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II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 207/2010

of 10 March 2010

amending for the 121st time Council Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban, and repealing Council Regulation (EC) No 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan⁽¹⁾, and in particular Article 7(1)(a) thereof,

Whereas:

(1) Annex I to Regulation (EC) No 881/2002 lists the persons, groups and entities covered by the freezing of funds and economic resources under that Regulation.

(2) On 1 March 2010 the Sanctions Committee of the United Nations Security Council decided to remove two legal persons, groups or entities from its list of persons, groups and entities to whom the freezing of funds and economic resources should apply.

(3) Annex I should therefore be updated accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 881/2002 is hereby amended as set out in the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 10 March 2010.

*For the Commission,
On behalf of the President,*

João VALE DE ALMEIDA
Director-General for External Relations

⁽¹⁾ OJ L 139, 29.5.2002, p. 9.

ANNEX

Annex I to Regulation (EC) No 881/2002 is amended as follows:

The following entries under the heading 'Legal persons, groups and entities' are deleted:

- (a) 'BA Taqwa for Commerce and Real Estate Company Limited (*alias* Hochburg AG), Vaduz, Liechtenstein (formerly c/o Astat Trust reg).'
 - (b) 'Nada International Anstalt. Address: Vaduz, Liechtenstein (formerly c/o Asat Trust reg.). Other information: Liquidated and deleted from Commercial Registry. Date of designation referred to in Article 2a (4) (b): 3.9.2002.'
-

COMMISSION REGULATION (EU) No 208/2010**of 11 March 2010****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 12 March 2010.

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

Done at Brussels, 11 March 2010.

*For the Commission,
On behalf of the President,**Jean-Luc DEMARTY
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	IL	174,7
	JO	62,0
	MA	129,8
	TN	160,4
	TR	132,6
	ZZ	131,9
0707 00 05	EG	227,8
	JO	138,7
	MK	134,1
	TR	143,9
	ZZ	161,1
0709 90 70	JO	80,1
	MA	200,7
	TR	128,7
	ZZ	136,5
0709 90 80	EG	32,4
	ZZ	32,4
0805 10 20	CL	52,4
	EG	45,2
	IL	52,1
	MA	57,0
	TN	55,1
	TR	61,5
	ZZ	53,9
0805 50 10	EG	76,3
	IL	72,8
	TR	65,4
	ZZ	71,5
0808 10 80	CA	102,4
	CN	73,4
	MK	24,7
	US	108,0
	UY	70,1
	ZZ	75,7
0808 20 50	AR	98,3
	CL	108,7
	CN	64,4
	US	95,6
	ZA	92,2
	ZZ	91,8

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EU) No 209/2010**of 11 March 2010****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 877/2009 for the 2009/10 marketing year**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (single CMO Regulation) ⁽¹⁾,Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ⁽²⁾, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

(1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups

for the 2009/10 marketing year are fixed by Commission Regulation (EC) No 877/2009 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EU) No 205/2010 ⁽⁴⁾.

(2) The data currently available to the Commission indicate that those amounts should be amended in accordance with the rules and procedures laid down in Regulation (EC) No 951/2006,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 877/2009 for the 2009/10, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 12 March 2010.

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

Done at Brussels, 11 March 2010.

*For the Commission,
On behalf of the President,*

Jean-Luc DEMARTY

*Director-General for Agriculture and
Rural Development*⁽¹⁾ OJ L 299, 16.11.2007, p. 1.⁽²⁾ OJ L 178, 1.7.2006, p. 24.⁽³⁾ OJ L 253, 25.9.2009, p. 3.⁽⁴⁾ OJ L 61, 11.3.2010, p. 33.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 12 March 2010

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 ⁽¹⁾	37,60	0,01
1701 11 90 ⁽¹⁾	37,60	3,62
1701 12 10 ⁽¹⁾	37,60	0,00
1701 12 90 ⁽¹⁾	37,60	3,33
1701 91 00 ⁽²⁾	39,49	5,62
1701 99 10 ⁽²⁾	39,49	2,49
1701 99 90 ⁽²⁾	39,49	2,49
1702 90 95 ⁽³⁾	0,39	0,29

⁽¹⁾ For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.

⁽²⁾ For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.

⁽³⁾ Per 1 % sucrose content.

DECISIONS

COMMISSION DECISION

of 11 March 2010

excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD)

(notified under document C(2010) 1317)

(Only the Bulgarian, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Polish, Portuguese, Slovak, Spanish and Swedish texts are authentic)

(2010/152/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ⁽¹⁾, and in particular Article 7(4) thereof,

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy ⁽²⁾, and in particular Article 31 thereof,

Having consulted the Committee on the Agricultural Funds,

Whereas:

(1) Under Article 7(4) of Regulation (EC) No 1258/1999, and Article 31 of Regulation (EC) No 1290/2005, the Commission is to carry out the necessary verifications, communicate to the Member States the results of these verifications, take note of the comments of the Member States, initiate a bilateral discussion so that an agreement may be reached with the Member States in question, and formally communicate its conclusions to them.

(2) The Member States have had an opportunity to request the launch of a conciliation procedure. That opportunity has been used in some cases and the reports issued on the outcome have been examined by the Commission.

(3) Under Regulation (EC) No 1258/1999 and Regulation (EC) No 1290/2005, only agricultural expenditure which has been incurred in a way that has not infringed European Union rules may be financed.

(4) In the light of the verifications carried out, the outcome of the bilateral discussions and the conciliation procedures, part of the expenditure declared by the Member States does not fulfil this requirement and cannot, therefore, be financed under the EAGGF Guarantee Section, the European Agricultural Guarantee Fund, hereinafter referred to as EAGF, and under the European Agricultural Fund for Rural Development, hereinafter referred to as EAFRD.

(5) The amounts that are not recognised as being chargeable to the EAGGF Guarantee Section, the EAGF and the EAFRD should be indicated. Those amounts do not relate to expenditure incurred more than 24 months before the Commission's written notification of the results of the verifications to the Member States.

(6) As regards the cases covered by this Decision, the assessment of the amounts to be excluded on grounds of non-compliance with European Union rules was notified by the Commission to the Member States in a summary report on the subject.

(7) This Decision is without prejudice to any financial conclusions that the Commission may draw from the judgments of the Court of Justice in cases pending on 30 September 2009 and relating to its content,

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.

⁽²⁾ OJ L 209, 11.8.2005, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

The expenditure itemised in the Annex hereto that has been incurred by the Member States' accredited paying agencies and declared under the EAGGF Guarantee Section, under the EAGF or under the EAFRD shall be excluded from European Union financing because it does not comply with European Union rules.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Republic of Bulgaria, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the

Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Grand Duchy of Luxembourg, the Republic of Hungary, the Kingdom of the Netherlands, the Republic of Poland, the Portuguese Republic, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 11 March 2010.

For the Commission
Dacian CIOLOŞ
Member of the Commission

ANNEX

BUDGET ITEM 6 7 0 1

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
BE	Financial audit — Overshooting	2008	Overshooting of financial ceilings	one-off		EUR	- 593,30	- 593,30	0,00
Total BE							- 593,30	- 593,30	0,00
BG	Financial audit — payment deadlines	2008	Non-respect of payment deadlines	one-off		EUR	- 10 969,94	- 10 969,94	0,00
Total BG							- 10 969,94	- 10 969,94	0,00
CY	Direct Payments	2005	Law quality and incorrect timing of on-the-spot checks, deficiencies in GAEC criteria controls Weak general control environment	flat-rate	10,00	EUR	- 756 946,49	0,00	- 756 946,49
Total CY							- 756 946,49	0,00	- 756 946,49
DE	Direct Payments	2006	Wrong application of reductions and exclusions	one-off		EUR	- 6 712 699,14	0,00	- 6 712 699,14
DE	Financial audit — payment deadlines	2008	Non-respect of payment deadlines	one-off		EUR	- 37 390,29	- 37 390,29	0,00
Total DE							- 6 750 089,43	- 37 390,29	- 6 712 699,14
DK	Cross Compliance	2006	Insufficient quantity and quality of key and ancillary controls	flat-rate	5,00	DKK	- 10 302 438,99	0,00	- 10 302 438,99
DK	Cross Compliance	2006	Insufficient quantity and quality of key and ancillary controls	one-off		DKK	- 495 596,61	0,00	- 495 596,61
DK	Cross Compliance	2007	Compensation following adjustments made by the MS in annual declarations			DKK	16 823,86	0,00	16 823,86
DK	Cross Compliance	2007	Insufficient quantity and quality of key and ancillary controls	flat-rate	5,00	EUR	- 2 912 878,81	0,00	- 2 912 878,81
DK	Meat Premiums — Bovines	2003	Insufficient quantity of on-the-spot checks	flat-rate	2,00	DKK	- 8 883 403,83	0,00	- 8 883 403,83
DK	Meat Premiums — Bovines	2005	Insufficient quantity of on-the-spot checks	flat-rate	2,00	DKK	- 40 706,28	0,00	- 40 706,28
DK	Meat Premiums — Bovines	2005	Non-respect of definition of suckler cow	one-off		EUR	- 229 600,00	0,00	- 229 600,00
DK	Meat Premiums — Bovines	2004	Insufficient quantity of on-the-spot checks	flat-rate	2,00	DKK	- 7 410,47	0,00	- 7 410,47

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
DK	Meat Premiums — Bovines	2004	Compensation following adjustments made by the MS in annual declarations			EUR	1 363,55	0,00	1 363,55
DK	Meat Premiums — Bovines	2004	Non-respect of definition of suckler cow	one-off		EUR	- 164 800,00	0,00	- 164 800,00
DK	Meat Premiums — Bovines	2005	Compensation following adjustments made by the MS in annual declarations			EUR	2 519,93	0,00	2 519,93
DK	Meat Premiums — Bovines	2006	Compensation following adjustments made by the MS in annual declarations			DKK	9 238,20	0,00	9 238,20
Total DK (EUR)							- 3 303 395,33	0,00	- 3 303 395,33
Total DK (DKK)							- 19 703 494,12	0,00	- 19 703 494,12
EE	Financial audit — Overshooting	2008	Overshooting of financial ceilings	one-off		EUR	- 30 242,24	- 30 242,24	0,00
Total EE							- 30 242,24	- 30 242,24	0,00
ES	Clearance of accounts	2004	Unrecoverable debt	one-off		EUR	- 12 466,39	0,00	- 12 466,39
ES	Cross Compliance	2006	Lack of on-the-spot checks	flat-rate	10,00	EUR	- 2 226 313,51	0,00	- 2 226 313,51
ES	Cross Compliance	2007	Lack of on-the-spot checks	flat-rate	10,00	EUR	- 18 615,65	0,00	- 18 615,65
ES	Financial audit — payment deadlines	2008	Non-respect of payment deadlines	one-off		EUR	- 3 919 231,56	- 4 103 814,39	184 582,83
ES	Financial audit — Overshooting	2008	Ineligible expenditure, milk levy and failure to repay amounts due to cross-compliance	one-off		EUR	8 318,45	8 318,45	0,00
ES	Financial audit — Overshooting	2008	Overshooting of financial ceilings	one-off		EUR	- 823 800,98	- 823 800,98	0,00
ES	Fruit and Vegetables — Operational Programmes	2004	Ineligible cost of environmental management of packaging	one-off		EUR	- 3 929 919,02	0,00	- 3 929 919,02
ES	Fruit and Vegetables — Operational Programmes	2005	Ineligible cost of environmental management of packaging	one-off		EUR	- 14 719 270,21	0,00	- 14 719 270,21
ES	Fruit and Vegetables — Operational Programmes	2006	Ineligible cost of environmental management of packaging	one-off		EUR	- 17 337 716,29	0,00	- 17 337 716,29
ES	Fruit and Vegetables — Producer Groups	2003	Ineligible cost of environmental management of packaging	one-off		EUR	- 1 243 226,69	0,00	- 1 243 226,69

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
ES	Fruit and Vegetables — Producer Groups	2003	Weaknesses in the key control (insufficient checks on double funding)	flat-rate	5,00	EUR	- 2 130 607,74	0,00	- 2 130 607,74
ES	Fruit and Vegetables — Producer Groups	2004	Ineligible cost of environmental management of packaging	one-off		EUR	- 1 096 997,97	0,00	- 1 096 997,97
ES	Fruit and Vegetables — Producer Groups	2004	Weaknesses in the key control (insufficient checks on double funding)	flat-rate	5,00	EUR	- 2 496 111,63	0,00	- 2 496 111,63
ES	Fruit and Vegetables — Producer Groups	2005	Weaknesses in the key control (insufficient checks on double funding)	flat-rate	5,00	EUR	- 2 359 546,06	0,00	- 2 359 546,06
ES	Fruit and Vegetables — Producer Groups	2006	Weaknesses in the key control (insufficient checks on double funding)	flat-rate	5,00	EUR	- 2 148 564,48	0,00	- 2 148 564,48
ES	Hemp — production aid	1997	Reimbursement following judgment of Court of Justice in the case T-259/05	flat-rate	10,00	EUR	112 677,49	0,00	112 677,49
ES	Hemp — production aid	1998	Reimbursement following judgment of Court of Justice in the case T-259/05	flat-rate	10,00	EUR	290 132,36	0,00	290 132,36
ES	Hemp — production aid	1999	Reimbursement following judgment of Court of Justice in the case T-259/05	flat-rate	10,00	EUR	220,24	0,00	220,24
ES	Hemp — production aid	1999	Reimbursement following judgment of Court of Justice in the case T-259/05	flat-rate	25,00	EUR	3 135 672,08	0,00	3 135 672,08
ES	Hemp — production aid	2000	Reimbursement following judgment of Court of Justice in the case T-259/05	flat-rate	25,00	EUR	1 417 423,82	0,00	1 417 423,82
ES	Hemp — production aid	2001	Reimbursement following judgment of Court of Justice in the case T-259/05	flat-rate	25,00	EUR	331 466,05	0,00	331 466,05
ES	Hemp — production aid	2002	Reimbursement following judgment of Court of Justice in the case T-259/05	flat-rate	25,00	EUR	- 1 014,83	0,00	- 1 014,83
Total ES							- 49 167 492,52	- 4 919 296,92	- 44 248 195,60
FI	Financial audit — Overshooting	2008	Overshooting of financial ceilings	one-off		EUR	- 2 432,42	- 2 432,42	0,00
Total FI							- 2 432,42	- 2 432,42	0,00
FR	Clearance of accounts	2002	Debts management: non-recovery of debts	one-off		EUR	- 256 801,47	0,00	- 256 801,47
FR	Clearance of accounts	2002	Overshooting of ceilings	one-off		EUR	- 464 310,98	0,00	- 464 310,98
FR	Clearance of accounts	2004	Most likely error	one-off		EUR	- 178 075,49	0,00	- 178 075,49

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
FR	Clearance of accounts	2005	Debts management: non-recovery of debts	one-off		EUR	- 66 012,51	0,00	- 66 012,51
FR	Clearance of accounts	2005	Systematic error	one-off		EUR	- 62 342,03	0,00	- 62 342,03
FR	Dried Fodder	2005	Insufficient quantity of samples taken and low quality of their examination	flat-rate	2,00	EUR	- 680 596,08	0,00	- 680 596,08
FR	Dried Fodder	2006	Insufficient quantity of samples taken and low quality of their examination	flat-rate	2,00	EUR	- 1 514 646,79	0,00	- 1 514 646,79
FR	Dried Fodder	2007	Insufficient quantity of samples taken and low quality of their examination	flat-rate	2,00	EUR	- 849 968,48	0,00	- 849 968,48
FR	Fruit and Vegetables — Operational Programmes	2006	Ineligible cost of environmental management of packaging Personnel costs too high Insufficient justification for specific costs of certified plants	one-off		EUR	- 205 654,66	0,00	- 205 654,66
FR	Fruit and Vegetables — Operational Programmes	2007	Ineligible cost of environmental management of packaging Personnel costs too high Insufficient justification for specific costs of certified plants	one-off		EUR	- 4 402 146,53	0,00	- 4 402 146,53
FR	Fruit and Vegetables — Operational Programmes	2008	Ineligible cost of environmental management of packaging Personnel costs too high Insufficient justification for specific costs of certified plants	one-off		EUR	- 2 250 805,13	0,00	- 2 250 805,13
FR	Meat Premiums — Bovines	2003	Weaknes on the application of sanctions at national level	one-off		EUR	- 2 175 736,00	0,00	- 2 175 736,00
FR	Meat Premiums — Bovines	2004	Weaknes on the application of sanctions at national level	one-off		EUR	- 1 586 850,00	0,00	- 1 586 850,00
FR	Meat Premiums — Bovines	2004	Very weak control environment and absence of the suckler cow status of the herd	flat-rate	25,00	EUR	- 1 825 745,07	0,00	- 1 825 745,07
FR	Meat Premiums — Bovines	2004	Very weak control environment	flat-rate	10,00	EUR	- 161 858,24	0,00	- 161 858,24
FR	Meat Premiums — Bovines	2005	Very weak control environment and absence of the suckler cow status of the herd	flat-rate	25,00	EUR	- 1 835 682,64	0,00	- 1 835 682,64
FR	Meat Premiums — Bovines	2005	Very weak control environment	flat-rate	10,00	EUR	- 171 143,00	0,00	- 171 143,00
FR	Meat Premiums — Bovines	2006	Very weak control environment	flat-rate	25,00	EUR	- 8 361,56	0,00	- 8 361,56

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
FR	Meat Premiums — Bovines	2006	Very weak control environment	flat-rate	5,00	EUR	- 86 986,20	0,00	- 86 986,20
FR	Meat Premiums — Bovines	2006	Very weak control environment	flat-rate	10,00	EUR	- 722 979,52	0,00	- 722 979,52
Total FR							- 19 506 702,38	0,00	- 19 506 702,38
GB	Direct Payments	2006	Incorrect application of reductions and exclusions	one-off		GBP	- 8 122,33	0,00	- 8 122,33
GB	Direct Payments	2007	Incorrect application of reductions and exclusions	one-off		GBP	- 9 623,98	0,00	- 9 623,98
GB	Financial audit — payment deadlines	2008	Non-respect of payment deadlines	one-off		EUR	- 14 180 950,72	- 14 311 495,63	130 544,91
GB	Financial audit — Overshooting	2008	Overshooting of financial ceilings	one-off		EUR	- 262 732,55	- 262 732,55	0,00
GB	Rural Development EAGGF Axis 2	2005	Weaknesses in key checks and in administrative controls Insufficient checks of GAEC criteria and cross-checks with animal database	flat-rate	5,00	GBP	- 36 364,00	0,00	- 36 364,00
GB	Rural Development EAGGF Axis 2	2006	Weaknesses in key checks and in administrative controls Insufficient checks of GAEC criteria and cross-checks with animal database	flat-rate	5,00	GBP	- 3 254 010,00	0,00	- 3 254 010,00
Total GB (GBP)							- 3 308 120,31	0,00	- 3 308 120,31
Total GB (EUR)							- 14 443 683,27	- 14 574 228,18	130 544,91
GR	Food Aid within the Community	2005	Ineligible costs resulting from late withdrawals and late distribution	one-off		EUR	- 1 310 306,02	0,00	- 1 310 306,02
GR	Food Aid within the Community	2006	Ineligible costs resulting from late withdrawals and late distribution	one-off		EUR	- 6 799 511,68	0,00	- 6 799 511,68
GR	Food Aid within the Community	2007	Ineligible costs of storage resulting from late withdrawals	one-off		EUR	- 220 830,34	0,00	- 220 830,34
GR	Fruit and Vegetables — Operational Programmes	2005	Value of Marketed Production (VMP), used for calculating Community aid, wrongly established	one-off		EUR	- 38 933,40	0,00	- 38 933,40

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
GR	Fruit and Vegetables — Operational Programmes	2006	Value of Marketed Production (VMP), used for calculating Community aid, wrongly established	one-off		EUR	- 127 757,63	0,00	- 127 757,63
GR	Fruit and Vegetables — Operational Programmes	2007	Value of Marketed Production (VMP), used for calculating Community aid, wrongly established	one-off		EUR	- 148 714,80	0,00	- 148 714,80
GR	Cotton	2004	Weak control system. Deficiencies in the control of area and environmental measures	flat-rate	5,00	EUR	- 12 022,67	0,00	- 12 022,67
GR	Cotton	2004	Overshooting the production quantities permitted by the Regulations	one-off		EUR	- 37 392,00	0,00	- 37 392,00
GR	Cotton	2005	Weak control system. Deficiencies in the control of area and environmental measures	flat-rate	5,00	EUR	- 34 573 887,48	0,00	- 34 573 887,48
GR	Cotton	2005	Overshooting the production quantities permitted by the Regulations	one-off		EUR	- 1 284 276,00	0,00	- 1 284 276,00
GR	Cotton	2006	Weak control system. Deficiencies in the control of area and environmental measures	flat-rate	5,00	EUR	- 68 134 305,29	0,00	- 68 134 305,29
GR	Cotton	2006	Weak control system. Deficiencies in the control of area and environmental measures	one-off		EUR	- 1 411 287,00	0,00	- 1 411 287,00
GR	Olive Oil — Consumption Aid	1996	Reimbursement following judgment of Court of Justice in the case T-243/05	one-off		EUR	67 626,66	0,00	67 626,66
GR	Olive Oil — Consumption Aid	1997	Reimbursement following judgment of Court of Justice in the case T-243/05	one-off		EUR	116 091,92	0,00	116 091,92
GR	Olive Oil — Consumption Aid	1998	Reimbursement following judgment of Court of Justice in the case T-243/05	one-off		EUR	16 428,10	0,00	16 428,10
GR	RD Guarantee (area related measures)	2005	Persistent weaknesses in IACS system. Deficiencies in control reports. Delayed performance of on-the-spot checks	flat-rate	10,00	EUR	- 8 498 907,00	0,00	- 8 498 907,00
GR	RD Guarantee (area related measures)	2006	Persistent weaknesses in IACS system. Deficiencies in control reports. Delayed performance of on-the-spot checks	flat-rate	5,00	EUR	- 349 453,00	0,00	- 349 453,00

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
GR	RD Guarantee (area related measures)	2006	Persistent weaknesses in IACS system. Deficiencies in control reports. Delayed performance of on-the-spot checks	flat-rate	10,00	EUR	- 6 168 408,00	0,00	- 6 168 408,00
GR	RD Guarantee new measures	2005	Persistent weaknesses in IACS system. Deficiencies in control reports. Delayed performance of on-the-spot checks	flat-rate	10,00	EUR	- 690 219,00	0,00	- 690 219,00
GR	RD Guarantee new measures	2006	Persistent weaknesses in IACS system. Deficiencies in control reports. Delayed performance of on-the-spot checks	flat-rate	10,00	EUR	- 2 816 729,00	0,00	- 2 816 729,00
Total GR							- 132 422 793,63	0,00	- 132 422 793,63
HU	Rural Development Guarantee	2005	Reimbursement due to double correction (under Commission Decision 2009/721/EC and recovery order GFO.09.025 concerning TRDI program 2004HU06GDO001)	one-off		HUF	42 638 662,00	0,00	42 638 662,00
Total HU							42 638 662,00	0,00	42 638 662,00
IE	Dairy premium	2005	Non-application of aid reductions towards farmers lodging their aid applications after deadline	one-off		EUR	- 367 181,29	0,00	- 367 181,29
IE	Financial audit — payment deadlines	2008	Non-respect of payment deadlines	one-off		EUR	- 152 676,24	- 152 676,24	0,00
Total IE							- 519 857,53	- 152 676,24	- 367 181,29
IT	Financial audit — payment deadlines	2008	Ineligible expenditure	one-off		EUR	- 9 345,00	- 9 345,00	0,00
IT	Financial audit — payment deadlines	2008	Non-respect of payment deadlines	one-off		EUR	- 1 877 812,65	- 1 877 812,65	0,00
IT	Fruit and Vegetables — Operational Programmes	2007	Ineligible expenditure			EUR	- 18 750,00	0,00	- 18 750,00
Total IT							- 1 905 907,65	- 1 887 157,65	- 18 750,00
LU	Financial audit — Overshooting	2008	Overshooting of financial ceilings	one-off		EUR	- 1 273,90	- 1 273,90	0,00
LU	Meat Premiums — Bovines	2001	Lack of administrative controls concerning retention period. Lack of on-the-spot controls. Inappropriate calculation of sanctions	one-off		EUR	- 18 292,47	0,00	- 18 292,47

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
LU	Meat Premiums — Bovines	2002	Lack of administrative controls concerning retention period. Lack of on-the-spot controls. Inappropriate calculation of sanctions	one-off		EUR	- 3 973,52	0,00	- 3 973,52
LU	Meat Premiums — Bovines	2003	Lack of administrative controls concerning retention period. Lack of on-the-spot controls. Inappropriate calculation of sanctions	one-off		EUR	- 150 184,70	0,00	- 150 184,70
LU	Meat Premiums — Bovines	2004	Lack of administrative controls concerning retention period. Lack of on-the-spot controls. Inappropriate calculation of sanctions	one-off		EUR	- 190 950,23	0,00	- 190 950,23
Total LU							- 364 674,82	- 1 273,90	- 363 400,92
NL	Clearance of accounts	2000-04	Tested population errors	one-off		EUR	- 481 542,94	0,00	- 481 542,94
NL	Clearance of accounts	2004	Tested population errors	one-off		EUR	- 46 697,81	0,00	- 46 697,81
NL	Clearance of accounts	2005	Tested population errors	one-off		EUR	- 402 695,00	0,00	- 402 695,00
NL	Export Refunds	2003	Insufficient number of substitution checks performed	flat-rate	2,00	EUR	- 4 037 899,76	0,00	- 4 037 899,76
NL	Export Refunds	2003	Insufficient number of substitution checks performed	flat-rate	5,00	EUR	- 4 083 396,09	0,00	- 4 083 396,09
NL	Export Refunds	2004	Insufficient number of substitution checks performed	flat-rate	2,00	EUR	- 1 062 605,20	0,00	- 1 062 605,20
NL	Export Refunds	2004	Insufficient number of substitution checks performed	flat-rate	5,00	EUR	- 1 193 119,34	0,00	- 1 193 119,34
NL	Export Refunds	2005	Insufficient number of substitution checks performed	flat-rate	5,00	EUR	- 31 195,10	0,00	- 31 195,10
NL	Financial audit — Overshooting	2007	Overshooting of financial ceilings	one-off		EUR	- 914,70	0,00	- 914,70
NL	Financial audit — Overshooting	2008	Ineligible expenditure	one-off		EUR	- 91 807,12	- 91 807,12	0,00

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
NL	Meat Premiums — Bovines	2004	Weaknesses in the management of the herd registers and of the supporting documents	flat-rate	2,00	EUR	- 3 214 925,84	0,00	- 3 214 925,84
NL	Meat Premiums — Bovines	2005	Weaknesses in the management of the herd registers and of the supporting documents	flat-rate	2,00	EUR	- 3 559 908,74	0,00	- 3 559 908,74
NL	Meat Premiums — Bovines	2006	Weaknesses in the management of the herd registers and of the supporting documents	flat-rate	2,00	EUR	- 19 171,10	0,00	- 19 171,10
Total NL							- 18 225 878,74	- 91 807,12	- 18 134 071,62
PL	Direct Payments	2005	Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance	flat-rate	5,00	PLN	- 1 408 667,08	0,00	- 1 408 667,08
PL	Direct Payments	2006	Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance	one-off	2,70	PLN	- 18 510 167,85	0,00	- 18 510 167,85
PL	Direct Payments	2006	Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance	one-off	3,00	PLN	- 87 534 475,32	0,00	- 87 534 475,32
PL	Direct Payments	2006	Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance	flat-rate	5,00	PLN	- 80 963 313,58	0,00	- 80 963 313,58

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
PL	Direct Payments	2007	Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance	one-off	2,20	PLN	- 12 919 019,99	0,00	- 12 919 019,99
PL	Direct Payments	2007	Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance	one-off	2,50	EUR	- 23 256 069,07	0,00	- 23 256 069,07
PL	Direct Payments	2007	Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance	one-off	2,70	PLN	- 24 369,25	0,00	- 24 369,25
PL	Direct Payments	2007	Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance	one-off	3,00	EUR	- 34 508,87	0,00	- 34 508,87
PL	Direct Payments	2007	Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance	flat-rate	5,00	EUR	- 2 293 418,87	0,00	- 2 293 418,87
PL	Direct Payments	2007	Land parcel system not completely vectorised. Acceptance of ineligible land for payments. Too low number of on-the-spot checks in regions with high error rates. Erroneous application of provisions of intentional non-compliance	flat-rate	5,00	PLN	- 78 434 429,08	0,00	- 78 434 429,08
PL	Financial audit — Overshooting	2008	Overshooting of financial ceilings	one-off		EUR	0,00	- 1 894 213,61	1 894 213,61
Total PL (PLN)							- 279 794 442,15	0,00	- 279 794 442,15
Total PL (EUR)							- 25 583 996,81	- 1 894 213,61	- 23 689 783,20

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
SE	Cross Compliance	2006	Insufficient quantity and quality of key and ancillary controls	flat-rate	5,00	SEK	- 9 218 825,98	0,00	- 9 218 825,98
SE	Cross Compliance	2007	Insufficient quantity and quality of key and ancillary controls	flat-rate	5,00	EUR	- 2 137 710,17	0,00	- 2 137 710,17
SE	Financial audit — payment deadlines	2008	Non-respect of payment deadlines	one-off		EUR	- 35 584,38	- 35 584,38	0,00
SE	Financial audit — Overshooting	2008	Overshooting of financial ceilings	one-off		EUR	- 44,84	- 44,84	0,00
Total SE (SEK)							- 9 218 825,98	0,00	- 9 218 825,98
Total SE (EUR)							- 2 173 339,39	- 35 629,22	- 2 137 710,17

BUDGET ITEM 6 5 0 0

MS	Programme	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
SK	RD Guarantee (programme 2004 SK 06 GDO 001)	2005	Incorrect control procedure resulting in insufficient controls within chosen samples	flat-rate	2,00	EUR	- 1 249 561,00	0,00	- 1 249 561,00
SK	RD Guarantee (programme 2004 SK 06 GDO 001)	2006	Incorrect control procedure resulting in insufficient controls within chosen samples	flat-rate	2,00	EUR	- 1 784 419,00	0,00	- 1 784 419,00
SK	RD Guarantee (programme 2004 SK 06 GDO 001)	2007	Incorrect control procedure resulting in insufficient controls within chosen samples	flat-rate	2,00	EUR	- 933,00	0,00	- 933,00
Total SK							- 3 034 913,00	0,00	- 3 034 913,00

BUDGET ITEM 6 7 1 1

MS	Programme	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
GB	Rural Development Programme 2007UK06RPO001	2007	Weaknesses in key checks and in administrative controls Insufficient checks of GAEC criteria and cross-checks with animal database	flat-rate	5,00	EUR	- 39 244,00	0,00	- 39 244,00
Total GB							- 39 244,00	0,00	- 39 244,00

BUDGET ITEM 05 07 01 07

MS	Programme	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
HU	Financial audit — Overshooting	2008	Ineligible expenditure	one-off		EUR	- 5 622,81	- 5 622,81	0,00
HU	Financial audit — Overshooting	2008	Overshooting of financial ceilings	one-off		EUR	21 511,01	- 5 432,55	26 943,56
Total HU (EUR)							15 888,20	- 11 055,36	26 943,56
PT	Direct Payments	2004	Reimbursement following judgment of Court of Justice in the case T-50/07	one-off		EUR	1 983 698,00	0,00	1 983 698,00
PT	Flax — Production Aid	2001	Reimbursement following judgment of Court of Justice in the case T-183/06	one-off		EUR	3 135 348,71		3 135 348,71
Total PT							5 119 046,71	0,00	5 119 046,71

COMMISSION DECISION**of 11 March 2010****prolonging the validity of Decision 2009/251/EC requiring Member States to ensure that products containing the biocide dimethylfumarate are not placed or made available on the market***(notified under document C(2010) 1337)***(Text with EEA relevance)**

(2010/153/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety ⁽¹⁾, and in particular Article 13 thereof,

Whereas:

- (1) Commission Decision 2009/251/EC ⁽²⁾ requires Member States to ensure that products containing the biocide dimethylfumarate (DMF) are not placed or made available on the market.
- (2) Decision 2009/251/EC was adopted in accordance with the provisions of Article 13 of Directive 2001/95/EC, which restricts the validity of the Decision to a period not exceeding 1 year, but allows it to be confirmed for additional periods none of which shall exceed 1 year.
- (3) In the light of the experience acquired so far and the absence of a permanent measure addressing consumer products containing DMF, it is necessary to prolong the validity of Decision 2009/251/EC for 12 months and to amend it accordingly.
- (4) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Directive 2001/95/EC,

HAS ADOPTED THIS DECISION:

Article 1

The text of Article 4 of Decision 2009/251/EC is replaced by the following:

‘This Decision shall be applicable until 15 March 2011.’

Article 2

Member States shall take the necessary measures to comply with this Decision by 15 March 2010 at the latest and shall publish those measures. They shall forthwith inform the Commission thereof.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 11 March 2010.

For the Commission

John DALLI

Member of the Commission⁽¹⁾ OJ L 11, 15.1.2002, p. 4.⁽²⁾ OJ L 74, 20.3.2009, p. 32.

GUIDELINES

GUIDELINE OF THE EUROPEAN CENTRAL BANK

of 4 March 2010

amending Guideline ECB/2000/7 on monetary policy instruments and procedures of the Eurosystem

(ECB/2010/1)

(2010/154/EU)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

aim to make a further contribution to restoring the proper functioning of the asset-backed securities market.

Having regard to the Treaty on the Functioning of the European Union, and in particular to the first indent of Article 127(2) thereof,

- (3) In order to implement the decision of the Governing Council of the ECB of 22 October 2009, it is necessary to amend Guideline ECB/2000/7 of 31 August 2000 on monetary policy instruments and procedures of the Eurosystem⁽¹⁾,

Having regard to the Statute of the European System of Central Banks and of the European Central Bank (hereinafter the 'Statute of the ESCB'), and in particular Article 12.1 and Article 14.3, in conjunction with the first indent of Article 3.1, Article 18.2 and the first paragraph of Article 20 thereof,

HAS ADOPTED THIS GUIDELINE:

Article 1

Amendments to Annex I to Guideline ECB/2000/7

Whereas:

In Section 6.3.2, the following indent is inserted after the first indent on 'ECAI credit assessment':

- (1) Achieving a single monetary policy entails defining the instruments and procedures to be used by the Eurosystem, consisting of the national central banks (NCBs) of Member States whose currency is the euro (hereinafter the 'participating Member States') and the European Central Bank (ECB), in order to implement such a policy in a uniform manner throughout the participating Member States.

- (2) Recent developments in the markets for asset-backed securities made it necessary to amend the Eurosystem credit assessment framework (ECAF) to ensure that the Eurosystem's requirement for high credit standards for all eligible collateral is met. In particular, it is necessary to amend the rating requirements for asset-backed securities to be eligible for use in Eurosystem credit operations in order to comply with the requirement of Article 18.1 of the Statute of the ESCB that credit operations with credit institutions and other market participants are based on adequate collateral from a Eurosystem monetary policy perspective. In addition to the above, the amendments

— *ECAI credit assessment of asset-backed securities*: For asset-backed securities issued on or after 1 March 2010, the Eurosystem requires at least two credit assessments from any accepted ECAIs for the issue. To determine the eligibility of these asset-backed securities, the "second-best rule" shall be applied, which means that not only the best, but also the second-best available ECAI credit assessment must comply with the credit quality threshold for asset-backed securities. Based on this rule, the Eurosystem requires for both credit assessments an "AAA"/"Aaa" level at issuance and a "single A" level over the life of the security in order for the securities to be eligible.

From 1 March 2011 all asset-backed securities, regardless of their date of issuance, shall have at least two credit assessments from any accepted ECAIs for the issue, and the second-best rule shall be met in order for the securities to remain eligible.

⁽¹⁾ OJ L 310, 11.12.2000, p. 1.

In case of asset-backed securities issued before 1 March 2010 that have only one credit assessment, a second credit assessment shall be additionally obtained before 1 March 2011. For asset-backed securities issued before 1 March 2009 both credit assessments must comply with the “single A” level over the life of the security. For asset-backed securities issued between 1 March 2009 and 28 February 2010, the first credit assessment must comply with the “AAA”/“Aaa” level at issuance and the “single A” over the life of the security, while the second credit assessment must comply with the “single A” level both at issuance (*) and over the life of the security.

The ECB publishes the credit quality threshold for any accepted ECAIs, as established under Section 6.3.1 (**).

(*) In respect of the required second ECAI rating for those ABS “credit assessment at issuance” refers to the credit assessment when first issued or published by the ECAI.

(**) This information is published on the ECB’s website (www.ecb.europa.eu).

Article 2

Entry into force

This Guideline shall enter into force on 1 March 2010.

Article 3

Addressees

1. This Guideline is addressed to the NCBs of the participating Member States.

2. The NCBs referred to in paragraph 1 shall, by 11 March 2010, send to the ECB the measures by which they intend to comply with this Guideline.

Done at Frankfurt am Main, 4 March 2010.

For the Governing Council of the ECB

The President of the ECB

Jean-Claude TRICHET

IV

(Acts adopted before 1 December 2009 under the EC Treaty, the EU Treaty and the Euratom Treaty)

COMMISSION DECISION

of 28 October 2009

on the aid under Article 99(2)(a) (as regards the agriculture sector) and Article 124(1) and (2) (as amended) of Sicilian Regional Law No 32 of 23 December 2000 laying down provisions for the implementation of the 2000-06 ROP and reorganising the aid schemes for undertakings (aid dossier C 21/04 — ex N 590/B/01)

(notified under document C(2009) 8064)

(Only the Italian text is authentic)

(2010/155/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 called on interested parties to submit their comments pursuant to that Article,

Whereas:

I. PROCEDURE

- (1) By letter dated 28 August 2001, registered as received on 29 August 2001, the Italian Permanent Representation to the European Union notified the Commission, pursuant to Article 88(3) of the Treaty, of the provisions of Articles 99, 107, 110, 111, 112, 120, 122, 123, 124 and 135(3) and (4) of Sicilian Regional Law No 32 of 23 December 2000 laying down provisions for the implementation of the 2000-06 ROP and reorganising the aid schemes for undertakings (hereinafter referred to as 'Law No 32/2000').
- (2) By letter dated 17 May 2002, registered as received on 21 May 2002, and letter dated 10 October 2002, registered as received on 11 October 2002, the Italian Permanent Representation to the European Union sent the Commission the additional information requested from the Italian authorities in the letters of 24 October 2001 and 18 July 2002.
- (3) In their letter of 10 October 2002, the Italian authorities supplied additional information concerning only the aid under Article 123 of Law No 32/2000, in view of the urgent nature thereof.

- (4) The aid under Article 123 of Law No 32/2002 was decoupled from the other aid provided for in the notified articles and declared to be compatible with the common market in the context of aid dossier N 590/A/2001 ⁽¹⁾.
- (5) As the Italian authorities' letter of 10 October 2002 concerned only Article 123 of the regional law in question, the Commission sent them a reminder letter dated 11 February 2003 asking them to answer the other questions set out in the letter of 18 July 2002.
- (6) By letter dated 5 March 2003, registered as received on 6 March 2003, the Italian Permanent Representation to the European Union sent the Commission the Italian authorities' reply to the questions raised in the letter of 18 July 2002.
- (7) After examining this reply, the Commission sent a letter dated 2 May 2003 asking the Italian authorities for additional information.
- (8) By letter dated 13 August 2003, registered as received on 18 August 2003, the Italian Permanent Representation to the European Union sent the Commission the Italian authorities' reply to the letter of 2 May 2003. In this, the Italian authorities announced that Article 111 of Law No 32/2000 was being withdrawn and asked the Commission to adopt a separate decision for some of the articles of the Law.
- (9) By letter dated 1 October 2003, the Commission explained to the Italian authorities that a decision would be taken on the whole aid dossier (N 590/B/2001), and asked them for some clarifications on one of the articles of Law No 32/2000.

⁽¹⁾ Letter SG(2002) D/233133 of 18.12.2002.

- (10) By letter dated 7 January 2004, registered as received on 14 January 2004, the Italian Permanent Representation to the European Union sent the Commission the Italian authorities' reply to the letter of 1 October 2003.
- (11) By letter dated 10 March 2004, the Commission officially asked the Italian authorities for further clarifications that had already been requested during informal contacts.
- (12) By letter dated 20 April 2004, registered as received on 21 April 2004, and letter dated 24 May 2004, registered as received on 25 May 2004, the Italian authorities sent the Commission the clarifications referred to in recital 11.
- (13) By letter dated 21 June 2004⁽¹⁾ and letter dated 10 September 2004 (correction to the previous letter, drafted following comments from the Italian authorities in a letter sent by the Italian Permanent Representation to the European Union on 7 July 2004 and registered as received on 12 July 2004)⁽²⁾, the Commission informed Italy of its decision not to raise objections as regards Article 99(2)(b) (as regards the agriculture sector) and Articles 107, 110⁽³⁾, 112, 120, 122 and 135 of Law No 32/2000 and to initiate the procedure laid down in Article 88(2) of the Treaty as regard the aid under Article 99(2)(a) (as regards the agriculture sector) and Article 124(1) and (2) (for some producer groups) of the Law⁽⁴⁾.
- (14) The Commission's decision to initiate the procedure was published in the *Official Journal of the European Union*⁽⁵⁾. The Commission invited interested parties to submit their comments on the aid in question.
- (15) The Commission did not receive any comments from interested parties.
- companies, business loan transfer companies and para-banking bodies⁽⁶⁾.
- (17) Such grants, which cannot be combined with other schemes with similar aims, are financed with part of the EUR 20 million earmarked for all the measures under Article 99 and granted to guarantee consortia that apply for them. Their value cannot exceed the total sum subscribed by the members and by bodies supporting the consortia.
- (18) The guarantees in the strict sense must allow the beneficiaries to access credit more easily (since around 70 % of undertakings in the agricultural sector in Sicily are small enterprises, some of them may not be able to establish the necessary security to cover a loan or obtain a guarantee). They have the following characteristics:
- the gross grant equivalent is calculated in accordance with the method described in the second subparagraph of point 3.2 of the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees⁽⁷⁾;
 - they may cover no more than 80 % of the loan, in line with the provisions of points 3.3 and 3.4 of that Notice;
 - they must be provided for operations whose characteristics (aid intensity, beneficiaries and objectives) are in line with the provisions of the Community guidelines for State aid in the agriculture sector⁽⁸⁾, to solvent undertakings with good financial standing, in line with the provisions of points 3.5 and 5.2 of the aforementioned Notice;
 - they must concern only loans granted in the context, and according to the conditions, of schemes authorised by the Commission;
 - their liquidation is dependent on the debtor being subject to implementation of the legal procedures laid down in the event of insolvency (placing the beneficiary undertaking in bankruptcy, etc.);
 - they may be enjoyed also by parties that do not belong to the consortia (membership of the latter is open to all operators in the agriculture sector without restrictions)⁽⁹⁾.

II. DESCRIPTION

- (16) Article 99(2)(a) of Law No 32/2000 makes provision for grants to first- and second-level guarantee consortia (*consorzi fidi*) (in other words, guarantee consortia and associations thereof) to establish or supplement risk funds to be used for the provision of guarantees for the granting of funding by credit institutes, leasing

⁽¹⁾ Letter SG-Greffe (2004) D/202440 of 21.6.2004.

⁽²⁾ Letter SG-Greffe (2004) D/203974 of 10.9.2004.

⁽³⁾ However, the decision contains recommendations concerning this Article.

⁽⁴⁾ Article 124 of Law No 32/2000 also contained an aid measure in paragraph 3, but the Commission established that it was a national aid measure explicitly authorised by a Regulation establishing a common organisation of the market and that, as a result, it should not be examined any further.

⁽⁵⁾ OJ C 52, 2.3.2005, p. 23.

⁽⁶⁾ These provisions apply to both the agricultural and fishing sectors. Reference is made only to the agriculture sector in the decision to initiate the procedure provided for by Article 88(2) of the Treaty and in this decision because, in the letter of 24 May 2005 referred to in recital 12, the Sicilian Fisheries Department stated that, at a later date, a separate notification would be made for the fishing sector.

⁽⁷⁾ OJ C 71, 11.3.2000, p. 14.

⁽⁸⁾ OJ C 232, 12.8.2000, p. 17.

⁽⁹⁾ These criteria are not set out in Article 99 but were notified in the additional information supplied by the Italian authorities.

(19) Article 124(1) and (2) of Law No 32/2000 provide for start-up grants for producers' organisations recognised pursuant to Regulation (EEC) No 1035/72 of the Council of 18 May 1972 on the common organisation of the market in fruit and vegetables ⁽¹⁾. Such aid, which is granted for a duration of five years, covers 100 % of the costs incurred by the organisation in the first year and must decrease by 20 % annually in the following years, reaching zero at the end of this period. In addition, aid cannot be granted after the fifth year or after the organisation has been recognised for seven years. The aid is financed with part of the EUR 3 615 198 earmarked for all of the measures provided for by Article 124.

(20) In their letter of 13 August 2003, the Italian authorities stated their intention to amend the Law in such a way as to bring the procedure for granting the aid into line with those laid down in Regulation (EEC) No 1035/72. They also pointed out that only the following organisations would be able to avail themselves of the aid:

— ASPROSUD of Messina, recognised on 13 March 1992, for the fourth and fifth year after recognition (1995 and 1996);

— Sicilia Verde of Bagheria, recognised on 8 July 1993, for the third, fourth and fifth year after recognition (1996, 1997 and 1998);

— AGRISUD of Vittoria, recognised on 15 November 1994, for the second, third, fourth and fifth year after recognition (1996, 1997, 1998 and 1999);

— APRO FRUS of Capo d'Orlando, recognised on 23 November 1990, for the fourth and fifth year after recognition (1994-1995 and 1995-1996).

III. INITIATION OF THE PROCEDURE LAID DOWN IN ARTICLE 88(2) OF THE TREATY

(21) The Commission initiated the procedure laid down in Article 88(2) of the Treaty in relation to the aid under Article 99(2)(a) and Article 124(1) and (2) of Law No 32/2000 (as regards the agriculture sector in the first case and as regards the organisations ASPROSUD, Sicilia Verde and APRO FRUS in the second) as it had doubts as to its compatibility with the common market.

(22) With regard to the aid under Article 99(2)(a) of Law No 32/2000 for the agriculture sector, the very principle of granting a guarantee presupposes the existence of a loan.

The list of schemes to which the provision of guarantees can be applied, which was sent by the Italian authorities at the Commission's request, included several schemes which would be difficult to finance through loans, given the nature of the measures envisaged (for example, it was hard to imagine that aid intended to cover insurance premiums in the agriculture sector could take the form of a loan).

(23) Another element that led the Commission to doubt the compatibility of the aid under Article 99(2)(a) of Law No 32/2000 with the common market is the possibility for it to be granted in combination with application of the measures provided for by Article 124(1) and (2) of the Law. The Commission could not avoid doubting its compatibility, given that there were also reservations as to the eligibility of the aid under Article 124(1) and (2).

(24) Lastly, the Commission did not have information on how the Italian authorities would check that combining the potential aid element of the guarantees and the aid for the schemes to which such guarantees were applicable did not lead to the eligible aid percentages being exceeded in relation to those schemes.

(25) As regards the aid under Article 124(1) and (2) of Law No 32/2000, the Italian authorities had clarified that this was intended exclusively to settle outstanding payments of grants to producers' organisations recognised pursuant to Regulation (EEC) No 1035/72. These grants should have already been paid, but was not the case because the EAGGF had not guaranteed financial coverage for the financial commitments made at Italian level.

(26) The Italian authorities had added that the aid could be received only by entities that had acquired a right to the aid prior to 21 November 1996 (the date of entry into force of Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽²⁾, which replaced Regulation (EEC) No 1035/72), and had not forfeited that right.

(27) When examining the aid dossier, the Commission had been able to establish that, by virtue of Article 53 of Regulation (EC) No 2200/96, any rights acquired by producers' organisations prior to the entry into force of the Regulation, pursuant to Article 14 and Title IIa of Regulation (EEC) No 1035/72, would be maintained until

⁽¹⁾ OJ L 118, 20.5.1972, p. 1.

⁽²⁾ OJ L 297, 21.11.1996, p. 1.

they were exhausted, and that, if all the conditions under Article 14 of Regulation (EEC) No 1035/72 were met, any national aid granted under that Article would, *ipso jure*, be compatible with the rules governing the common organisation of the market in fruit and vegetables and should not be subject to any further examination in the light of the rules applicable to State aid ⁽¹⁾.

(28) On the basis of these considerations, the Italian authorities undertook to amend the procedures for granting the aid provided for, so as to bring it into line with the provisions of Regulation (EEC) No 1035/72 (see recitals 19 and 20). However, the Commission noted on the list of beneficiaries supplied by the Italian authorities that, for the organisations referred to in recital 21, the aid laid down would be paid long after the deadline of seven years after recognition of the organisation and that, as a result, all the conditions of Article 14 of Regulation (EEC) No 1035/72 would no longer be met (since one of these conditions lays down that the aid must be paid over five years up to at most seven years following recognition) and that, in consequence, the aid would have to be examined in the light of Articles 87 and 88 of the Treaty.

(29) During this examination in the light of Articles 87 and 88 of the Treaty, the Commission established that, since Regulation (EEC) No 1035/72 had been repealed by Regulation (EC) No 2200/96, granting of aid on the basis of a provision that no longer existed to organisations whose rights had lapsed (thus rendering inapplicable Article 53 of Regulation (EC) No 2200/96, to which reference is made in recital 27) would interfere with the operation of the mechanisms for the common organisation of the market in fruit and vegetables established by Regulation (EC) No 2200/96. By virtue of point 3.2 of the Community guidelines for State aid in the agriculture sector, the Commission may in no case approve aid that is incompatible with the provisions governing the common organisation of a market or that would interfere with the proper functioning thereof.

(30) Accordingly, the Commission could not avoid doubting that the aid was compatible with the common market.

(31) These doubts were bolstered by the fact that aid granted in the circumstances outlined would constitute aid with retroactive effect, which is explicitly prohibited in accordance with point 3.6 of the Community guidelines on State aid in the agriculture sector, as it is completely lacking the necessary incentive element that must characterise aid in the agricultural sector, except for aid of a compensatory nature.

⁽¹⁾ This approach had already been followed in relation to the aid provided for at national level for producers pursuant to Article 14 of Regulation (EEC) No 1035/72 – see aid dossier N 157/02, which was closed by letter SG(2001) D/288558 of 16.5.2001.

(32) Lastly, the Commission also had doubts as to the validity of the argument that the EAGGF had not guaranteed financial coverage of the commitments made at Italian level, since cofinancing of the establishment of producers' organisations involves automatic reimbursement by the EAGGF of part of the aid approved in the context of the common organisation of the market.

IV. COMMENTS FROM THE ITALIAN AUTHORITIES

(33) By letter dated 26 August 2004, registered as received on 30 August 2004, letter dated 24 November 2004, registered as received on 26 November 2004, and letter dated 26 October 2005, registered as received on 28 October 2005, the Italian Permanent Representation to the European Union sent the Commission the Italian authorities' reply to initiation of the procedure under Article 88(2) of the Treaty in relation to the aid under Article 99(2)(a) and Article 124(1) and (2) of Law No 32/2000 (as regards the agriculture sector in the first case and as regards the organisations ASPROSUD, Sicilia Verde and APRO FRUS in the second).

(34) In their letter dated 26 August 2004, the Italian authorities sent the following requests and comments concerning the aid under Article 99(2)(a) of Law No 32/2000:

— they asked that some schemes mentioned in the list referred to in recital 22 be removed from the list, as they had established that, in practice, they could not be financed through loans;

— they clarified that, for the schemes still included on the aforementioned list, the guarantee would concern only the private part of the investment where the scheme had already been approved and funded, and the whole eligible amount where the scheme had already been approved but not yet funded, but that, regardless of the case considered, the gross grant equivalent of the guarantee could not exceed the maximum aid permitted by the scheme in question (there was provision for checks on a sample of at least 5 % of the self-certifications requested from the beneficiaries);

— they confirmed that they would draw up the implementing rules for Article 99(2)(a) of Law No 32/2000 and that these rules would include the aforementioned list.

(35) In the same letter, the Italian authorities made the following comments on the aid under Article 124(1) and (2) of Law No 32/2000 for the three organisations referred to in recital 21:

— they asserted that, in their view, the position adopted by the Commission in the context of aid dossier N 157/2000 had to be followed in the matter at hand too and that the aid laid down for the three organisations in question should not be subject to an examination in the light of Articles 87 and 88 of the Treaty;

— they referred back to the provisions of Article 53 of Regulation (EC) No 2200/96, on the basis of which any rights acquired by producers' organisations are maintained until they are exhausted (and thus until final settlement of the grant), so as to stress that the right was acquired when the organisation made an application in due form and that, in the matter at hand, all the applications had been submitted within the deadline of seven years after recognition and that the right could not be prejudiced by a delay by the public authorities, in general terms, in seeking appropriate funds to settle the aid;

— they confirmed the amendment to Law No 32/2000 referred to in recital 20.

(36) By letter received on 24 November 2004, the Italian authorities sent a copy of Article 12 of Regional Law No 15 of 5 November 2004 (hereinafter referred to as 'Law No 15/2004') amending, *inter alia*, Articles 99 and 124 of Law No 32/2000.

(37) With regard to Article 99 of Law No 32/2000, Article 12(2) and (4) of Law No 15/2004 increased the number of potential beneficiaries of the measures provided for, by including undertakings that do not belong to organisations and that assume the burden of administrative expenses linked to the provision of a guarantee, and laid down that, for the 2000-06 period, the maximum amount earmarked for the measures under the Article was EUR 20 000 000.

(38) Meanwhile, Article 12(8) of Law No 15/2004 introduced a new paragraph 2 to Article 124 of Law No 32/2000, replacing the procedures for granting the aid described in recital 19 above with procedures in line with Article 14 of Regulation (EEC) No 1035/72.

(39) This new paragraph 2, which was added to Article 124 of Law No 32/2000 to replace the existing paragraph that the Italian authorities had undertaken to amend (see recital 20), reads as follows:

'In compliance with Article 14 of Regulation (EEC) No 1035/72, the maximum amount of such aid shall

be 5 % (for the first and second years), 4 % (for the third year), 3 % (for the fourth year) and 2 % (for the fifth year) of the value of the marketed production covered by the activity of the producers' organisation. The amount of the aid may in no case exceed the organisation's real establishment and administrative operation costs. No aid may be paid in respect of costs incurred after the fifth year or more than seven years after recognition.'

(40) In their letter received on 26 October 2005, the Italian authorities stated that Article 99(2)(a) of Law No 32/2000 had been repealed by Article 23 of Regional Law No 11 of 21 September 2005 and announced the withdrawal of the relevant notification.

V. ASSESSMENT

(41) Under 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.

(42) The measures examined in the matter at hand fulfil this definition, in that they are financed from public resources, favour the production of certain goods (e.g. fruit and vegetables) and could affect trade given Italy's position on those markets (in 2005, Italy produced 11 443 000 tonnes of fruit, excluding citrus fruit, making it the largest fruit producer in the European Union).

(43) However, in cases covered by Article 87(2) and (3) of the Treaty, some measures may enjoy derogations and be considered compatible with the common market.

(44) Taking account of the measures described above, the only possible derogation in the matter at hand is that laid down in Article 87(3)(c) of the Treaty, according to which aid may be considered compatible with the common market if it is found 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.

(45) The Commission notes, first of all, that Article 99(2)(a) of Law No 32/2000 was repealed without being applied (given the suspensive effect linked to initiation of the procedure under Article 88(2) of the Treaty) and that the Italian authorities have withdrawn the relevant notification. This renders superfluous any examination of the applicability of the provisions of the derogation provided for by Article 87(3)(c) of the Treaty.

- (46) With regard to the aid under Article 124(1) and (2) of Law No 32/2000, the Commission notes that the procedures for granting the aid were brought into line with Regulation (EEC) No 1035/72, as amended by Article 3 of Council Regulation (EEC) No 3284/83 of 14 November 1983 amending Regulation (EEC) No 1035/72 on the common organisation of the market in fruit and vegetables as regards producers' organisations⁽¹⁾, by means of the provisions of the new paragraph 2 of Article 124 of Law No 32/2000, which was introduced by Article 12 of Law No 15/2004.
- (47) As at the date of adoption of this law, aid to producers' organisations was governed by Regulation (EC) No 2200/96.
- (48) As indicated in recital 27, Article 53 of Regulation (EC) No 2200/96 lays down that any rights acquired by producers' organisations prior to the entry into force of the Regulation, pursuant to Article 14 and Title IIa of Regulation (EEC) No 1035/72, are maintained until they are exhausted, provided that the conditions of Article 14 are met.
- (49) The provisions of the new Article 124(2) of Law No 32/2002, as introduced by Article 12 of Law No 15/2004, comply with the conditions of Article 14 and, in practice, ensure that any producers' association that does not satisfy these conditions is excluded. Since, in Regulation (EEC) No 1035/72, the rules on State aid applied only within the limits set by the Council and the Regulation itself contained, in Article 14, a directly applicable provision that authorised the payment of national aid conditional upon compliance with certain conditions that were satisfied at the time, the national aid in question must no longer be subject to examination in the light of the rules applicable to State aid.
- (50) In consequence, the other doubts expressed by the Commission when the procedure was opened have also become redundant.

VI. CONCLUSION

- (51) Since Article 99(2)(a) of Law No 32/2000 has been repealed, the Commission does not need to rule on the compatibility with the common market of the aid

provided for therein. Accordingly, the procedure opened in relation to these provisions has become redundant and may be closed.

- (52) Given that Article 124(2) of Law No 32/2000, as amended by Article 12 of Law No 15/2004, brings the aid laid down for producers' organisations into line with the provisions of Article 14 of Regulation (EEC) No 1035/72 and that, accordingly, such aid is considered automatically compatible with the rules governing the common organisation of the market and must no longer be subject to examination in the light of the rules applicable to State aid, the procedure opened in this connection has become redundant and may also be closed,

HAS ADOPTED THIS DECISION:

Article 1

The procedure under Article 88(2) of the Treaty initiated in relation to the aid under Article 99(2)(a) (as regards the agriculture sector) of Sicilian Regional Law No 32 of 23 December 2000 is hereby closed owing to having become redundant, since Italy has withdrawn the notification.

Article 2

The procedure under Article 88(2) of the Treaty, which was initiated in relation to the aid under Article 124(1) and (2) (as amended) of Sicilian Regional Law No 32 of 23 December 2000 but which has become redundant, is hereby closed.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 28 October 2009.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

⁽¹⁾ OJ L 325, 22.11.1983, p. 1.

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