

## STATE AID

C 46/91 (ex NN 21/91)

Greece

(92/C 266/04)

*(Articles 92 to 94 of the Treaty establishing the European Economic Community)***Commission notice pursuant to Article 93 (2) of the EEC Treaty to other Member States and interested parties concerning Greek aid to the fertilizer industry**

In the letter reproduced below, the Commission informed the Greek Government of its decision to terminate the procedure initiated on 31 July 1991 <sup>(1)</sup>.

1. Acting in response to a complaint, the Commission asked the Greek authorities by letter dated 28 March 1990 for information on aid to the fertilizer industry granted in connection with the activities of Synel, an organization holding the monopoly for the marketing of fertilizers in Greece. By letter dated 12 July 1990 the Greek authorities replied that, although some efforts had been made, the industry had not yet been fully adjusted to Community legislation. Despite an undertaking given by the Greek authorities at two bilateral meetings to provide further information, none has as yet been received by the Commission.

As the fertilizer industry is characterized by substantial intra-Community trade, the Commission considered that the measures in question (in the form of aid to fertilizer producers and users, creating a deficit for Synel which was covered by loans from the State-owned Greek Agricultural Bank) constituted aid within the meaning of Article 92 (1) of the EEC Treaty and considered on the basis of the information available to it that it did not appear to qualify for exemption pursuant to Article 92 (3). The Commission therefore initiated the procedure provided for in Article 93 (2) against the aid in question by decision of 31 July 1991 (COM/91/Min 1071).

2. As part of the abovementioned procedure, the Commission gave the Greek Government notice by letter dated 4 November 1991 to submit its comments. Pursuant to Article 93 (2) of the EEC Treaty, the other Member States and interested parties were also given notice to submit their comments <sup>(2)</sup>.

2.1. The Greek authorities submitted their comments by letters dated 4, 19 and 22 June and 8 July 1992 in

which they stated in particular that the import and marketing monopoly held by Synel was abolished on 1 May 1992.

They also pointed out that the aid had been granted in connection with major restructuring of the industry involving a 40 % cut in production and a 50 % cut in the workforce.

By letters dated 4 and 19 June 1992 they also informed the Commission of their plan to write off Synel's debt to the Greek Agricultural Bank of Dr 97 billion (incurred by granting aid to fertilizer producers and farmers) through the issue of bonds in favour of the Greek Agricultural Bank.

2.2. As part of the abovementioned procedure, one trade association and two firms in the industry submitted their comments. By letter dated 12 February 1992 the Commission forwarded the comments to the Greek authorities and asked them to submit their observations; these were received by letter of 19 June 1992.

3.1. Up to 1 May 1992, the fertilizer marketing and transport monopoly was held in Greece by Synel, 70 % owned by farm cooperative associations and 30 % by the Greek Agricultural Bank. Fertilizers not produced in Greece were obtained through international invitations to tender; the fertilizers produced in Greece were purchased by Synel direct from producers. Fertilizer purchase prices were fixed by type and by producer by Ministerial decision whilst sales prices were fixed by product, at a level applicable throughout Greece, by the Finance Ministry and the Greek Agricultural Bank. Synel itself did not export fertilizers.

3.2. The abolition of the monopoly on the import and distribution of fertilizers in Greece, previously held by Synel, put an end to the infringement of Articles 30 and 37.

<sup>(1)</sup> OJ No C 296, 15. 11. 1991, p. 2.

<sup>(2)</sup> OJ No C 296, 15. 11. 1991.

3.3. As regards the aid to fertilizer producers and farmers which created Synel's debt of Dr 97 billion to the Greek Agricultural Bank, the Commission notes that the aid was not connected in any way with the monopoly's importing and distribution activities. Therefore the restriction in breach of Articles 30 and 37 of the EEC Treaty existing up to 1 May 1992 cannot be regarded as a condition for the granting of the aid under the Iannelli/Volpi judgment (Case 74/76 of 22 March 1977, [1977] ECR 557).

3.3.1. As regards the sector concerned by the aid, it should be noted that the Community fertilizer market is characterized by considerable intra-Community trade. In 1990 16,8 million tonnes were traded, exports of fertilizer from Greece to other Member States totalling 95 400 tonnes. Fertilizer production in Greece came to 677 000 tonnes in 1988 while domestic consumption was 648 000 tonnes.

In view of the foregoing, it must be concluded that the aid to fertilizer producers and consumers granted in connection with Synel's activities, which resulted in the organization owing Dr 97 billion to the Greek Agricultural Bank, is liable to affect trade between Member States and distort competition within the meaning of Article 92 (1) of the EEC Treaty by favouring the enterprises concerned and Greek fertilizer production.

3.3.2. In 1990, however, the Greek authorities embarked on the gradual liberalization — gradual in order to avoid serious disturbances in the agricultural economy — of the fertilizer market by increasing prices and removing restrictions on fertilizer imports. From 1990 to 1992 price levels rose by 40, 25 and 18,5 %; on 1 August 1991, 1 January 1992 and 1 May 1992 the import of three, four and seven types of fertilizer respectively was liberalized.

According to the Greek authorities the fertilizer market was completely liberalized on 1 May 1992. Synel's fertilizer distribution monopoly was abolished and no aid has been granted since 1 January 1992.

Fertilizer producers are now exposed to market forces; the Greek authorities have announced that producers in difficulty will have to solve their financial problems without Government assistance and, if necessary, go into liquidation. All closure and redundancy costs were financed by the enterprises themselves without State aid.

In order to adjust to the liberalized market, Greek fertilizer producers began in 1986, acting independently (although indirectly assisted by aid through the fixed prices at which they sold their products to Synel, which

partly caused the debt owed to the Agricultural Bank), to discontinue certain lines of production and cut jobs, thus considerably reducing production costs. Among the closures were several plants producing sulphuric acid with a total capacity of 478 000 tonnes, compound fertilizers with a total capacity of 240 000 tonnes and ammonia with a total capacity of 465 000 tonnes. These closures represent a major contribution to the reorganization of the fertilizer industry at Community level which is currently faced with overcapacity. The closures resulted in total production cuts of 40 % and the shedding of 1 942 jobs out of a total of 4 000, giving a reduction of around 50 %.

3.3.3. The Greek authorities' plan to cover the debts to the Greek Agricultural Bank, incurred by Synel as a result of its past activities in a previously regulated market, must be considered an essential part of the liberalization of the Greek fertilizer market.

The aid which caused Synel's debt of Dr 97 billion to the Agricultural Bank was used to bring the Greek fertilizer industry into line with Community legislation.

The aid to producers in the form of the fixed prices paid by Synel for their products helped to finance the restructuring and associated extensive rationalization of production in Greece, through a 40 % reduction in production and a 50 % cut in jobs. The aid together with the rationalization and reduction in fertilizer production also helped to strengthen the industry at Community level which is currently suffering from overcapacity. Consequently, the aid can be regarded as facilitating the development of certain economic activities without adversely affecting trading conditions to an extent contrary to the common interest.

The aid to farmers, in the form of fixed prices for the fertilizers distributed by Synel, transport subsidies aimed at maintaining a uniform price level even in hilly and insular areas and loans, was not abolished immediately (but gradually) to avoid serious disturbances in Greek agriculture, one of the most important sectors in the Greek economy.

The proposed write-off of the Dr 97 billion debt granted in the form of a loan by the Greek Agricultural Bank to cover Synel's deficit incurred as a result of granting aid to fertilizer producers and purchasers in Greece is essential to the adjustment of the fertilizer industry to Community legislation. As the Greek fertilizer market

has now been fully liberalized as regards both prices and imports, there are no longer any grounds for the original complaint. The Greek authorities have also formally undertaken not to grant any future aid to the industry; Greek producers are fully exposed to the liberalized market; in the event of financial difficulties, they will have to settle their problems without Government assistance.

3.3.4. I can therefore inform you that the Commission, having concluded that the aid proposed by the Greek Government qualifies for exemption pursuant to Article 93 (3) (c), has decided to terminate the Article

93 (2) procedure in respect of the aid to the fertilizer industry.

The Commission regrets that the aid in question was granted in breach of Article 93 (3), that the Greek authorities were late in adjusting the fertilizer industry to Community legislation and that the detailed information repeatedly requested from 1990 onwards was sent only after the initiation of the Article 93 (2) procedure.

The Greek authorities are hereby requested to send the Commission an annual report on the Greek fertilizer market (consumption, imports, domestic production) and the financial position of Greek fertilizer producers.'

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