

## COMMISSION REGULATION (EC) No 1398/2002

of 31 July 2002

**fixing, for the 2001/02 marketing year, the actual production of unginned cotton in Greece and the resulting reduction of the guide price and derogating, for the 2001/02 marketing year, from certain management rules and aid award procedures in Greece**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Greece, and in particular Protocol 4 on cotton, as last amended by Council Regulation (EC) No 1050/2001 <sup>(1)</sup>,

Having regard to Council Regulation (EC) No 1051/2001 of 22 May 2001 on production aid for cotton <sup>(2)</sup>, and in particular Article 19(1) and (2) and Article 21 thereof,

Whereas:

(1) Under the third indent of Article 19(2) of Regulation (EC) No 1051/2001 actual production of unginned cotton is fixed taking account in particular of the quantities on which aid has been applied for. Of the total Greek production of unginned cotton delivered to ginning undertakings during the 2001/02 marketing year, namely 1 354 719 tonnes, the Greek authorities recognised 1 148 357 tonnes as eligible for aid, adjusted to 1 183 155 tonnes to take account of the quality criterion provided for in Article 15(2) of Regulation (EC) No 1051/2001 represented by cotton fibre yield.

(2) All production of unginned cotton of sound and fair merchantable quality delivered to ginning undertakings could be treated as actual production. However, it should be noted that, generally speaking, where common agricultural policy mechanisms are applied, the production taken into account is that which fulfils the conditions laid down by the rules regarding eligibility for aid. Therefore, and because there is no specific provision concerning cotton, it is justified to regard as actual production the total production of unginned cotton of sound and fair merchantable quality which, without prejudice to Article 13(2) of Commission Regulation (EC) No 1591/2001 laying down detailed rules for applying the cotton aid scheme <sup>(3)</sup>, comes from areas declared in accordance with Article 9 of the said Regulation and not excluded from the aid scheme pursuant to Article 17(3) of Regulation (EC) No 1051/2001, and which is delivered by producers to ginning undertakings.

(3) The quantity of 206 362 tonnes of cotton which, on 15 May 2002, had not been recognised as eligible by the Greek authorities comprised, according to the information provided by those authorities, 138 175 tonnes which failed to comply with the national rules on the reduction of areas adopted under Article 17(3) of Regulation (EC) No 1051/2001 and/or involved failings or irregularities in the area declarations, 6 376 tonnes which were not of sound and fair merchantable quality as provided for in Article 15(1) of Regulation (EC) No 1051/2001, 52 361 tonnes excluded due to abnormally high yields revealing a failure to observe sound agricultural practice, and finally 9 450 tonnes which did not observe the delivery conditions.

(4) According to the information communicated by the Greek authorities, for the 2001/02 marketing year the total area sown to cotton is 423 038 hectares while Greek ministerial decree No 40420 of 28 February 2001 restricts, for that year, the areas eligible for production aid to 393 770 hectares. The difference, 29 268 hectares, reflects a minimum area not eligible for the aid pursuant to Article 17(3) of Regulation (EC) No 1051/2001. On the basis of an average yield of 3,032 tonnes per hectare for cotton considered eligible by the Greek authorities, the Commission estimates production from these 29 268 hectares at 88 741 tonnes.

(5) The remainder of the 138 175 tonnes, i.e. at the most 49 434 tonnes, consists of cotton delivered for ginning covered by a declaration under the Integrated Administration and Control System (IACS) which does not mention, at least in total, the area actually sown to cotton by the producer in question. In other words, it comes either from an area not declared and as such not eligible for aid or from an area declared as being sown to another crop but actually sown to cotton. For cotton from an area not properly declared, under Article 13(2) of Regulation (EC) No 1591/2001, without prejudice to the national penalties to be applied to the producers concerned, aid is granted to the ginning undertaking provided that all the other requirements have been met. In view of the impossibility of establishing within the 49 434 tonnes a direct link between irregularities committed within the meaning of the said Article and the batches of cotton concerned, the conditions are not met for application of the said Article. Consequently the 49 434 tonnes should be excluded in their entirety from actual production.

<sup>(1)</sup> OJ L 148, 1.6.2001, p. 1.

<sup>(2)</sup> OJ L 148, 1.6.2001, p. 3.

<sup>(3)</sup> OJ L 210, 3.8.2001, p. 12.

- (6) As a result, a quantity of 1 210 168 tonnes may be regarded as the total production of unginning cotton of sound and fair merchantable quality coming from areas eligible for aid and delivered by producers to ginning undertakings. Taking into account the adjustment for fibre yield, actual production of unginning cotton in Greece for the 2001/02 marketing year may therefore be put at 1 246 839 tonnes.
- (7) Under Article 7(2) of Regulation (EEC) No 1051/2001, if actual production in Spain and Greece exceeds 1 031 000 tonnes, the guide price referred to in Article 3(1) of that Regulation is to be reduced in each Member State where production exceeds its guaranteed national quantity (GNQ). This reduction is calculated differently depending on whether the GNQ is exceeded in both Greece and Spain or in only one of those Member States.
- (8) In the 2001/02 marketing year there has been an overrun in both Spain and Greece. Moreover, if the sum of actual production in Spain and Greece reduced by 1 031 000 tonnes is higher than 469 000 tonnes, the 50 % reduction in the guide price increases gradually in accordance with the rules laid down in the second subparagraph of Article 7(4) of Regulation (EC) No 1051/2001. For the 2001/02 marketing year, actual production of unginning cotton in Greece is in the eighth step of 15 170 tonnes above its guaranteed national quantity increased by 356 000 tonnes. The reduction in the guide price in Greece is therefore 66 %.
- (9) Community law does not provide for the exclusion from the aid scheme of the 52 361 tonnes of cotton that was delivered and produced while failing to observe good agricultural practice. By contrast, the failure to observe the delivery conditions in the case of 9 450 tonnes may be a criterion for not recognising those quantities as eligible for aid.
- (10) Of the quantities of cotton delivered to ginning undertakings in the 2001/02 marketing year but not recognised as eligible by the Greek authorities there is therefore a maximum 1 237 103 which may be eligible under Community rules. For these quantities, therefore, it should be possible to lodge aid applications as referred to in Article 5 of Regulation (EC) No 1591/2001 and to lodge applications for supervised storage as referred to in Article 6 of that Regulation. As regards these aid applications and applications for supervised storage, to take account of their retrospective submission, it is necessary to derogate from certain management rules or aid calculation procedures laid down by Regulation (EC) No 1591/2001.
- (11) Under Article 14(1) of Regulation (EC) No 1051/2001 the amount of the aid to be paid is the amount applicable on the day the application for aid is submitted. Under the transitional measures provided for in Article 21 of Regulation (EC) No 1051/2001, as regards aid applications in Greece submitted from the entry into force of this Regulation for the 2001/02 marketing year, it is necessary to derogate from this provision in order to avoid having to choose, *a posteriori*, the amount of aid. Under these circumstances, it should be laid down that the amount of aid is that which is valid on the day on which the quantities concerned by the applications in question enter the cotton ginning undertaking.
- (12) Under Article 14(2) of Regulation (EC) No 1051/2001 the balance of the aid is paid before the end of the marketing year at the latest, once any adjustments to the aid resulting from application of Article 7 of that Regulation have been determined. The time limits required in the case of new aid applications for Greek unginning cotton eligible for aid for the 2001/02 marketing year do not allow the Greek authorities to pay the balance of the aid before 31 August 2002. Pursuant to the transitional measures provided for in Article 21 of Regulation (EC) No 1051/2001, it is therefore necessary to extend, in Greece, the deadline for the payment of the balance of the aid for that year.
- (13) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Natural Fibres,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. For the 2001/02 marketing year, actual production of unginning cotton is fixed at 1 246 839 tonnes for Greece.
2. The amount by which the guide price is to be reduced for the 2001/02 marketing year is fixed at EUR 41,670/100 kg for Greece.

#### Article 2

1. Notwithstanding the deadlines referred to in the second subparagraph of Article 5(1) and in Article 6(1), (3) and (6) of Regulation (EC) No 1591/2001, the aid applications and applications for supervised storage for the 2001/02 marketing year in Greece may, for the cotton referred to in paragraph 2, be submitted until 15 September 2002.

Article 14(3) of Regulation (EC) No 1591/2001 does not apply to the aid applications referred to in the first subparagraph.

The applications for supervised storage referred to in the first subparagraph shall mention the date of entry of the batch or batches concerned into the ginning undertaking.

2. The applications referred to in paragraph 1 shall relate to cotton of sound and fair merchantable quality:

- not coming from areas which have been disqualified under Article 17(3) of Regulation (EC) No 1051/2001,
- delivered to ginning undertakings for the 2001/02 marketing year in Greece and not having been recognised as eligible by 15 May 2002, including cotton for which no aid was applied for,

- identified by batch and sampled in accordance with Article 6(1) and (2) of Regulation (EC) No 1591/2001 and then ginned before 1 September 2002,
- recorded in accordance with Article 12 of Regulation (EC) No 1591/2001,
- where applicable, by way of derogation from Article 11 of Regulation (EC) No 1051/2001, at a price such that, for each producer concerned and for the total quantities of unginned cotton eligible for aid that producer has delivered for the 2001/02 marketing year, the average price paid is more than or equal to the minimum price referred to in Article 3(2) of Regulation (EC) No 1051/2001.

#### Article 3

1. Notwithstanding Article 14(1) of Regulation (EC) No 1051/2001, the amount of the aid corresponding to the aid

applications referred to in Article 2(1) shall be that which is valid on the day on which the quantities of unginned cotton concerned enter the cotton ginning undertaking.

2. Notwithstanding the second subparagraph of Article 14(2) of Regulation (EC) No 1051/2001, the balance of the aid for the quantities of unginned cotton recognised as eligible for the 2001/02 marketing year in Greece may be granted until 15 October 2002.

#### Article 4

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 31 July 2002.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

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