotion measures

1. The main national measures for promoting increased consumption of electricity from renewable sources in quantities proportionate to the objectives referred to in the reports provided by the Minister for Production Activities in agreement with the Minister for the Environment pursuant to Article 3(2) of Directive No 2001/77/EC, shall consist of the provisions of the present Decree, Legislative Decree No 79 of 16 March 1999 and later implementing provisions, as well as the provisions adopted to implement Law No 120 of 1 June 2002. The updating shall include an evaluation of the costs and benefits associated with the attainment of the national indicative targets and with the implementation of the specific support measures. The updating shall also include a quantitative evaluation of the evolution of the extent of the incentives concerning the sources assimilated to renewable sources referred to in Article 22 of Law No 9 of 9 January 1991. The application of this paragraph shall not lead to greater burdens on the State.
2. The Minister for Production Activities, in agreement with the Minister for the Environment and after consultation with the Joint Conference, shall update the reports referred to in Article 3(2) of Directive No 2001/77/EC having regard to the reports referred to in paragraph 4.
3. For the first time by 30 June 2005 and thereafter every two years, the Minister for Production Activities, in agreement with the Minister for the Environment and the Minister for Economic Affairs and Finance, after consultation with other interested Ministers and with the Joint Conference, and on the basis of data provided by the Manager of the grid and the work of the Observatory referred to in Article 16, shall submit to Parliament and to the Joint Conference a report containing:
 - a) an analysis of the attainment of the national indicative targets referred to in the reports referred to in paragraph 1, in the previous years, indicating in particular the climatic factors likely to affect the achievement of those targets and the degree of coherence between the measures adopted and the contribution ascribed to the production of electricity from renewable sources within the scope of the national commitments related to climate change;
 - b) the effective degree of coherence between the national indicative targets referred to in the reports referred to in paragraph 1 and the indicative target referred to in Annex A of Directive No 2001/77/EC and its related explanatory notes;

- c) an examination of the reliability of the guarantee of origin system referred to in Article 11;
- d) an examination of the state of implementation of the provisions of Articles 5, 6, 7 and 8;
- e) the results achieved in terms of streamlining the authorisation procedures following implementation of the provisions referred to in Article 12;
- f) the results achieved in terms of facilitating access to the electricity market and to the electricity grid following implementation of the provisions referred to in Articles 13 and 14;
- g) any additional measures required, including any economic and fiscal provisions designed to favour the achievement of the targets referred to in the reports referred to in paragraph 1;
- h) the economic evaluations referred to in paragraph 2, for the second and third period.

4. The Minister for Production Activities, in agreement with the Minister for the Environment, on the basis of the report referred to in paragraph 3 and having first informed the Joint Conference, shall comply with the obligation to publish the report referred to in Article 3(3) and Article 6(2) of Directive No 2001/77/EC, having regard to Article 7(7) of that Directive.

Notes on Article 3:

- For Directive No 2001/77/EC see the introductory notes. Article 3(2) is worded as follows:

“2. Not later than 27 October 2002 and every five years thereafter, Member States shall adopt and publish a report setting indicative national targets for future consumption of electricity produced from renewable energy sources in terms of a percentage of electricity consumption for the next 10 years. The report shall also outline the measures taken or planned, at national level, to achieve these national indicative targets. To set these targets until the year 2010 the Member States shall:

– take account of the reference values in the Annex;

– ensure that the targets are compatible with any national commitments accepted in the context of the climate change commitments accepted by the Community pursuant to the Kyoto Protocol to the United Nations Framework Convention on Climate Change”.

- For Legislative Decree No 79 of 16 March 1999, see the introductory notes.

- For Law No 120 of 1 June 2002, see the introductory notes.

- For Law No 9 of 9 January 1991, see the introductory notes. Article 22 is worded as follows:

“Article 22 (Legal status of plants producing electricity from renewable and assimilated sources). – 1. The production of electricity by plants using sources of energy that are regarded as renewable or assimilated, within the meaning of the regulations in force, and in particular the production of electricity by combined heat and power plants, shall not be subject to the reserve available in favour of ENEL referred to in Article 1 of Law No 1643 of 6 December 1962 and its subsequent amendments and additions, and to the authorisations provided for in the regulations issued in the context of the nationalisation of electricity.

2. Those who intend to proceed with the installation of the plants referred to in paragraph 1 shall give notice of this to the Ministry of Industry, Trade and Crafts, to ENEL and to the competent technical office for excise duties in the area in question.

3. The excess electricity produced by the plants referred to in the present Article shall be transferred to ENEL and to the production and distribution companies referred to in Article 4(8) of Law No 1642 of 6 December 1962, as amended by Article 18 of Law No 308 of 29 May 1982.

4. The transfer, exchange, production for third parties and delivery of electricity produced by the plants referred to in this article shall be regulated by appropriate agreements with ENEL that conform with a model agreement approved by the Ministry of Industry, Trade and Crafts after consultation with the regions, which shall take into account the necessary coordination of the programmes implemented in the electricity sector in the various territorial areas.

5. The prices relating to transfer, production on behalf of ENEL, delivery, and the parameters relating to exchange shall be defined by the CIP within one-hundred and eighty days from the date when this law enters into force and shall be updated at least every two years, to ensure that prices and parameters have an incentive effect in the case of new production of electricity from the energy sources referred to in paragraph 1. In the case of plants that use energy sources assimilated to renewable ones, the CIP shall also define the general technical conditions for assimilability.

6. Article 4 of Law No 308 of 29 May 1982 is repealed.

7. In application of the regulations laid down by Articles 2 and 3 of Law No 940 of 31 October 1966, plants producing electricity from renewable and assimilated sources within the meaning of the regulations in force, with a power not exceeding 20 kW, shall be exempt from paying tax and from the category of power station, when they operate separately from the public grid”.

- For Directive No 2001/77/EC see the introductory notes. Annex 4 is worded as follows:

“Annex

Reference values for Member States’ national indicative targets for the contribution of electricity produced from renewable energy sources to gross electricity consumption by 2010 ().*

() In taking into account the reference values set out in this Annex, Member States make the necessary assumption that the State aid guidelines for environmental protection allow for the existence of national support schemes for the promotion of electricity produced from renewable energy sources”.*

- Article 3(3), Article 6(2) and Article 7(7) of the same Directive are worded as follows:

“3. Member States shall publish, for the first time not later than 27 October 2003 and thereafter every two years, a report which includes an analysis of success in meeting the national indicative targets taking account, in particular, of climatic factors likely to affect the achievement of those targets and which indicates to what extent the measures taken are consistent with the national commitments on climate change.

(omissis).”

“Article 6. – 1. (Omissis).

2. Member States shall publish, not later than 27 October 2003, a report on the evaluation referred to in paragraph 1, indicating, where appropriate, the actions taken. The purpose of this report is to provide, where this is appropriate in the context of national legislation, an indication of the stage reached specifically in:

– coordination between the different administrative bodies as regards deadlines, reception and treatment of applications for authorisations,

– drawing up possible guidelines for the activities referred to in paragraph 1, and the feasibility of a fast-track planning procedure for producers of electricity from renewable energy sources, and

– the designation of authorities to act as mediators in disputes between authorities responsible for issuing authorisations and applicants for authorisations.

(omissis).”

“Article 7. – 7. Member States shall in the report referred to in Article 6(2), also consider the measures to be taken to facilitate access to the grid of electricity produced

from renewable energy sources. That report shall examine, inter alia, the feasibility of introducing two-way metering”.

Article 4

Increase of the minimum quota referred to in Article 11 of Legislative Decree No 79 of 16 March 1999, and penalties for non-fulfilment

1. From 2004 onwards and until 2006, the minimum quota of electricity produced by plants fuelled by renewable sources which, in the following year, must be fed into the national electricity system pursuant to Article 11 (1, 2 and 3) of Legislative Decree No 79 of 16 March 1999 and subsequent amendments, shall be increased annually by 0.35 percent in accordance with the safeguards referred to in Article 9 of the Constitution. The Minister for Production Activities, by decrees issued in agreement with the Minister for the Environment and after consultation with the Joint Conference, shall establish the later increases of the same minimum quota for the three years 2007 to 2009 and for the three years 2010 to 2012. The said decrees shall be issued, by 31 December 2004 and by 31 December 2007 respectively.

2. From 2004 onwards, following the check carried out pursuant to the directives referred to in Article 11(5) of the same Legislative Decree No 79 of 16 March 1999, relating to the previous year, the Manager of the grid shall notify to the Authority for electricity and gas the names of those who have failed to comply. The Authority for electricity and gas shall apply to them penalties in accordance with Law No 481 of 14 November 1995 and its later amendments.

3. Those who do not present self-certification in accordance with the directives referred to in Article 11(5) of the same Legislative Decree, shall be considered non-compliant for the quantity of certificates correlated with the total amount of electricity imported and produced during the previous year by them.

Notes on Article 4:

- *For Legislative Decree No 79 of 16 March 1999 and Article 11 (1, 2 and 3), see the notes on Article 2.*

- *Article 9 of the Constitution is worded as follows:*

- *“Article 9. – The Republic shall promote the development of culture and scientific and technical research. It shall protect the countryside and the historical and artistic heritage of the nation”.*

- For Article 11(5) of Legislative Decree No 79 of 16 March 1999, see the notes on Article 2.

- For Law No 481 of 14 November 1995, see the introductory notes.

Article 5

Specific provisions for energy recovery with biomass, sewage treatment plant gas and biogases

1. Within two months from the date when this Decree enters into force, a decree of the Minister for Agricultural and Forestry policy, which shall not entail any additional burden on public finances, shall nominate a committee of experts which, within one year from its appointment, shall prepare a report indicating the following:

- a) the manufacturing sectors in which waste and residues from woodworking which are not destined to be recycled or reused respectively, are produced together with the technical, economic, regulatory and organisational conditions and the methods for using such waste and residues for energy recovery;
- b) the technical, economic, regulatory and organisational conditions for the use - for energy recovery - of waste material from woodland maintenance, green areas, tree plantations along roads and from the agri-food industries;
- c) the farm areas, even those affected by poor hydro-geological conditions, and flood-prone areas in which intervention is possible by planting crops intended for energy purposes, and the methods and technical, economic, regulatory and organisational conditions for the implementation of those interventions;
- d) the farm areas in which agricultural residues are produced, which are not destined for reuse, together with the technical, economic, regulatory and organisational conditions and methods for using such residues for energy recovery;
- e) the net annual increases of biomass production that can be used for energy production, which can be obtained from the areas intended, within the meaning of Law No 120 of 1 June 2002, for increasing the absorption of greenhouse gases by means of forestry activities;
- f) the criteria and methods for the energy recovery from sewage treatment plant gas and biogases, in particular from animal breeding activities;
- g) the conditions for the prioritised promotion of co-generation plants with an electrical power below 5 MW;
- h) the technical innovations that may be necessary for implementing the possibilities referred to in the preceding sub-paragraphs.

2. The committee referred to in paragraph 1 shall sit at the Ministry of Agricultural and Forestry Policy, and shall consist of one member designated by the said Ministry, in the Chair, one member designated by the Ministry of the Environment, one member designated by the Ministry of Industry, one member designated by the Ministry of the Interior, one member designated by the Ministry of Cultural Assets and Activities, and five members designated by the President of the Joint Conference.

3. The members of the committee shall not be paid any remuneration or be reimbursed for their expenses. Its related function shall be provided for by the Ministry of Agricultural and Forestry Policy with its own structures and instrumental resources acquired on the basis of the regulations in force. Any expenses of the members shall be provided for by the administration to which they belong, within the scope of their respective endowments.

4. The committee in paragraph 1 can avail itself of contributions from professional associations of the industrial sectors concerned, and of the technical support of the Institute for New Technologies, Energy and the Environment (ENEA), Azienda Gas Energia Ambiente S.p.A. (AGEA), Agency for the Protection of the Environment and for Technical Services (APAT) and the Institutes for Research into the Agricultural System (IRSAs) at the Ministry of Agricultural and Forestry Policy. The committee shall also have regard to the knowledge acquired in the context of the working groups activated pursuant to CIPE Decision No 123 of 19 December 2002, on “Review of the guidelines on national policies and measures for the reduction of greenhouse gas emissions”.

5. Having regard to the report referred to in paragraph 1, the Minister for Production Activities, in agreement with the Minister for the Environment, the Minister for Agricultural and Forestry Policy and other interested Ministers, and after consultation with the Joint Conference, shall adopt one or more decrees defining criteria to encourage the production of electricity from biomass, sewage treatment plant gas and biogases. The said decrees shall not result in burdens upon the State budget.

Note on Article 5:

- *For Law No 120 of 1 June 2002, see the introductory notes.*

Article 6

Specific provisions for plants with a power not exceeding 20 kW

1. Within six months from the date when this Decree enters into force, the Authority for electricity and gas shall issue a regulation governing the technical and economic conditions

of the service of on-the-spot exchange of electricity produced by plants fuelled by renewable sources, with a rated power not exceeding 20 kW.

2. In the context of the regulation referred to in paragraph 1, it shall not be permitted to sell electricity produced by plants supplied from renewable sources.

3. The regulation referred to in paragraph 1 shall replace any other obligation connected with access to and the use of the electricity grid on those who construct plants,.

Article 7

Specific provisions for solar energy

1. Within six months from the date when this Decree enters into force, the Minister for Production Activities, in agreement with the Minister for the Environment and after consultation with the Joint Conference, shall adopt one or more decrees defining criteria for the promotion of electrical energy production from solar energy.

2. Without entailing any burdens on the State budget and in accordance with the Community laws in force, the criteria referred to in paragraph 1, shall:

- a) establish the requisites of parties who might benefit from promotion measures;
- b) establish the minimum technical requirements of plants and their components;
- c) establish conditions concerning the cumulation of promotion measures with other incentives;
- d) establish procedures to determine the size of promotion measures. For electricity produced by photovoltaic conversion of solar energy, they shall provide for a specific, incentive tariff, of decreasing amount and of duration such as to guarantee fair remuneration of the investment and operating costs;
- e) establish a target for the rated power to be installed;
- f) also fix the maximum limit of the cumulative electric power of all the plants that may benefit from the promotion measures;
- g) provide for the use of the green certificates allocated to the Manager of the grid referred to in Article 11(3), second indent, of Legislative Decree No 79 of 16 March 1999.

Note on Article 7:

- *For Legislative Decree No 79 of 16 March 1999 and Article 11(3) thereof, see the notes on Article 2.*

Article 8

Specific provisions for hybrid plants

1. Producers who operate hybrid plants can request from the Manager of the grid that the attributable production of the said stations should have the right of priority distribution, in accordance with paragraphs 2 and 3.
2. The producer may forward to the Manager of the grid the application for the right of priority distribution, in the current solar year, when the estimate of the attributable production of each plant during the period for which priority distribution is requested exceeds 50% of the total electricity produced by the plant during the same period.
3. Priority distribution shall be granted by the grid Manager only for attributable production, on the basis of a weekly programme of total producibility and of the related weekly proportion of attributable production, declared by the producer to the Manager. The weekly proportion of attributable production must guarantee at least the operation of the plant at its technical minimum power. The residual availability of the plant not involved in attributable production shall be subject to the rules of economical dispatch in force.
4. When the condition requested, referred to in paragraph 2, is not effectively respected, penalties shall be applied in accordance with the regulation on the electricity market and the negotiation of the green certificates approved by a Decree of the Minister for Industry, Trade and Crafts dated 9 May 2001, adopted pursuant to Article 5(1) of Legislative Decree No 79 of 16 March 1999, in accordance with the procedures established by the said regulation.
5. The provisions of Article 12 (1, 2, 3, 4 and 6) shall also apply to the construction and operation of hybrid plants, including co-combustion plants, with a thermal power below 300 MW, provided that the producer supplies documentation to demonstrate that the attributable producibility referred to in Article 2 (1, g) will be more than 50% of the total electricity produced by the plant for five years following the date when the plant is scheduled to begin operating.
6. The provisions of Article 14 shall apply to the construction of hybrid plants under conditions the same as those referred to in paragraph 5.
7. The attributable production of hybrid plants shall be entitled to green certification in accordance with the procedures laid down by the directives referred to in Article 11(5) of Legislative Decree No 79 of 16 March 1999.

Notes on Article 8:

- *The Decree by the Minister for Industry, Trade and Crafts dated 9 May 2001 concerns:*

“Approval of the regulation of the electricity market referred to in Article 5(1) of Legislative Decree No 79 of 16 March 1999”.

- *For Legislative Decree No 79 of 16 March 1999, see the introductory notes. Article 5(1) thereof is worded as follows:*

“1. The financial management of the electricity market shall be entrusted to a market manager. The market manager shall be a limited company established by the Manager of the national transmission grid within nine months from the date when the present Decree enters into force. The Manager shall organise the market itself in accordance with criteria of neutrality, transparency, objectiveness and competition between producers, also ensuring the financial management of adequate availability of power in reserve. The regulation on the market, prepared by the market manager within one year from the date of its own constitution, shall be approved by a decree of the Minister for Industry, Trade and Crafts issued after consultation with the Authority for electricity and gas. That decree shall specify in particular, in accordance with the aforesaid criteria, the duties of the market manager related to balancing demand and supply, and the obligations of producers and importers of electrical energy who do not take advantage of the provisions of Article 6”.

- *For Article 11(5) of Legislative Decree No 79 of 16 March 1999, see the notes on Article 2.*

Article 9

Promotion of research into and the spread of renewable sources

1. The Ministry of Production Activities, in agreement with the Ministry of the Environment and after consultation with the Ministry of Agricultural and Forestry Policy and with the Joint Conference, shall draft, without entailing burdens on the State budget, an agreement for a five-year programme with ENEA for the implementation of measures to support research on and to help spread renewable sources and efficiency in the end uses of energy.

2. The said agreement shall pursue the following general objectives:

a) the introduction of management components, processes and criteria into the public administration and companies, in particular those of small and medium size, that permit a greater use of renewable sources and a reduction of energy consumption per unit produced;

- b) the training of specialist technicians and the dissemination of information related to the characteristics and opportunities offered by technologies;
 - c) research to develop and industrialise plants, up to a maximum limit of 50 MW, for the production of electricity from the renewable sources referred to in Article 2(1, a), including microgeneration plants for applications in the farming sector, in small, isolated grids and in mountainous areas.
3. The priorities, specific objectives, multi-annual and annual plans and the ways in which the agreement is to be managed shall be defined by the parties.

Article 10

Regional indicative targets

1. The Joint Conference shall contribute to the definition of the national targets referred to in Article 3(1) and shall distribute them among the regions, having regard to the resources of renewable energy sources that can be exploited in each territorial context.
2. The Joint Conference may update the distribution referred to in paragraph 1 in line with advances in knowledge concerning resources of renewable energy sources that can be exploited in each territorial context and with the evolution of the state of the art of conversion technologies.
3. The regions may adopt measures to promote increased consumption of electricity from renewable sources in the respective territories, in addition to the national ones.

Article 11

Guarantee of origin of electricity produced from renewable sources

1. The electricity produced by plants fuelled by renewable sources and the attributable production from mixed plants shall be entitled, at the producer's request, to the issue of a "guarantee of origin of electricity produced from renewable energy sources", hereinafter called "guarantee of origin".
2. The Manager of the grid shall be the subject designated, for the purposes of this decree, to issue the guarantee of origin referred to in paragraph 1, and the green certificates.
3. The guarantee of origin shall be issued when the annual production or attributable production is not less than 100 MWh, rounded up according to commercial criteria.

4. In the case of plants fuelled by renewable sources, referred to in Article 2 (1, b and c), the production for which the guarantee of origin is issued shall be the same as that declared annually by the producer to the technical finance office.
5. In the case of hybrid plants, the attributable production shall be notified annually by the producer, for the purposes of issuing the guarantee of origin, by means of a declaration equivalent to an attested affidavit signed by the legal representative, within the meaning of Articles 21, 38 and 47 of Decree No 445 of the President of the Republic, of 28 December 2000.
6. The guarantee of origin shall state the location of the plant, the renewable energy source from which the electricity has been produced, the technology used, the rated power of the installation, and the net production of electricity or, in the case of hybrid plants, the attributable production, referred to each solar year. At the producer's request and when the requirements are satisfied, the guarantee shall also indicate the future award of green certificates or other entitlements issued in the context of the rules and procedures of certification systems for energy from renewable sources, whether national or international, in accordance with the provisions of Directive No 2001/77/EC and acknowledged by the Manager of the grid.
7. The guarantee of origin may be used by producers to whom it has been issued exclusively in order that they can demonstrate that the electricity thus guaranteed is produced from renewable energy sources within the meaning of the present Decree.
8. Notwithstanding the provisions of Law No 675 of 31 December 1996, the Manager of the grid shall set up a data processing system with restricted access, also in order to allow checking of the data contained in the guarantee of origin of electricity produced from renewable energy sources.
9. The issue by the Manager of the grid, of the guarantee of origin, the green certificates or other entitlements pursuant to paragraph 6, shall be subject to verification of the credibility of the data provided by the applicant and their conformity with the provisions of this Decree and Legislative Decree No 79 of 16 March 1999, and later implementing provisions. For this purpose the Manager of the grid may carry out checks of plants in operation or under construction, also availing himself of the collaboration of other organisations.
10. A guarantee of origin of electricity produced from renewable energy sources issued in other Member States of the European Union following the ratification of Directive No 2001/77/EC, shall also be recognised in Italy.
11. By a decree of the Minister for Production Activities in agreement with the Minister for the Environment, conditions and procedures shall be defined for the recognition of a guarantee of origin of electricity produced from renewable energy sources, that have been issued by foreign States with which relevant bilateral international agreements are in force.

12. In carrying out the functions assigned by the present Article and insofar as compatible with this Decree, the Manager of the grid shall abide by the procedures introduced by Article 11 of Legislative Decree No 79 of 16 March 1999, and later implementing provisions.

13. The guarantee of origin shall replace the certificate of provenance defined in the context of the directives referred to in Article 11(5) of Legislative Decree No 79 of 16 March 1999.

Notes on Article 11:

- *Decree No 445 of the President of the Republic, of 28 December 2000, concerns: "Single text of the legislative and regulatory provisions concerning administrative documentation". Articles 21, 38 and 47 are worded as follows:*

"Article 21 (Authentication of signatures). – 1. The authenticity of the signature of any petition or declaration equivalent to an attested affidavit to be submitted to public administration bodies and to the managers of public services shall be guaranteed by the methods referred to in Article 38 (2 and 3).

2. If the petition or declaration equivalent to an attested affidavit is submitted to subjects other than those indicated in paragraph 1 or to the latter for the purpose of the collection by third parties of financial benefits, the authentication shall be drawn up by a public notary, clerk of a court, town clerk, the employee designated to receive the documentation or another employee appointed by the mayor; in the latter case the authentication shall be drawn up at the time of signing and the authenticating public official shall attest that it was signed in his presence after first ascertaining the identity of the petitioner, indicating the means of identification, the date and place of authentication, his own first and last names and his official capacity, and adding his own signature and the stamp of the office".

"Article 38 (Methods for sending and signing petitions). – 1. All petitions and declarations to be submitted to the public administration or to the managers or operators of public services may also be sent by fax or electronically.

2. Petitions and declarations sent electronically shall be valid:

a) if signed with the digital signature, based on a qualified certificate issued by an accredited certification body and generated by means of a device for the creation of a secure signature;

b) or when the author is identified by the data processing system by the use of an electronic identity card or a national services card.

3. The petitions and declarations equivalent to an attested affidavit to be submitted to the public administration bodies or to the managers or operators of public services

shall be signed by the interested party in the presence of a designated employee or signed and presented together with a non-authenticated photocopy of an identity document of the signatory. The photocopy of the document shall be inserted in the file. The petitions and photocopy of the identify document may be sent electronically; in procedures of adjudication for public contracts, this is permitted within the limits established by the regulation referred to in Article 15(2) of Law No 59 of 15 March 1997 (L)”.

“Article 47 (Declaration equivalent to an attested affidavit). – 1. An attested affidavit concerning statuses, personal qualities or facts that are directly known to the interested party can be replaced by a declaration drawn up and signed by the latter, observing the procedures referred to in Article 38.

2. The declaration drawn up in the petitioner’s own interests may also concern statuses, personal qualities and facts relating to other subjects of which he has direct knowledge.

3. Apart from the exceptions expressly provided for by law, all statuses, personal qualities and facts not expressly indicated in Article 46 shall be confirmed by the interested party by means of the declaration equivalent to an attested affidavit in dealings with the public administration and with the concessionaries of public services.

4. Except when the law expressly provides that a report to the Criminal Police Authority is deemed necessary to set in motion the administrative procedure of issuing a duplicate of recognition documents or at any rate ones attesting the statuses and personal qualities of the interested party, the loss of the documents themselves shall be confirmed by the person requesting the duplicate by means of an equivalent declaration”.

- Law No 675 of 31 December 1996 concerns: “Production of persons and other subjects in relation to the treatment of personal data”.

- For Legislative Decree No 79 of 16 March 1999 and Article 11 (5), see the notes on Article 2.

- For Directive No 2001/77/EC, see the introductory notes.

Article 12

Rationalisation and streamlining of authorisation procedures

1. Works to build plants fuelled by renewable sources, and associated works and infrastructures essential for the construction and operation of the said plants, authorised in accordance with paragraph 3, are public utilities which cannot be postponed and are regarded as urgent.

2. The procedures in force of the Ministry of the Interior concerning activities subject to fire prevention controls shall remain unchanged.

3. The construction and operation of plants producing electricity fuelled by renewable sources, interventions for their modification, development, total or partial reconstruction and reactivation, as defined in the regulations in force, and associated works and infrastructures essential for the construction and operation of the said installations, shall be the subject of a single authorisation issued by the region or another institutional body delegated by the region, in accordance with the regulations in force concerning the protection of the environment, the countryside and historical and artistic heritage. For that purpose the Conference of Services shall be convened by the region within thirty days from receipt of the application for authorisation. The payment of the annual duty referred to in Article 63 (3 and 4) of the single text of legislative provisions concerning taxes on production and consumption, and the related penal and administrative sanctions referred to in Legislative Decree No 504 of 26 October 1995 and subsequent amendments, shall remain in force.

4. The authorisation referred to in paragraph 3 shall be issued following a single procedure participated in by all the interested Administrations and conducted in accordance with the principles of simplification and by the methods laid down in Law No 241 of 7 August 1990 and subsequent amendments and additions. The issue of the authorisation confers the right to construct and operate the plant in conformity with the plan approved, and shall in all cases include the obligation to restore the location fully, at the expense of the operator, when the plant has been decommissioned. The latest deadline for completing the procedure referred to in this paragraph shall not be later than one-hundred and eighty days.

5. The procedures referred to in paragraphs 3 and 4 shall not apply to the construction of the renewable source plants referred to in Article 2 (2, b and c), for which the issue of an authorisation is not required.

6. The authorisation shall not be subject to and shall not provide for compensation measures in favour of the regions and provinces.

7. The electricity-generating plants referred to in Article 2 (1 [*sic*], b and c) may also be located in zones classified as agricultural by the municipal plans in force. Their location shall take account of the provisions relating to support for the farming sector, with particular reference to the development of local agro-food farming traditions, the protection of biodiversity and the protection of cultural heritage and the countryside referred to in Articles 7 and 8 of Law No 57 of 5 March 2001 and Article 14 of Legislative Decree No 228 of 18 May 2001.

8. Provided that they are located within waste disposal plants fuelled by landfill gases, sewage treatment plant gas and biogases, and observe the technical norms and specific prescriptions adopted pursuant to Article 31 (1, 2 and 3) of Legislative Decree No 22 of 5 February 1997, plants generating electricity with a total thermal power not exceeding 3 MW shall, within the meaning and for the purposes of Article 2 (1) of Decree No 203 by the

President of the Republic, of 24 May 1988, be deemed of slight significance for atmospheric pollution and their operation shall not require authorisation. The list of activities with slight significance for atmospheric pollution referred to in Annex I to the Decree of 25 July 1991 by the President of the Republic shall be updated accordingly.

9. The provisions of the preceding paragraphs shall also apply in the absence of the distribution referred to in Article 10 (1 and 2) and notwithstanding the provisions of paragraph 10.

10. At the proposal of the Minister for Production Activities in agreement with the Minister for the Environment and Protection of Natural Resources and the Minister for Cultural Assets and Activities, a Joint Conference shall approve the guidelines for conducting the procedure referred to in paragraph 3. Those guidelines aim in particular to ensure the proper integration of plants especially wind farms, into the countryside. To implement the said guidelines, the regions can indicate areas and sites unsuitable for the construction of specific types of installations.

Notes on Article 12:

Legislative Decree No 504 of 26 October 1995 concerns:

“Single text of the legislative provisions concerning taxes on production and consumption, and related penal and administrative sanctions”.

- *Law No 241 of 7 August 1990 concerns: “New regulations on administrative procedures and right of access to administrative documents”.*

- *Law No 57 of 5 March 2001 concerns: “Provisions relating to the opening and regulation of the markets”. Articles 7 and 8 are worded as follows:*

“Article 7 (Delegation for modernisation in the sectors of agriculture, forestry, fisheries and hydroponics). – 1. The Government shall be delegated, without entailing additional burdens on the State budget, within one-hundred and twenty days from the date when the present Law enters into force, and pursuant to Law No 59 of 15 March 1997 and subsequent amendments, on a proposal from the Minister for Agricultural and Forestry Policy after consultation with the Permanent Conference for relations between the State, the regions and the autonomous provinces of Trento and Bolzano, to issue one or more legislative decrees containing regulations for orientation and modernisation in the sectors of agriculture, forestry, fisheries, hydroponics and the processing of fishing catches, also as a function of the rationalisation of public interventions.

2. After preliminary debate by the Cabinet and after having acquired the opinion of the Parliament Conference for relations between the State, the regions and the autonomous provinces of Trento and Bolzano, the drafts of the legislative decrees referred to in paragraph 1 shall be sent to the Chamber of Deputies and the Senate of

the Republic so that within forty days the opinion of the Parliamentary Committees with competence in the context can be expressed; after that deadline the decrees shall be issued even if no such opinion has been expressed. If the deadline envisaged for the parliamentary opinion lapses during the thirty days prior to the lapse of the deadline referred to in paragraph 1 or later than it, the latter shall be extended by sixty days.

3. In line with the agricultural policy of the European Union, the legislative decrees referred to in paragraph 1 shall be directed towards creating the conditions for:

a) promoting, including through concerted action, the support and economic and social development of agriculture, hydroponics, fishing and agro-food systems in accordance with the productive characteristics of the territory, identifying the prerequisites for establishing agro-food, rural and fishery districts of good quality and ensuring the protection of natural resources, biodiversity, cultural heritage and the agrarian and forest landscape;

b) favouring the development of the rural environment and of marine resources, by fostering local entrepreneurial initiatives and supporting the multifunctionality of farming, hydroponics and fisheries, including those related to the management and protection of the environment and countryside, also with a view to creating alternative sources of income;

c) modernisation of the productive structures for farming, fisheries and hydroponics, forestry, services and the provision of technical means with lesser environmental impact, product transformation and marketing, and the infrastructures for irrigation, in order to improve the competitiveness of farm and agro-industrial undertakings, so satisfying market demand and ensuring product quality and the protection of consumers and the environment;

d) ensuring the protection of the health of consumers in accordance with the principle of precaution, promoting the re-conversion of intensive livestock breeding production into extensive biological and high-quality production, fostering the improvement and protection of the natural environment, the hygiene and wellbeing conditions of animals in breeding stations and the quality of products for human use and that of animal fodder, in particular by developing and regulating systems for the checking and tracing of agro-industrial outlets;

e) ensuring constant quality improvement, making the most of the particular characteristics of products and of the relationship between products and territory, ensuring adequate information for consumers and protecting traditional foods and their presence in international markets, with particular reference to typical, biological and quality products;

f) encouraging the settlement and continued stay of young people and the concentration of demand in harmony with Community provisions concerning competition;

g) in conformity with the general policies on employment, ensuring appropriate support for occupational development in the sectors of farming, fisheries, hydroponics and forestry, to favour the surfacing of irregular forms of employment and underground economy;

h) favouring the care and maintenance of the rural environment, also by encouraging small-scale agriculture for self-consumption or for activities of agro-tourism and rural tourism;

i) favouring the sustainable development of the forest system, in compliance with the criteria and principles identified by the Ministerial Conferences on the protection of forests in Europe”.

“Article 8 (Guiding principles and criteria). – 1. In carrying out its delegated duty referred to in Article 7, the Government shall abide by the principles and criteria contained in Section I and Article 20(5) of Law No 59 of 15 March 1997 and subsequent amendments, and by the following guiding principles and criteria:

a) definition of farming, fishery and forestry entrepreneurs and reorganisation of their categorisation;

b) definition of the activities of cultivation, livestock breeding, hydroponics, forestry and fishing which use or can use land resources and river, lake, marsh or marine ecosystems, with equal treatment of entrepreneurs in forestry, hydroponics and fishing compared with those in agriculture;

c) definition of connected activities, even if not carried out on the farm, including those in associated or cooperative form, aimed at the handling, conservation, transformation, marketing and development of farm, agro-feeding and agro-industrial products and at the provision of goods and services;

d) provision of the register of companies referred to in Articles 2188 to 2202 of the Civil Code, as an instrument for the legal publicity of the subjects and activities referred to in indents a), b), c), l) and u), and of farming entrepreneurs, direct cultivators and limited partnerships carrying out farming activities listed in the special sections of the said register;

e) promotion and maintenance of efficient productive structures that favour the conservation of business units and the agricultural use of land and the reparation of farmlands, by creating conditions for the structural modernisation of enterprises and the optimisation of their size, facilitating land consolidation and relaxing regulatory constraints on the formation of cultivated property;

- f) promotion of the sustainable management of forest heritage to favour the development of new business and employment opportunities, also in associated or cooperative form, the certification of activities, and protection against forest fires;*
- g) promotion, development and modernisation of agro-industrial outlets managed directly by farming producers for the marketing of their products;*
- h) establishment of criteria for satisfying the Community principle laid down by Council Regulation (EC) No 1257/1999 of 17 May 1999 concerning the transfer of an appropriate financial advantage to farming producers when aid is granted by the European Union and the Member State;*
- i) reduction of obligations and simplification of administrative procedures relating to relations between farms, whether individual or associated, and the public administration;*
- l) providing for the integration of farming activities with other, non-farming activities carried out at the farm or elsewhere, also in associated or cooperative form, to favour diversification of the activities of farming enterprises, also by the establishment of suitable agreements with the public administration;*
- m) rationalisation and revision of the regulations concerning research, training and the spread of agriculture, hydroponics and fishing, with preference for models of sustainable development and the protection of biodiversity, to favour the dissemination of innovations and the transfer of research results to enterprises;*
- n) ensuring protection of the health and wellbeing of animals, the process of reconverting agro-industrial productions towards increased eco-compatibility, regulation and promotion of integrated productive systems that ensure the traceability of the basic agricultural raw material, and rationalisation and reinforcement of the system for monitoring farm, fishing and food products to protect product quality, with particular reference to genetically modified organisms and their derivatives;*
- o) development of productive potential by making the most of the special features of typical products, also by supporting agro-industrial, rural and fishery districts;*
- p) promotion of the labelling of food products destined as such for the consumer, with particular reference to those of animal origin, to ensure safety and quality and to provide knowledge of the provenance of the raw material;*
- q) review of Law No 88 of 16 March 1988 concerning inter-professional agreements, and of Article 12 of Legislative Decree No 173 of 30 April 1998 concerning inter-professional organisations, to ensure the optimum operation and transparency of the market;*

- r) review of Law No 272 of 20 March 1913 and subsequent amendments, to adapt commodities markets to the changed market conditions, to the new information and telematic technologies, to all the financial interventions envisaged by Legislative Decree No 173 of 30 April 1998, and to ensure transparency of the market and consumer protection;*
- s) review of Law No 59 of 9 February 1963 and its later amendments, on the sale of agricultural products to the public, to simplify procedures and foster relations with consumers, including abolishing the authorisation stipulated therein;*
- t) definition of innovative financial instruments, insurance and credit guarantee services, to sustain competitiveness and favour the reduction of market risk;*
- u) attribution of entrepreneurial character to all forms of supply concentration in accordance with democratic control on the part of the members and the prevention of power abuse in management by them;*
- v) favouring the internationalisation of farm and agro-industrial enterprises and their commercial strategies, with particular reference to typical, high-grade and biological products;*
- z) in coherence with general policies, ensuring appropriate support for occupational development in the sectors of agriculture, fishing, hydroponics and forestry, to favour the surfacing of irregular forms of employment and the underground economy and to upgrade the quality of food products;*
- aa) introduction of rules for apprenticeship and atypical work and for occasional, flexible and seasonal work, with reference to objectives and specific requirements in the sectors to which the delegation referred to in Article 7 relates and the surfacing of irregular forms of employment and the underground economy;*
- bb) creation of conditions likely to encourage the settlement and stay of young people in the sectors of agriculture, fishing, hydroponics and forestry;*
- cc) coordination of the financial means available for the promotion of agriculture, hydroponics, fisheries and rural development, and for the promotion of high-quality Italian products in the international market;*
- dd) simplification of the rules and procedures of administrative activity in agriculture;*
- ee) provision of appropriate agreements with the public administration as an instrument for pursuing the aims referred to in this Article and in Article 7;*
- ff) definition of a new regulatory system which, in accordance with Community rules and with the need to reinforce competition policy, will provide for forms of production planning that are capable of keeping pace with the evolution of demand and increasing*

the competitiveness of products of protected designation of origin (PDO) and protected geographical indication (PGI);

gg) quantification of the burdens deriving from any action initiated to implement the delegation referred to in Article 7 and indication of the relative financial coverage on allocations from the State budget, to avoid the risk that new or greater burdens may fall on the budgets of the regions and local bodies.

2. The publication deadlines for the single texts on agriculture, fisheries and hydroponics, referred to in Article 7 of Law No 50 of 8 March 1999, shall be extended to twenty-four months from the date when the present law enters into force. The single texts referred to in this paragraph shall enter into force on the sixtieth day after the date of their publication in the Official Journal”.

- Legislative Decree No 228 of 18 May 2001 concerns: “Orientation and modernisation of the sector, in line with Article 7 of Law No 57 of 5 March 2001”. Article 14 is worded as follows:

“Article 14 (Contracts for collaboration with the public administrations). – 1. The public administrations may conclude collaboration contracts, also pursuant to Article 119 of Legislative Decree No 267 of 18 August 2000, with agricultural entrepreneurs also at the request of the professional farming organisations more broadly representative at national level, for the promotion of the productive potential of the territory and the production of quality products and traditional local foods.

2. The collaboration contracts are intended to secure the support and development of local farming enterprises, also by exploiting the special features of typical, biological and quality products, and taking into account the agro-industrial, rural and fishery districts.

3. To ensure adequate information for consumers and provide knowledge of the provenance of the raw material and the special features of the products referred to in paragraphs 1 and 2, the public administrations, in accordance with Community guidelines on state aid for agriculture, may conclude promotion contracts with farming entrepreneurs who commit themselves, in carrying out the activities of the enterprise, to ensuring the protection of natural resources, biodiversity, cultural heritage and the agrarian and forest landscape”.

- For Legislative Decree No 22 of 5 February 1997, see the introductory notes. Article 31 (1, 2 and 3) is worded as follows:

“Article 31 (Determination of activities and waste characteristics for admission to the simplified procedures). – 1. The simplified procedures must therefore guarantee a high level of environmental protection and effective controls.

2. *By decrees of the Minister for the Environment, in agreement with the Ministers for Industry, Trade and Crafts and for Health, and in the case of farming wastes and activities from which fertilisers are produced, also in agreement with the Minister for Farming, Food and Forest Resources, rules shall be adopted for each type of activity which fix the types and quantities of wastes and the conditions under which the activities of disposal of non-hazardous wastes carried out by the producers at the places where they are produced, and the recovery activities referred to in Annex C, shall be subject to the simplified procedures referred to in Articles 32 and 33. The same procedure shall be adopted to update the aforesaid technical rules and conditions.*

3. *The rules and conditions referred to in paragraph 2 shall be defined within one-hundred and eighty days from the entry into force of this Decree, and shall ensure that the types or quantities of wastes and the processes and methods of disposal or recovery are such as not to pose a threat to human health and not to harm the environment. In particular, to be eligible for the simplified procedures, thermal treatment and energy recovery processes must also satisfy the following conditions:*

a) *the fuels used shall be from urban wastes or special wastes identified as uniform fractions;*

b) *the emission limits shall not be less restrictive than those established for waste incineration plants by Council Directive No 89/369/EEC of 8 June 1989, Council Directive No 89/429/EEC of 21 June 1989, Council Directive No 94/67/EC of 16 December 1994, and subsequent amendments and additions, and the Decree of 16 January 1995 of the Minister for the Environment, published in the ordinary supplement to the Official Journal of 30 January 1995, No 24. The technical prescriptions listed in Article 6(2) of Council Directive No 94/67/EC of 16 December 1994 shall also apply to thermal plants which also use hazardous wastes for combustion;*

c) *the production of a minimum transformation quota of the calorific value of wastes into useful energy, calculated on an annual basis, shall be ensured.”.*

- *Decree No 203 of 24 May 1988 by the President of the Republic concerns: “Implementation of EEC Directives Nos 80/779, 82/884, 84/360 and 85/203 concerning regulations on the quality of air in relation to specific polluting agents, and pollution produced by industrial installations, within the meaning of Article 15 of Law No 183 of 16 April 1987”. (Published in the Official Journal of 16 June 1988, No 140, ordinary supplement.)*

Article 2(1) is worded as follows:

“1. Atmospheric pollution: any modification of the normal composition or condition of atmospheric air, due to the presence therein of one or more substances in quantities and with characteristics such as to alter the normal environmental and hygienic

conditions of the air; to constitute a danger or direct or indirect prejudice to human health; to compromise recreational activities and other legitimate uses of the environment; to alter biological resources and ecosystems and public and private material assets”.

- The Decree of 25 July 1991 by the President of the Republic concerns: “Amendments to the instrument of guidance and coordination relating to emissions of slight significance and activities that produce low atmospheric pollution”, issued by the Decree of the Prime Minister dated 21 July 1989. Annex I is worded as follows:

“Annex I

*LIST OF ACTIVITIES THAT RESULT IN ATMOSPHERIC
POLLUTION OF SLIGHT SIGNIFICANCE*

- 1. Dry cleaning of fabrics and hides, excluding furs, cleaning and dyeing laundries: for such installations the necessary condition for inclusion in this list is closed-cycle operation.*
- 2. Mechanical workshops in general, excluding the activities of painting, surface treatment of metals and emery polishing.*
- 3. Roasting and frying of food.*
- 4. Beauty, sanitary and personal service and care activities.*
- 5. Dental technician laboratories.*
- 6. Jewellers’ workshops without melting of metals.*
- 7. Decoration of ceramic tiles without firing processes.*
- 8. Mechanical workshops for vehicle repair (carburettor specialists, vehicle electricians and similar).*
- 9. The following textile processes:*

preparation, spinning, weaving of weft, warp and knitting of natural, artificial and synthetic fibres except for the operation of texturising synthetic fibres and gassing; treatment of fibres, yarns and fabrics of any type and of different nature in the phases of scrubbing, washing, bleaching (except for bleaching carried out with substances that release chlorine and/or its compounds), dyeing, finishing, provided that the following conditions are respected:

 - a) operations in water baths are carried out at a temperature lower than the boiling temperature of the bath itself;*

b) water bath operations are carried out at the boiling temperature, but without using acids, alkalis or other volatile organic and inorganic products;

c) water bath operations are carried out at the boiling point in closed-cycle machines;

d) drying or draining operations and treatments with expanded or low-pressure steam are carried out at a temperature below 150° and no acids, alkalis or other volatile organic or inorganic products have been used in the last water bath applied to the material.

10. Kitchens, canteens and refectories.

11. Bakeries, confectioners and suchlike, using not more than 300 kg of flour per day.

12. Stables attached to research and analysis laboratories.

13. Greenhouses.

14. Ironing shops.

15. Photographic laboratories.

16. Garages.

17. Car-washes.

18. Silos for building materials, except for those forming part of industrial production plants.

19. Workshops and other laboratories attached to schools.

20. Heliography.

21. Thermal installations or boilers inserted in a production cycle or at any rate with an annual fuel consumption of more than 50% in a production cycle. The thermal power of each unit must be less than 3 MW if operating on methane or LPG, and 1 MW for diesel oil and 0.3 MW if operating on fuel oil, with a sulphur content not exceeding 1% in weight.

22. Storage and handling of petrochemical products and natural hydrocarbons extracted from deposits, stored and handled in closed-cycle or protected by inert gases.

23. Venting and exchanges of air exclusively used for the protection and safety of working environments.

24. *Water treatment installations.*
25. *Thermal plants connected with the storage of petroleum products with a thermal power lower than 5 MW if operating on methane or LPG and 2.5 MW if operating on diesel oil, for less than 2200 hours per year.*
26. *Electricity generating and co-generating sets with a thermal power lower than 3 MW if fuelled with methane or LPG and a thermal power lower than 1 MW if fuelled with petrol or diesel oil.*
27. *Tanneries and fur treatment units with installations having closed-cycle machinery.*
28. *Secondary processing of glass except when involving etching and glazing.*
29. *Production of glass with cold-vault electric furnaces”.*

Article 13

Matters related to participation in the electricity market

1. Notwithstanding the obligation of priority use and the right to distribution precedence referred to in Article 3(3) and Article 11(4) of Legislative Decree No 79 of 16 March 1999, the electricity produced by plants fuelled by renewable sources shall be fed into the electricity system as indicated in the paragraphs below.
2. As regards the electricity produced by plants with power equal to or greater than 10 MVA fuelled by renewable sources, except for that produced by plants fuelled by the renewable sources referred to in the first sentence of paragraph 3 and that supplied to the Manager of the grid in the context of the existing agreements drawn up in accordance with the provisions of CIP Decisions No 15/89 of 12 July 1989, No 34/90 of 14 November 1990, and No 6/92 of 29 April 1992, and Decision No 108/1997 of 28 October 1997 by the Authority for electricity and gas, and concerning all new, upgraded or reconstructed plants as defined in Articles 1 and 4 of the same Decision, this shall be placed on the electricity market in accordance with the relevant regulations and the rules of distribution defined by the Manager of the grid in implementation of the provisions of Legislative Decree No 79 of 16 March 1999.
3. As regards the electricity produced by plants fuelled by renewable sources with power lower than 10 MVA, and plants of any power fuelled by the renewable sources of wind, solar, geothermal, wave motion, tidal and hydraulic energy and concerning only hydroelectric plants in the case of the latter source, and with the exception of that supplied to the Manager of the grid in the context of the agreements drawn up in accordance with the provisions of CIP Decisions No 15/89 of 12 July 1989, No 34/90 of 14 November 1990 and NO 6/92 of 29 April 1992, and Decision No 108/1997 of 28 October 1997 by the Authority

for electricity and gas, limited and concerning only new, upgraded or reconstructed plants as defined in Articles 1 and 4 of the same Decision, this shall be withdrawn by the manager of the grid to which the plant is connected at the request of the producer. The Authority for electricity and gas shall determine the methods for withdrawal of the electrical energy referred to in this paragraph, having regard to economical market conditions.

4., After the lapse of the agreements referred to in paragraphs 2 and 3, the electrical energy produced by the plants referred to in paragraph 2 shall be supplied to the market. After the lapse of the said agreements, the electricity referred to in paragraph 3 shall be withdrawn by the manager of the grid to which the plant is connected, in accordance with methods established by the Authority for electricity and gas, having regard to economical market conditions.

Note on Article 13:

- For Article 3(3) and Article 11(4) of Legislative Decree No 79 of 16 March 1999, see the notes on Article 2.

Article 14

Matters related to the connection of plants to the electricity grid

1. Within three months from the date when the present Decree enters into force, the Authority for electricity and gas shall issue specific directives concerning the technical and economic conditions for the provision of services for the connection of plants fuelled by renewable sources to electricity grids with a rated voltage higher than 1 kV, whose managers have the obligation to connect third parties.

2. The directives referred to in paragraph 1 shall:

- a) provide for the publication of technical standards for the construction of the utility and grid equipment for connection by the grid managers;
- b) fix the procedures, times and criteria for determining the costs payable by the producer, for carrying out all the investigation phases necessary for the identification of the definitive solution for connection;
- c) establish the criteria for the sharing of connection costs between the new producer and the manager of the grid;
- d) establish the rules in accordance with which grid equipment for connection can be made entirely by the producer, also identifying the provisions to be adopted by the grid Manager in order to define the technical requirements for the said equipment; for cases in which the

producer does not intend to avail himself of this possibility, they shall establish what initiatives are to be adopted by the grid manager to reduce the implementation times;

e) provide for the publication of the technical and economic conditions required for carrying out any work to render the grid infrastructures suitable for the connection of new installations by grid managers;

f) define the cost sharing methods between all the producers who will benefit from any grid infrastructure improvement work. The said methods, based on objective, transparent and non-discriminatory criteria, shall take into account the benefits that producers already connected, those to be connected, and the grid managers themselves, will derive from the connections.

3. Grid managers shall be obliged to provide solutions appropriate for favouring access to the grid, together with cost estimates and their relative sharing in accordance with the system referred to in paragraph 1 to producers who request connection to the grid of a plant fuelled by renewable sources.

4. The Authority for electricity and gas shall adopt any provisions necessary to ensure that the rates charged in respect of transmission and distribution costs do not penalise electricity produced from renewable energy sources, including that produced in peripheral zones such as island regions and regions with a low population density.

Article 15

Information and communication campaign in favour of renewable sources and efficiency in the end use of energy

1. In the context of the provisions of Article 11 of Law No 150 of 7 June 2000, and by the methods laid down in that law at the proposal of the Minister for Production Activities in agreement with the Minister for the Environment, a campaign of information and communication shall be conducted in support of renewable sources and efficiency in the end use of energy.

2. The campaign referred to in paragraph 1 shall be conducted at least in the years 2004, 2005 and 2006.

Notes on Article 15:

- *Law No 150 of 7 June 2000 concerns: "Regulation of the activities of information and communication by public administrations". Article 11 is worded as follows:*

"Article 11 (Communication programmes). – 1. In conformity with the provisions of Section I of the present Law and Article 12 of Legislative Decree No 29 of 3 February

1993 and subsequent amendments, and of the directives issued by the Prime Minister, the state administrations shall each year prepare a programme of communication initiatives intended to be carried out during the following year, including the projects referred to in Article 13, on the basis of the methodological indications of the Department for information and publications of the Prime Minister's Office. The programme shall be sent to the said Department during November each year. Communication initiatives not provided for by the programme may be promoted and implemented only for particular and contingent requirements arising during the course of the year, and shall be communicated in good time to the Department for information and publications.

2. To implement the communication programmes, the Department for information and publications shall in particular provide for:

- a) carrying out central functions of orientation and advice for the state administrations, to finalise the programmes and procedures. The Department may also provide organisational support for administrations which request it;*
- b) developing suitable activities for the recognition of public communication problems among the administrations;*
- c) including framework agreements with advertising space agents, which define maximum criteria for radio or television slots or in the press, and the tariffs charged”.*

Article 16

National Observatory for renewable sources and efficiency in the end use of energy

1. The National Observatory for renewable sources and efficiency in the end use of energy shall be established. The Observatory shall carry out activities of monitoring and consultancy on renewable sources and efficiency in the end use of energy, in order to:

- a) check the coherence between the incentive and regulatory measures promoted at national and regional level;
- b) monitor development initiatives in the sector;
- c) evaluate the effects of the support measures, in the context of national policies and measures for the reduction of greenhouse gas emissions;
- d) examine what the various technologies have to offer;
- e) carry out periodic interviews with operators in the sector;

f) propose any measures and initiatives necessary to improve the cash flows of projects relating to the construction and operation of plants fuelled by renewable sources, and hybrid plants;

g) propose any measures and initiatives necessary to safeguard the production of electricity by plants operated with biomass and wastes, plants fuelled by non-programmable renewable sources, and plants fuelled by renewable sources and having power below 10 MVA, produced after the lapse of the agreements referred to in Article 13 (2 and 3), or after termination of the right to green certificates.

2. The Observatory referred to in paragraph 1 shall consist of not more than twenty experts, with acknowledged experience in the field.

3. The members of the Observatory shall be nominated and its activities organised by a decree of the Minister for Production Activities and the Minister for the Environment and Protection of Natural Resources, in agreement with the Minister for Economic Affairs and Finance and Regional Affairs, after consultation with the Joint Conference, to be issued within sixty days from the date when this Legislative Decree enters into force.

4. The said decree shall also establish the procedures for other administrations to participate, and the procedures by which the consultancy and monitoring activities are to be coordinated with those carried out by other consultation bodies active in the energy sector.

5. The term of service of Observatory members shall be five years from the date when the decree referred to in paragraph 3 enters into force.

6. Expenses for the functioning of the Observatory shall be covered, up to a maximum limit of 750 000 euros per year, updated annually in relation to the inflation rate, by the tariffs for the transport of electrical energy, in accordance with methods established by the Authority for electricity and gas, except for the capital remuneration recognised for the Manager of the grid by the tariff regulation in force, within ninety days from the entry of this Legislative Decree into force. The exact quantification of the financial burden referred to in this paragraph shall be carried out within the scope of the decree referred to in paragraph 3.

7. Implementation of the present Article shall not entail new or greater burdens for the State budget. Notwithstanding the provisions of paragraph 6, administrations shall fulfil their obligations through existing structures.

Article 17

Inclusion of waste among the energy sources eligible to benefit under the regime reserved for renewable sources

1. Pursuant to the provisions of Article 43 (1, e) of Law No 39 of 1 March 2002 and in accordance with the waste treatment hierarchy referred to in Legislative Decree No 22 of

5 February 1997, wastes shall be eligible to benefit under the regime reserved for renewable energy sources, including, also by means of recourse to promotional measures, the non-biodegradable fraction and fuels derived from wastes referred to in the decrees envisaged by Articles 31 and 33 of Legislative Decree No 92 [*sic*] of 5 February 1997 and the UNI 9903-1 technical standards. Accordingly, the provisions of the present Decree shall apply to plants, including hybrid plants, fuelled by the said wastes and fuels, except to a limited extent for the non-biodegradable fraction referred to in Article 11. The rights acquired by virtue of the application of the provisions referred to in Legislative Decree No 79 of 16 March 1999 and later implementing provisions are guaranteed.

2. The following shall be excluded from the regime reserved for renewable sources:

- a) the sources assimilated to renewable sources referred to in Article 1 (3) of Law No 10 of 9 January 1991;
- b) goods, products and substances derived from processes whose primary purpose is the production of energy carriers or energy;
- c) energy products that do not satisfy the characteristics defined in the Decree of 8 March 2002 by the Prime Minister, and subsequent amendments and additions.

3. Notwithstanding the provisions of paragraphs 1 and 2, within one-hundred and twenty days from the entry into force of this Decree, the Minister for Production Activities, in agreement with the Minister for the Environment, after hearing the competent parliamentary committees and after consultation with the Joint Conference, shall adopt a decree identifying the other wastes and fuels derived from the wastes eligible to benefit, also by means of recourse to promotional measures, from the legal regime reserved for renewable sources. The same decree shall also establish:

- a) the emission values permitted for various types of installations using the said wastes and fuels derived from wastes;
- b) the methods used to ensure compliance with the Community waste treatment hierarchy, referred to in Legislative Decree No 22 of 5 February 1997, in particular for wastes based on biomass.

4. Except as provided for in paragraph 1, eligibility of wastes and fuels derived from wastes for the legal regime reserved for renewable sources shall be subject to the entry into force of the decree referred to in paragraph 3.

Notes on Article 17:

- For Law No 39 of 1 March 2002 and Article 43 (1, e), see the introductory notes.
- For Legislative Decree No 22 of 5 February 1997, see the introductory notes.

- For Legislative Decree No 79 of 16 March 1999, see the introductory notes.

- For Law No 10 of 9 January 1991, see the introductory notes. Article 1(3) is worded as follows:

“3. For the purposes of the present law, the following shall be regarded as renewable energy sources or assimilated ones: sun, wind, hydraulic energy, geothermal resources, tides, wave motion and the transformation of organic and inorganic wastes or vegetable products. In addition, energy sources regarded as assimilated to renewable energy sources shall be: co-generation, understood as the combined production of electrical or mechanical energy and heat, the heat recoverable from waste gases and from thermal plants, electrical installations and industrial processes, and other forms of energy recoverable from processes, installations and products, including the energy savings that can be achieved in the air-conditioning and lighting of buildings by means of insulation in buildings and equipment. In the case of organic and inorganic wastes the regulations in force shall be applicable, in particular those referred to in Decree No 915 of 10 September 1982 by the President of the Republic and subsequent amendments and additions, in Decree-Law No 361 of 31 August 1987, converted with amendments by Law No 441 of 29 October 1987, and Decree-Law No 397 of 9 September 1988, converted with amendments by Law No 475 of 9 November 1988.

Article 18

Cumulation of incentives

1. The production of electricity by plants fuelled by renewable sources and wastes, which qualifies for green certificates, shall not qualify for the entitlements deriving from the application of the implementing provisions of Article 9(1) of Legislative Decree No 79 of 16 March 1999, nor for the entitlements deriving from the application of the implementing provisions of Article 16(4) of Legislative Decree No 164 of 23 May 2000.

2. The production of electricity by plants fuelled by bio-diesel that has obtained exemption from excise pursuant to Article 21 of Law No 388 of 23 December 2000 or any other provision with an analogous content, shall not qualify for green certificates nor for the entitlements deriving from the application of the implementing provisions of Article 9(1) of Legislative Decree No 79 of 16 March 1999, or from the application of the implementing provisions of Article 16(4) of Legislative Decree No 164 of 23 May 2000.

Notes on Article 18:

- For Legislative Decree No 79 of 16 March 1999, see the introductory notes. Article 9(1) is worded as follows:

“1. Distribution companies shall be obliged to connect to their own grids all those who so request, without compromising the continuity of the service and subject to compliance with the technical regulations and the decisions issued by the Authority for electricity and gas concerning tariffs, contributions and charges. Distribution companies operating on the date when this Decree enters into force, including, for the quota different from that of their own members, the production and distribution cooperatives referred to in Article 4(8) of Law No 1643 of 6 December 1962, shall continue providing the distribution service on the basis of concessions awarded by 31 March 2001 by the Minister for Industry, Trade and Crafts and lapsing on 31 December 2030. The same provisions shall identify those responsible for the management, maintenance and if necessary the development of the distribution grids and the related interconnection equipment, who shall respect the confidentiality of any restricted trade information; inter alia, the concessions shall specify measures for increasing the energy efficiency of end uses of energy in accordance with quantitative objectives determined by a decree of the Minister for Industry, Trade and Crafts in agreement with the Minister for the Environment, within ninety days from the date when the present Decree enters into force”.

- For Legislative Decree No 164 of 23 May 2000, see the introductory notes. Article 16(4) is worded as follows:

“4. Distribution companies shall strive for the saving of energy and the development of renewable sources. The national quantitative targets, defined in coherence with the commitments envisaged by the Kyoto Protocol, and the principles for evaluating the achievement of results, shall be identified by a decree of the Minister for Industry, Trade and Crafts in agreement with the Minister for the Environment, after consultation with the Joint Conference, which shall be issued within three months from the entry of the present Decree into force. The regional targets and the related methods for achieving them, also using the instrument of remuneration for the initiatives referred to in Article 23(4), in accordance with which the distribution companies operate, shall be determined by providing for regional energy planning, in consultation with organisations linking the regions and local governments. Each year the Joint Conference shall check the coherence of the regional and national targets”.

Article 19

Specific provisions for regions with special status and for the autonomous provinces of Trento and Bolzano

1. In terms of the respective special statutes and the related implementing regulations, the competences of regions with a special status and the autonomous provinces of Trento and Bolzano which pursue the aims of this Legislative Decree are safeguarded.

Article 20

Transitional, financial and final provisions

1. From 1 January 2004 and until the electricity market referred to in Article 5 of Legislative Decree No 79 of 16 March 1999 comes into effect, producers who supply electrical energy as in Article 13(3) shall be paid the price fixed by the Authority for electricity and gas for electrical energy wholesaled to the distribution companies for sale to customers in the associated market. By a decree of his own, the Minister for Production Activities, solely for the purposes of the present Legislative Decree, shall fix the date when the electricity market referred to in Article 5 of Legislative Decree No 79 of 16 March 1999 comes into effect.
2. By derogation from the provisions of Article 8(7), the electricity produced by hybrid plants, including those operating in co-combustion, which use animal meal that has been subjected to disposal within the meaning of Decree-Law No 1 of 11 January 2001 converted and amended by Law No 49 of 9 March 2001, shall carry entitlement to the grant of green certificates for 100% of the attributable production, only for the years from 2003 to 2007.
3. Those who import electrical energy from Member States of the European Union, who are subject to the obligation referred to in Article 11 of Legislative Decree No 79 of 16 March 1999, may request from the Manager of the grid exemption from the said obligation in respect of the proportion of imported electricity which is produced from renewable sources. The request shall be accompanied at least by a copy similar to the guarantee of origin issued, pursuant to Article 5 of Directive No 2001/77/EC, in the country where the production plant is located. In the case of electricity imported from third countries, exemption from the said obligation, in respect of the proportion of the imported electricity produced from renewable sources, shall be subject to the conclusion of an agreement between the Ministries for Production Activities and for the Environment and the competent Ministries in the foreign State from which the electricity is imported, which stipulates that the imported electricity produced from renewable sources is guaranteed as such by methods the same as those referred to in Article 5 of Directive No 2001/77/EC.
4. To achieve the national objectives referred to in the reports required by Article 3(1), green certificates may be issued exclusively for the production of electricity by plants located in the national territory, or for the importation of electricity from renewable sources exclusively coming from countries which adopt instruments for the promotion and encouragement of renewable sources analogous to those in force in Italy and which allow the same possibility for plants located in Italy, on the basis of agreements concluded between the Ministries for Industry and for the Environment and the competent Ministries in the foreign country from which the electricity from renewable sources is imported.

5. The recognition period of green certificates shall be eight years, disregarding periods when the plants are closed due to disasters declared as such by the competent authorities.

6. To ensure adequate promotion of electricity from plants fuelled by biomass and wastes, excepting that produced by hybrid plants, by virtue of the decree referred to in paragraph 8 the recognition period of the green certificates referred to in paragraph 5 may be extended also by the grant, from the ninth year, of green certificates for a proportion of the electrical energy produced, also having regard to the provisions of Article 17 above.

For the same purpose, the green certificates allocated to the Manager of the grid pursuant to the second indent of Article 11(3) of Legislative Decree No 79 of 16 March 1999 can also be used. The said extension of the recognition period of the green certificates cannot be allowed for the production of electricity from plants that have benefited from public capital investment incentives.

7. The green certificates issued for the production of electricity in a given year can be used to comply with the obligation referred to in Article 11 of Legislative Decree No 79 of 16 March 1999, also in relation to the next two years.

8. Within six months from the entry of this provision into force, the directives referred to in Article 11(5) of Legislative Decree No 79 of 16 March 1999 shall be updated by a decree of the Minister for Production Activities in agreement with the Minister for the Environment.

9. Until the entry into force of the directives referred to in Article 14(1), the provisions in force shall remain applicable.

10. Implementation of the present Decree shall not entail new or greater burdens on the State budget or reduced revenue.

The present Decree, bearing the Seal of State, shall be recorded in the official Record of legislative acts of the Republic of Italy. It shall be binding on all to observe it and cause it to be observed.

Done at Rome, 29 December 2003

CIAMPI

Berlusconi,	Prime Minister
Buttiglione,	Minister for Community Policies
Marzano,	Minister for Production Activities
Frattoni,	Minister for Foreign Affairs
Castelli,	Minister for Justice
Tremonti,	Minister for the Economic Affairs and Finance
Matteoli,	Minister for the Environment and Protection of Natural Resources
Urbani,	Minister for Cultural Assets and Activities

Approved by the Keeper of the Seals: Castelli

Notes on Article 20:

- *For Legislative Decree No 79 of 16 March 1999, see the introductory notes. Article 5 is worded as follows:*

“Article 5 (Functions of the market manager). – 1. The financial management of the electricity market shall be entrusted to a market manager. The market manager shall be a limited company set up by the Manager of the national transmission grid within nine months from the entry of this decree into force. This shall organise the market itself in accordance with neutral, transparent and objective criteria which favour competition between producers, also ensuring the financial management of appropriate availability of the power reserve. The market regulations, prepared by the market manager within one year from the date of its own constitution, shall be approved by a decree of the Minister for Industry, Trade and Crafts after consultation with the Authority for electricity and gas. In accordance with the said criteria the latter in particular shall specify the duties of the market manager in respect of balancing demand and supply and the obligations of producers and importers of electrical energy who do not take advantage of the provisions of Article 6.

2. From the date when this decree enters into force dispatch by transfer shall apply. By 1 January 2001 the order in which electrical energy production units come into operation and the selection of reserve installations and of all the auxiliary services offered shall be determined, except as provided by Article 11, in accordance with economical dispatch. From the date when this is implemented, the market manager shall take over the management of offers for the purchase and sale of electrical energy and all associated services. [By the same date the manager referred to in Article 3 shall put at the disposal of the operators a venue for the negotiation of bilateral contracts. Bilateral contracts concluded away from the said venue shall be forwarded to the grid manager in a copy faithful to the original.]

3. The Authority for electricity and gas shall also be competent within the meaning of Article 20(4) of Directive 96/62/EC, to deal with disputes concerning access to the interconnection grids and import and export contracts”.

- *Decree-Law No 1 of 11 January 2001 concerns: “Urgent provisions for the destruction of the specific material that harbours a risk of bovine spongiform encephalitis and of high-risk animal proteins, and for the temporary public stockpiling of low-risk animal proteins. Further urgent interventions to confront the emergency created by bovine spongiform encephalitis”.*

- *Law No 49 of 9 March 2001 concerns: “Transposition into law, with amendments, of the Decree-Law of 11 January 23001 concerning: “Urgent provisions for the destruction of the specific material that harbours a risk of bovine spongiform*

encephalitis and of high-risk animal proteins, and for the temporary public stockpiling of low-risk animal proteins”.

- For Legislative Decree No 79 of 16 March 1999 and Article 11 (3 and 5), see the notes on Article 2.

- For Directive No 2001/77/EC see the introductory notes. Article 5 is worded as follows:

“Article 5 (Guarantee of origin of electricity produced from renewable energy sources). – 1. Member States shall, not later than 27 October 2003, ensure that the origin of electricity produced from renewable energy sources can be guaranteed as such within the meaning of this Directive according to objective, transparent and non-discriminatory criteria laid down by each Member State. They shall ensure that a guarantee of origin is issued to this effect in response to a request.

2. Member States may designate one or more competent bodies, independent of generation and distribution activities, to supervise the issue of such guarantees of origin.

3. A guarantee of origin shall:

- specify the energy source from which the electricity was produced, specifying the dates and places of production, and in the case of hydroelectric plants, indicate the capacity;

- serve to enable producers of electricity from renewable energy sources to demonstrate that the electricity they sell is produced from renewable energy sources within the meaning of this Directive.

4. Such guarantees of origin, issued according to paragraph 2, should be mutually recognised by the Member States, exclusively as proof of the elements referred to in paragraph 3. Any refusal to recognise a guarantee of origin as such proof, in particular for reasons relating to the prevention of fraud, must be based on objective, transparent and non-discriminatory criteria. In the event of refusal to recognise a guarantee of origin, the Commission may compel the refusing party to recognise it, particularly with regard to objective, transparent and non-discriminatory criteria on which such recognition is based.

5. Member States or the competent bodies shall put in place appropriate mechanisms to ensure that guarantees of origin are both accurate and reliable and they shall outline in the report referred to in Article 3(3) the measures taken to ensure the reliability of the guarantee system.

6. After having consulted the Member States, the Commission shall, in the report referred to in Article 8, consider the form and methods that Member States could follow in order to guarantee the origin of electricity produced from renewable energy

sources. If necessary, the Commission shall propose to the European Parliament and the Council the adoption of common rules in this respect.”