COMMISSION DECISION
of 15 October 2003
concerning aid that the region of Sicily plans to grant in the citrus fruit sector

(notified under document number C(2003) 3550)

(Only the Italian text is authentic)

(2003/884/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having given notice to the parties concerned to submit their comments in accordance with that Article,

Whereas:

I. PROCEDURE

(1) By letter dated 15 December 1999, registered on 20 December 1999, the Italian Permanent Representation to the European Union notified the Commission, pursuant to Article 88(3) of the Treaty, of Sicilian Regional Law No 22/1999, providing for emergency measures in the agricultural sector. The notification was registered under No 795/99.

(2) By letters dated 6 October 2000, registered on 9 October 2000, 1 February 2001, registered on 5 February 2001, and 30 July 2001, registered on 1 August 2001, the Italian Permanent Representation to the European Union provided the Commission with additional information on Regional Law No 22/1999 as requested by letters dated 23 February 2000, 20 November 2000 and 27 March 2001.

(3) By letter dated 25 September 2001 [1], the Commission informed Italy that it had decided to initiate the procedure provided for in Article 88(2) of the Treaty with regard to the aid provided for in Articles 1 to 6 of Regional Law No 22/1999. The procedure was registered under No C 65/2001.

(4) The Commission decision initiating the procedure was published in the *Official Journal of the European Communities* [2]. The Commission invited interested parties to present their comments on the aid concerned.

(5) The Commission has received no comments from interested parties.

(6) By letter dated 28 May 2003, registered on 4 June 2003, the Italian Permanent Representation to the European Union forwarded a letter from the Italian authorities asking for the aid provided for in Article 5 of Regional Law No 22/1999 to be made the subject of a separate decision in view of its close relationship to aid provided for under a national aid scheme already authorised by the Commission [3].

(7) In response to the request, the Commission decided to split case C 65/2001 into two parts: part A concerning the aid provided for in Article 5 of Regional Law No 22/1999 and part B concerning the aid provided for in Articles 1, 2, 3, 4 and 6 of that law.

(8) This Decision concerns solely part A of case C 65/2001, i.e. solely the aid provided for in Article 5 of Regional Law No 22/1999. This Decision does not prejudice the decision that will be adopted concerning part B of the case.

II. DESCRIPTION OF THE AID PROVIDED FOR IN ARTICLE 5 OF REGIONAL LAW No 22/1999

(9) Article 5 of Regional Law No 22/1999 authorises the Regional Minister for Agriculture and Forestry to contribute a maximum of ITL 10 billion (EUR 5 164 569) to the operations and assistance measures provided for in the national citrus cultivation plan. This funding is in addition to that already provided for in that plan for the region of Sicily.

III. INITIATION OF THE PROCEDURE PROVIDED FOR IN ARTICLE 88(2) OF THE TREATY

(10) The Commission initiated the procedure provided for in Article 88(2) of the Treaty for the following reasons:

(a) in the letter forwarded by the Italian Permanent Representation on 30 July 2001, in reply to the Commission's request for information dated 27 March 2001, the Italian authorities stated that they had already forwarded all the information necessary for examining the aid provided for in Regional Law No 22/1999 and that they were not in a position to supply any further information. They therefore asked the Commission to adopt a decision on the aid concerned within two months in accordance with Article 4(5) of Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 (now Article 88) of the EC Treaty [4];

(1) Letter SG(2001) D/260216.
(2) OJ C 315, 9.11.2001, p. 12.
(3) The national citrus cultivation plan authorised by the Commission in aid cases N 560/99 (letter SG(2000) D/103679 of 16 May 2000) and N 313/2001 (Decision C(2003) 369 final of 5 February 2003, notified to the Italian authorities by letter SG(2003) D/228423 of 7 February 2003).
(4) OJ L 83, 27.3.1999, p. 1.

(b) when it received the abovementioned letter, the Commission had not completed its examination of the measures provided for in the national citrus cultivation plan and was therefore unable to decide whether or not the measures it contained were compatible with the common market;

(c) in view of the continuing doubt about the compatibility of the measures concerned with the common market, the Commission could not but express doubts regarding the compatibility of aid that might be financed by means of the funding made available in Article 5 of Regional Law No 22/1999, which was intended to complement the central government funding provided for in the national citrus cultivation plan.

IV. **COMMENTS BY THE ITALIAN AUTHORITIES**

(11) By letter forwarded by the Italian Permanent Representation on 29 April 2002, the Italian authorities, in response to the notification of the initiation of the procedure provided for in Article 88(2) of the Treaty, repeated that they were unable to supply any further information regarding the rules governing the use of the funding made available to the citrus fruit sector in Article 5 of Regional Law No 22/1999 because those rules had to be laid down in the light of the conclusions of the examination of the national citrus cultivation plan being carried out by the Commission. They nevertheless undertook not to use the funding in question until the Commission had approved that plan.

(12) In the letter from the Italian Permanent Representation dated 28 May 2003, the Italian authorities, in asking for the aids provided for in Article 5 of Regional Law No 22/1999 to be the subject of a separate decision, confirmed that the funding provided pursuant to that Article would be used in accordance with the rules for the grant of the aid authorised by Commission Decision C(2003) 369 final of 5 February 2003 (hereinafter 'Decision C(2003) 369 final').

(13) By letter dated 10 July 2003, registered on 11 July 2003, the Italian Permanent Representation forwarded to the Commission a letter from the Italian authorities stating that the sums allocated in accordance with Article 5 of Regional Law No 22/1999 had not been used and that they would be used only when the Commission had authorised the rules governing their use.

(14) By letter dated 13 August 2003, registered on 18 August, the Italian Permanent Representation forwarded a further letter from the Italian authorities assuring the Commission that the cumulation of aid granted under the national citrus cultivation plan with central government funding and regional funding pursuant to Article 5 of Regional Law No 22/1999 would be allowed only within the limits on rates of aid laid down in the Region of Sicily's programming documents, which are those authorised in Decision C(2003) 369 final. In the same letter, the Sicilian regional authorities assured the Commission that checks on the various types of aid granted in the citrus fruit sector had been entrusted to a single managing body responsible for verifying compliance with the authorised rates of aid in the event of cumulation.

V. **EVALUATION**

(15) According to Article 87(1) of the Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods is, in so far as it affects trade between Member States, incompatible with the common market. The measures in question fall into that category in that they favour the production of certain fruit (citrus fruit) and are likely to affect trade given the position Italy occupies in Community production of the fruit concerned (in 2000, Italy accounted for 31 % of all Community citrus fruit production).

(16) However, in the cases provided for in Article 87(2) and (3) of the Treaty, certain measures may, by way of derogation, be considered to be compatible with the common market.

(17) In the case under examination, in view of the nature of the measures concerned, the only derogation that could be granted is that provided for in Article 87(3)(c) of the Treaty, on the basis of which aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest, may be considered to be compatible with the common market.

(18) The funding provided for in Article 5 of Regional Law No 22/1999 is intended to complement the aid provided by the central government for the implementation of the national citrus cultivation plan, which covers six regions of southern Italy: Campania, Apulia, Basilicata, Calabria, Sicily and Sardinia.

(19) The national citrus cultivation plan contains seven measures. Six of these ('market monitoring', 'citrus register', 'research and development', 'communication and promotion', 'aids for the creation of cooperatives and associations of producers of quality products' and 'technical assistance and monitoring') were authorised as aid N 560/99. The Commission authorised the seventh measure, 'support and part-financing of integrated assistance schemes for increasing the market value of products and strengthening producer organisations' as aid N 313/01.

(20) The planned aid for Sicily N 313/01 and the rules for granting that aid are as follows:

(a) for investments relating to varietal conversion: aid equal to 50 % of eligible expenditure for investments in agricultural holdings in less-favoured areas and 40 % for investments in other areas, with the possibility of increasing those rates by five percentage points for young farmers making investments during the first five years after setting up (eligible expenditure is that defined in the 2000-06 regional operational programme (ROP) for Sicily, authorised by the Commission, and the programme complement);

(b) for the 'Marketing and communication services scheme':

(i) aid for technical and organisational assistance of up to EUR 100 000 per beneficiary per three-year period or 50 % of eligible expenditure for SMEs;

(ii) aid for the purchase of computing equipment (hardware and software) equal to 50 % of eligible expenditure within the meaning of point 4.2 of the Community guidelines for State aid in the agriculture sector [1] for undertakings processing and marketing agricultural products and aid equal to 50 % in less-favoured areas and 40 % in other areas for agricultural holdings;

(iii) for measures to improve product quality:

— aid for investments in quality assurance systems (rate of 50 % for holdings in less-favoured areas and 40 % for holdings in other areas, with the possibility of increasing those rates by five percentage points for young farmers making investments during the first five years after setting up). In the case of collective investments outside holdings, the planned rate is 50 % (Sicily is an Objective 1 region) and the increase of five percentage points for young farmers provided for in the plans does not apply,

— aid equal to 100 % of eligible expenditure, up to a maximum of EUR 100 000 per beneficiary per three-year period, or equal to 50 % of eligible expenditure for SMEs, for the provision of assistance with the introduction of quality assurance standards, the preparation of applications for registration as PDOs (protected designations of origin), PGIs (protected geographical indications) and CSCs (certificates of specific character), the introduction of voluntary quality standards and HACCP systems (hazard analysis and critical control points) and for staff training for the application of quality assurance standards,

— temporary and decreasing aid during the six years following the introduction of a control system to guarantee the authenticity of PDOs, PGIs and CSCs (rates applicable during those years: 100 %, 85 %, 70 %, 55 %, 40 %, 25 %, 0 %),

— temporary and decreasing aid during the six years up until 2006 (rates applicable during those years: 100 %, 85 %, 70 %, 55 %, 40 %, 25 %, 0 %) for monitoring the use of quality marks under quality guarantee schemes;

(iv) for communication and promotional measures:

— aid equal to 100 % of eligible expenditure, up to a maximum of EUR 100 000 per beneficiary per three-year period, or equal to 50 % of eligible expenditure for SMEs, for promotional activities such as the organisation of competitions, fairs and exhibitions and for carrying out studies,

— aid equal to 50 % of eligible expenditure for publicity measures; the agricultural holdings concerned must bear the remaining expenditure by means of a direct contribution, parafiscal charges or other compulsory contributions;

(c) for the 'Scheme for the reorganisation and modernisation of production structures':

(i) for the reorganisation of first processing, packaging and processing structures and the technological upgrading of processing and marketing facilities on agricultural holdings, within the maximum limits on investment laid down in Article 7 of Council Regulation (EC) No 1257/1999 [2]: maximum aid of 50 % of eligible expenditure in less-favoured areas and 40 % in other areas, with the possibility of raising this to 55 % and 45 % respectively for young farmers during the first five years after setting up with an additional 25 and 20 percentage points respectively where the investments permit a holding to meet the minimum Community environmental requirements or to meet newly introduced standards (in accordance with the conditions laid down in Article 1(2) of Commission Regulation (EC) No 445/2002 [3]) without increasing production capacity;

[1] OJ C 28, 1.2.2000, p. 2. Corrected version in OJ C 232, 12.8.2000, p. 17.

[2] OJ L 160, 26.6.1999, p. 80.

[3] OJ L 74, 15.3.2002, p. 1.

(ii) for the reorganisation of first processing, packaging and processing structures and the technological upgrading of processing and marketing facilities of beneficiaries other than farmers (for example, producer organisations): aid equal to a maximum of 50 % of eligible expenditure;

(iii) for upgrading the safety of the plant and introducing HACCP on agricultural holdings: aid equal to a maximum of 50 % of eligible expenditure in less-favoured areas and 40 % in other areas, with the possibility of raising this to 55 % and 45 % respectively for young farmers during the first five years after setting up;

(iv) for upgrading the safety of the plant and introducing HACCP for beneficiaries other than farmers (for example, producer organisations): aid equal to a maximum of 50 % of eligible expenditure;

(v) for the computerisation of processing on agricultural holdings, within the maximum limits on investment laid down in Article 7 of Regulation (EC) No 1257/1999: aid equal to a maximum of 50 % of eligible expenditure in less-favoured areas and 40 % in other areas, with the possibility of raising this to 55 % and 45 % respectively for young farmers during the first five years after setting up;

(vi) for the computerisation of the processing operations of beneficiaries other than farmers (for example, producer organisations): aid equal to a maximum of 50 % of eligible expenditure.

(21) Pursuant to Decision C(2003) 369 final, the Commission decided not to raise any objections to the aid referred to in recital 20, since the Italian authorities assured the Commission that the aid would be granted on conditions that allow it to be considered to be compatible with the common market.

VI. **CONCLUSIONS**

(22) The funding provided for in Regional Law No 22/1999 is intended to complement central government funding for the implementation of the national citrus cultivation plan and will be used on the same conditions as authorised by the Commission in Decision C(2003) 369 final. The cumulation of aid will be monitored centrally, which will prevent the maximum permissible rates of aid being exceeded. Therefore the Commission no longer has any reason to doubt that the rules on the use of the aid in question are compatible with the common market and concludes that the aid financed by means of the funding concerned can benefit from the derogation provided for in Article 87(3)(c) of the Treaty, as aid to facilitate the development of certain economic activities or of certain economic areas without adversely affecting trading conditions to an extent contrary to the common interest,

HAS ADOPTED THIS DECISION:

Article 1

The aid of ITL 10 billion (EUR 5 164 569) that the region of Sicily plans to grant in the citrus fruit sector under Article 5 of Regional Law No 22/1999 is compatible with the common market.

Implementation of the aid scheme is accordingly authorised.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 15 October 2003.

For the Commission

Franz FISCHLER

Member of the Commission