II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 8 April 2003

concerning the assumption by the Italian State and the Sicilian Region of responsibility for expenditure over and above that established under the Council Decision of 22 July 1997 relating to security provided personally by members of agricultural cooperatives in a situation of established insolvency

(2003/277/EC)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the request submitted by the Italian Government on 10 January 2003,

Whereas:

(1) By a decision of 22 July 1997 the Council considered as compatible with the common market the financial support measures laid down by Law No 237/1993, passed by the Italian Parliament on 19 July 1993, in which Article 1(1a) provided for the Italian State to assume, within the framework of that Law, the obligations entailed by security provided for agricultural cooperatives by their members, where those cooperatives were in a situation of established insolvency. The structural undercapitalisation from which the Italian agricultural cooperative system suffered in the past resulted in widespread use of debt capital based on personal security.

(2) Article 126 of Law No 388/2000 passed by the Italian Parliament and based on the same reference framework (Law No 237/1993), provides for a further authorisation of expenditure of EUR 118 785 086,79 supplementing the EUR 103 291 379,82 originally set aside to finance Law No 237/93 which was not enough, fully to implement the assistance measure planned to prevent any discrimination and unequal treatment between potential recipients. It represents the financial completion of the Council Decision of 22 July 1997.

(3) The Commission took the view that Article 126 of Law No 388/2000 should be assessed in the light of the Community guidelines for rescuing and restructuring firms in difficulty. In this connection the Italian Government maintained that those guidelines have no bearing on the provision, which serves social purposes involving exceptional situations for cooperative members who have provided their personal and family assets as security, not the needs of cooperatives.

(4) Sicilian Regional Law No 37/1994 of 10 October 1994 falls within the same reference framework, providing in Articles 2 and 3 for an additional EUR 5,165 million in financing, followed by a further EUR 75 million under draft Regional Law No 392/2002, making a total of EUR 80,165 million. This regional Law refers explicitly to Italian Law No 237/1993 and confers eligibility notably on agricultural cooperative members unable to benefit from the national legislation on account of shortage of funds.

(5) Sicilian regional assistance is available as an alternative to that from the Italian State, but is at the same time secondary to the latter, with priority being given to members who have not applied under Law No 237/1993.

(6) The Sicilian region has taken steps to bring the list of those covered into line with the requirements for inclusion in the list under national rules.

(7) The aid in question is not likely to distort competition within the Community.

(8) There are exceptional circumstances enabling the aid to be regarded, by way of derogation and only as far as is strictly necessary, as being compatible with the common market, subject to the conditions provided for by this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The financial support provided for by Article 126 of Italian Law No 388/2000 of 23 December 2000 and by Articles 2 and 3 of Sicilian Regional Law No 37/1994 of 10 October 1994, and the support provided for by draft Regional Law No 392/2002 of 15 May 2002 shall be regarded as being compatible with the common market, in accordance with the third subparagraph of Article 88(2) of the EC Treaty under the same conditions as the Council Decision of 22 July 1997.

This financial support has been calculated on the basis of the amount of security provided personally by members of agricultural cooperatives to those cooperatives, the insolvency of which has been established, and for which the State budget shall assume responsibility up to the amount of EUR 118 785 086,79 and EUR 80 165 000 for the national law and regional law respectively.

Article 2

This Decision is addressed to the Italian Republic.

Done at Luxembourg, 8 April 2003.

For the Council

The President

G. DRYS