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*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION DECISION

of 11 October 1982

on the aids provided for in Campania to help producers of plums

(Only the Italian text is authentic)

(82/743/EEC)

THE COMMISSION OF THE EUROPEAN  
COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the first subparagraph of Article 93 (2) thereof,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables<sup>(1)</sup>, as last amended by Regulation (EEC) No 1738/82<sup>(2)</sup>, and in particular Article 31 thereof,

Having given notice, pursuant to the provisions of the first subparagraph of Article 93 (2) of the Treaty, to those concerned to submit their comments<sup>(3)</sup>, and having regard to these comments.

## I

Whereas by letter of 5 March 1981 the Italian Government notified the Commission, pursuant to Article 93 (3) of the EEC Treaty of the draft law of the Region of Campania on emergency measures to help producers of plums;

Whereas the measure in question provides for the grant of Lit 257 million to agricultural cooperatives and plum producers' associations; whereas that amount is to be used by those agencies to pay a subsidy of Lit 11 000 on each quintal of plums delivered during 1980 by farmers who were members of those cooperatives and/or associations;

Whereas the Commission examined the aid and informed the Italian Government by letter of 24 August 1981 that the measure in question — whereby aid is granted on the basis of the quantities delivered to producers' associations — constituted an infringement of the common organization of the market in fruit and vegetables; whereas, for these reasons and since the measure does not rank for treatment as an exception under Article 92 of the EEC Treaty, the Commission initiated the procedure laid down in Article 93 (2) of the EEC Treaty and gave notice to the Italian Government to present its comments;

Whereas under that procedure the Commission gave notice to the other Member States and those concerned other than the Member States to present their comments;

Whereas by telexes of 26 February (No 157) and 14 May 1982 (No 300) the Italian Government replied to the Commission's letter of 24 August 1981, drawing its attention to the fact that the Italian authorities had undertaken to amend the terms of the aid provided for in the draft law so as to make them compatible with Community law;

<sup>(1)</sup> OJ No L 118, 20. 5. 1972, p. 1.

<sup>(2)</sup> OJ No L 190, 1. 7. 1982, p. 7.

<sup>(3)</sup> OJ No C 160, 25. 5. 1982, p. 2.

Whereas the Italian Government also informed the Commission that the measure, although adopted as a law, was not being applied by the Region of Campania.

## II

Whereas despite the intention expressed, the Italian Government did not forward to the Commission any legal text proving that the law in question had been amended directly or indirectly to make it compatible with Community law; whereas, therefore, it must be supposed that if the law were applied it would be applied in accordance with the provisions laid down in the text sent to the Commission on 5 March 1981;

Whereas the subsidy in question artificially increases or at least maintains the present levels of plum production in Campania; whereas, on the other hand, it can reasonably be imagined that this aid may in practice encourage growers to supply the product in question at prices lower than those which would apply in the absence of this regional aid;

Whereas these measures are liable to affect intra-Community trade and to distort competition by favouring Italian producers to the detriment of producers in other Member States who are in a position to offer for sale the same products on the Community market and do not receive comparable aids;

Whereas the measures in question therefore fulfil the criteria of Article 92 (1) of the Treaty;

Whereas the subsidy provided for in the draft law of the Region of Campania notified on 5 March 1981 to help producers of plums, paid on the basis of the quantities delivered to agricultural cooperatives and producers' associations, constitutes an infringement of the common organization of the market in fruit and vegetables;

Whereas the Commission has been unable to accept the arguments put forward by the Italian Government since the fact that the aid was envisaged solely for 1980 does not make it compatible with the provisions of the common organization of the market in fruit and vegetables;

Whereas the Commission has also been unable to accede to the Italian Government's request that the measure be treated as an exception under Article 92 (2)

(b) of the EEC Treaty as the Italian Government was unable to show that the surplus production of plums in Campania in 1980 was of a short-term and exceptional nature such that it should be regarded as a natural disaster;

Whereas in providing for a subsidy of Lit 11 000 per quintal of plums delivered — thereby directly influencing the selling price of the product — the Italian authorities disregarded the principle that Member States may no longer legislate unilaterally on the prices of products covered by a common organization of the market;

Whereas Article 92 (1) of the Treaty provides that the aids referred to therein are incompatible with the common market,

HAS ADOPTED THIS DECISION:

### *Article 1*

The subsidy of Lit 11 000 per quintal of plums delivered by farmers who are members of cooperatives and producers' associations to such agencies in 1980, provided for in the Law of the Region of Campania on emergency measures to help producers of plums, is incompatible with Articles 92 and 93 of the Treaty. This scheme must accordingly be discontinued.

### *Article 2*

The Italian Republic shall take the measures necessary to ensure compliance with this Decision within one month of notification of this Decision and shall immediately notify the Commission thereof.

### *Article 3*

This Decision is addressed to the Italian Republic.

Done at Brussels, 11 October 1982.

*For the Commission*

Poul DALSGER

*Member of the Commission*