

# The Italian Government reduces previously agreed solar energy incentives

The recently issued decree law No. 91 of 24 June 2014 proposing measures to foster the economy in Italy (the "**Decree**") includes provisions affecting payment of incentives to producers of solar energy.

The Decree contains the much-discussed provision that amends the length of the incentive period already approved under the various Conto Energia programmes for photovoltaic plants with a capacity in excess of 200kWp, as well as provisions affecting payment terms of the incentives. The ultimate goal of these measures is to be able to cut electricity costs for small and medium enterprises.

Moreover, the Decree provides for contributions to the GSE to cover administrative expenses of the incentive programmes and new charges for the energy that producers self-consume.

The Decree is effective as from 25 June 2014 and for sixty days, during which it will have to be converted into law, subject to any amendments made by the conversion law. Failing conversion into law on or before 24 August 2014, the decree law will become ineffective with retroactive effects.

Because the measures in the Decree relating to incentives affect, to the detriment of producers, the level of incentive that had already been granted to producers, we expect much debate surrounding this issue as well as claims challenging the lawfulness of these measures.

The Decree does not contain provisions affecting incentives to wind plants; however, according to recent rumours, the Italian Government is evaluating additional measures, which may also impact the incentive system for wind plants.

## Key issues

- Extension of the length of the incentive period
- New payment terms of incentives
- New GSE contributions
- New charges on self-consumption

## Extension of the length of the incentive period

The Decree provides that the incentives payable to the approximately 8,600 photovoltaic plants with capacity in excess of 200kWp that have been granted incentives under the various Conto Energia programmes will be payable over a 24-year span, rather than the previously agreed 20-year span. This means that the amount of the incentives payable monthly will be reduced to take into account that the aggregate incentives will be paid over a longer period. Reductions of the periodic incentives will start as from 1 January 2015, and will range from 25% to 17%, depending on the date of expiry of the original incentive period, as shown in the table below.

Years before expiry of the incentive period	Percentage of reduction of the incentives
12	25%
13	24%
14	22%
15	21%
16	20%
17	19%
18	18%
Over 19	17%

For photovoltaic plants that receive all-inclusive tariffs (*tariffe omnicomprendive*) under the Fifth Conto Energia, the above percentage reductions will only apply to the incentive component of such tariffs.

To off-set the lower cash-flow available to operators as a result of the extension in the incentive period, the Decree provides that operators will be eligible to seek financing, with the assistance of or guaranteed by Cassa Depositi e Prestiti S.p.A., for a maximum amount equal to the difference between the incentives they were due to receive for the year ending on 31 December 2014, and the incentives they will receive under the new programme starting 1 January 2015.

In addition, the Decree requires Regions and other local authorities to extend the validity period of the authorisations granted to allow operations of photovoltaic plants through the extended incentive period.

Alternatively, photovoltaic plants may choose not to participate in the extended incentive period and opt for a reduction of 8% of the incentives payable periodically for the entire remaining period of incentives, starting from 25 June 2014. Plants that select this option must notify the GSE by the end of November 2014, otherwise the incentive period will be automatically extended.

## New payment terms of incentives

The Decree also includes an amendment in the terms of payment of the incentives granted to photovoltaic plants under the various Conto Energia programmes, starting from the second semester of 2014. Similarly to now, the GSE will pay the incentives monthly, on the basis of estimated production; however, the monthly payment will now be of 90% of the incentive due, with the remaining 10% being paid, as needed, upon adjustment on the basis of actual production. This adjustment will occur in June of the following year, on the basis of actual production for the preceding year.

Implementing regulations setting out the new payment terms will be issued by the GSE within 15 days of 24 June 2014, when the Decree was published.

## New GSE contributions

The Decree, in Article 25, provides that starting from 1 January 2015 the GSE will charge energy producers a fee meant to cover the expenses that the GSE incurs in connection with the management of the incentive programmes. The fee will be set every three years by the GSE and will apply for a three-year period at a time.

## New charges on self-consumption

Article 24 of the Decree creates a new charge to be paid by producers of renewable energy in connection to the energy they produce and use themselves. This provision applies to new and existing self-efficient systems for users, private networks and even small plants integrated on residential roofs and requires users of energy that is self-produced to pay 5% of the general system charges for the quantity of energy they use.

## Contacts

### Umberto Penco Salvi

Partner

E: [umberto.pencosalvi@cliffordchance.com](mailto:umberto.pencosalvi@cliffordchance.com)



### Aristide Police

Partner

E: [aristide.police@cliffordchance.com](mailto:aristide.police@cliffordchance.com)



### Giuseppe De Cola

Associate

E: [giuseppe.decola@cliffordchance.com](mailto:giuseppe.decola@cliffordchance.com)



This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

Clifford Chance, Piazzetta M.Bossi, 3, 20121 Milan, Italy

© Clifford Chance 2014

Clifford Chance Studio Legale Associato

[www.cliffordchance.com](http://www.cliffordchance.com)

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Casablanca ■ Doha ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Istanbul ■ Jakarta\* ■ Kyiv ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Perth ■ Prague ■ Riyadh ■ Rome ■ São Paulo ■ Seoul ■ Shanghai ■ Singapore ■ Sydney ■ Tokyo ■ Warsaw ■ Washington, D.C.

\*Linda Widyati & Partners in association with Clifford Chance.