DECISIONS

COMMISSION DECISION

of 25 January 2012

concerning the aid granted by Greece to cereal-producing farmers and cereal-collecting cooperatives

(SA 27354 (C 36/10) (ex NN 3/10, ex CP 11/09))

(notified under document C(2011) 9335)

(Only the Greek text is authentic)

(Text with EEA relevance)

(2012/320/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 108(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the first subparagraph of Article 108(2) of the Treaty [1] and having regard to their comments,

Whereas:

I. PROCEDURE

(1) On 18 November 2008, the Commission received by e-mail information regarding aid allegedly granted by the Greek State to cereal-producing farmers and to Unions of Agricultural Cooperatives that collect cereals. The alleged aid took the form of interest-free loans. By letter dated 21 November 2008, the Commission asked the Greek authorities to provide information on the aid in question.

(2) By letter dated 24 November 2008, the Commission asked the complainant to submit a complete complaint form. The Commission received the form on 8 January 2009.

(3) Following receipt of the complaint form, and as the Greek authorities had not replied to its letter of 21 November 2008, the Commission sent them a second letter on 23 January 2009 requesting information on the measure in question. The Greek authorities did not reply by the deadline set in that letter and the Commission sent them a reminder on 24 March 2009.

(4) On 14 May 2009, the Greek authorities sent the Commission a letter, providing only very limited information on the aid that was the subject of the complaint. On 11 June 2009, the Commission sent the Greek authorities a second request for information, with more detailed questions regarding the alleged State aid.

(5) On 20 July 2009, the Greek authorities asked for the deadline for providing the relevant information to be extended until 30 August 2009. By letter dated 23 July 2009, the Commission agreed to this extension. By e-mail of 1 September 2009, the Greek authorities asked for the deadline to be extended by another month. By letter dated 14 September, the Commission granted a second deadline extension, until 30 September 2009.

(6) Over two months after the set deadline the Commission had still not received a reply and on 1 December 2009 it sent the Greek authorities a reminder, giving them one more month to provide the information. In the reminder, the Commission brought the Greek authorities' attention to the fact that if they did not reply within the period prescribed, the Commission would require information to be provided (an 'information injunction') pursuant to Article 10(3) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty [2] (*). In addition, on 26 January 2010 the case was entered in the register of non-notified aid, under number NN 3/10.

[1] OJ C 90, 22.3.2011, p. 11.

[2] OJ L 83, 27.3.1999, p. 1.

(*) Subsequently Article 88 of the EC Treaty. As of 1 December 2009, Articles 87 and 88 of the EC Treaty were replaced by Articles 107 and 108 respectively of the Treaty on the Functioning of the European Union.

(7) The deadline set by the Commission passed without the Greek authorities having provided any information. Therefore, on 10 March 2010 the Commission adopted a decision pursuant to Article 10(3) of Regulation (EC) No 659/1999 requiring the Greek authorities to provide the information required.

(8) The Greek authorities replied on 19 March 2010. In their reply, they claimed that they had replied to the Commission's letter of 1 December 2009 by letter dated 9 February 2010. By letter dated 17 May 2010, the Commission sent the Greek authorities a number of additional questions. It also asked them to provide proof that they had sent the Commission a letter on 9 February 2010. Meanwhile, the Commission received additional information from the complainant concerning the aid in question. It therefore sent another letter to the Greek authorities, dated 18 June 2010, giving them the opportunity to comment on the new information. The Greek authorities replied to the Commission's letter of 17 May 2010, but did not provide any proof that they had sent the Commission a letter on 9 February 2010. On 30 September 2010, the Greek authorities replied to the Commission's letter of 18 June 2010.

(9) By letter dated 15 December 2010, the Commission notified Greece of its decision to initiate the procedure laid down in Article 108(2) of the Treaty concerning the aid concerned. By letter dated 21 January 2011, the Greek authorities submitted their comments on the Commission's decision of 15 December 2010. The Commission sent the Greek authorities some additional questions in a letter dated 5 May 2011, to which they replied on 6 June 2011.

(10) The Commission's decision to initiate the procedure was published in the *Official Journal of the European Union* ([3]). The Commission called on interested parties to submit their comments regarding the measure in question. The Commission received comments from one interested party, who argued that the measures in question were illegal. These comments were notified to the Greek authorities, who then submitted their comments in a letter dated 1 December 2011.

II. **DETAILED DESCRIPTION OF THE AID**

II.1. **Complaint**

(11) On 18 November 2008, the Commission received by e-mail information regarding aid allegedly granted by the Greek State to cereal-producing farmers and to Unions of Agricultural Cooperatives. According to this complaint, the aid took the form of the interest-free loans amounting to EUR 150 million granted to Unions of Agricultural Cooperatives in the cereals sector.

([3]) See footnote 1.

II.2. **Background**

(12) According to the information submitted by the Greek authorities, during 2008 Greek farmers sowed an additional 60 thousand hectares (600 thousand stremmata) of maize compared to the previous year. This resulted in significant over-production of maize, and subsequently a fall in prices. The same occurred with wheat. Due to this fact, and due to the economic crisis, the Greek government decided to grant support to Greek producers.

(13) According to the Greek authorities, the support was granted to producer organisations, i.e. Unions of Agricultural Cooperatives (UACs). The UACs did not have the necessary funds to support farmers' incomes, nor had they access to financial markets in order to arrange loans, because of the financial crisis. The Greek authorities argued further that if, during the winter of 2008, the Cooperatives had sold the amounts of cereals collected, prices would have fallen significantly and producers would have suffered significant losses. Therefore, in order to prevent a drop in cereal prices, and to ensure a minimum income for farmers, the Greek government decided to grant UACs, and indirectly farmers (who had delivered their produce to the Cooperatives), aid in the form of a State-guaranteed loan with an interest-rate subsidy. According to the Greek authorities, the loan amounts granted to the UACs would then be passed on to the producers for the amounts of cereals purchased or received by UACs in 2008. Owing to the protracted crisis in the cereals market the Greek authorities extended the deadline set for the repayment of the loans until 30 September 2010.

II.3. **Measure**

(14) The Greek authorities adopted a number of Decisions putting the aid into effect.

(15) Decision No 56700/B.3033 of 8 December 2008 of the Greek Minister for Economic Affairs and Finance stipulates, inter alia, the following:

'Article 1. Approval is hereby granted for an interest-rate subsidy for loans which have been, or will be, granted in 2008 by financial institutions to Unions of Agricultural Cooperatives (UACs) and Primary Agricultural Cooperatives in Greece, to be used to pay producers for quantities of cereals purchased or received in 2008. The loans in question shall be subsidised from the date they are granted. […]

Article 3. The duration of the loans in question shall be from the date of granting to the date of repayment, which shall not be later than 30 September 2009. […].'

(16) Decision No 2/88675/0025 of 9 December 2008 of the Greek Minister for Economic Affairs and Finance stipulates, inter alia, the following:

'1. The Greek State shall grant a 100 % guarantee to secure the loans to be granted by financial institutions to Unions of Agricultural Cooperatives (UACs) and Primary Agricultural Cooperatives in Greece, to be used to pay producers for quantities of cereals purchased or received in 2008, in accordance with the provisions of Law 2322/1995. The loans granted by financial institutions to UACs and Primary Agricultural Cooperatives in 2008 for the purchase of cereals shall be subject to the provisions of this Decision from the date they are granted. The total amount of loans which have been, or will be, granted shall not exceed EUR 150 million. […]

3. […] In the event of failure to repay the unpaid part of the loan upon maturity, such amount shall become due and payable. In order to have their guaranteed claims reimbursed by the State, the Banks shall submit the supporting documents specified in Decision No 2/478/0025/04.01.2006 (Government Gazette, Series II, No 16, 13.1.2006) of the Minister for Economic Affairs and Finance within three months of maturity of the loan.'

(17) By virtue of Decisions No 46825/B.2248 of 29 September 2009 and No 2/69591/0025 of 2 October 2009 of the Minister for Economic Affairs and Finance, the deadline for repayment of the loans was extended to 30 December 2010.

(18) Decision No 8264 of 9 December 2008 of the Greek Minister for Rural Development and Food provided for the allocation of the amount of EUR 150 million to 57 Unions of Agricultural Cooperatives. It also referred to a Decision of 12 November 2008 of the Governmental Commission concerning the granting of loans amounting to EUR 150 million to the Unions of Agricultural Cooperatives and their members.

(19) According to the letter from the Greek authorities sent on 19 March 2010, all the loans in question (except one) were granted by the Agricultural Bank of Greece (hereinafter 'ATE Bank'). The Greek authorities added that the interest-rate subsidy and guarantee granted by the State in the cereals sector were necessary in order to deal with the fall of prices in 2008, which was caused by the overproduction of cereals in Greece. In this letter, the Greek authorities expressed the opinion that the small credit facility granted by the State could not be considered as State aid, as it did not distort or threaten to distort competition, nor did it affect trade between Member States. The Greek authorities added that the benefit from the measure in question for individual producers was minimal.

(20) Under Article 1 of the Loan Agreement between ATE Bank and the UACs (the 'Loan Agreement'), the loan granted by ATE Bank should only be used by the borrower for the purchase or receipt of cereals produced in 2008.

(21) Concerning the conditions for granting the loan, the Greek authorities indicated that the interest rate was the rate applicable to 12-month Greek treasury bonds (issued just before the date on which the interest started to run), plus 30 %. They further argued that the Loan Agreement between ATE Bank and the UACs included a condition that proves that no State aid was involved. That condition stated: 'The borrower hereby assumes the obligation, prior to disbursement of the loan, to sign with the Greek State, as represented by the Bank for the purposes hereof, a collateral contract over the products, by-products and other movables that the borrower will purchase with this loan, and over all the goods that are under his ownership or management, pursuant to the provisions of Law 2844/2000.' In other words, the collateral is provided by the UACs to the State (as represented by ATE Bank), and is constituted by the products purchased by the UACs using the loan.

(22) Decision No 2/21304/0025 was taken by the Deputy Minister for Finance on 26 October 2010. According to this Decision:

'A. The Unions of Agricultural Cooperatives (UACs) and Primary Agricultural Cooperatives in Greece that have obtained Greek State-guaranteed loans under Decision No 2/88675/0025/9.12.2008 of the Deputy Minister for Economic Affairs and Finance, as currently in force, shall have the option of restructuring loans guaranteed by the Greek State under the above Decision maturing on 30 September 2010 as follows:

The total duration of the restructured loan shall be five years, payable in half-yearly instalments (principal and interest), with the first instalment due on 30 March 2011 and the last on 30 September 2015.

In addition, each borrower shall pay to the Greek State, until maturity of the loan, a safe-harbour premium amounting to 2 % of the current unpaid part of the loan. The first premium shall be paid upon payment of the first instalment on 30 March 2011.

The existing collateral guarantees in the form of cereals in favour of the Greek State are hereby abolished.

The interest rate on the restructured loan shall be the rate used by each financial institution for the same category of loans. […]'

III. COMMENTS MADE BY GREECE

(23) In their reply dated 21 January 2011, the Greek authorities argued that both the interest-rate subsidy and State guarantee for the loans must be viewed in the light of the Communication from the Commission concerning the temporary Community framework for State aid measures to support access to finance in the current financial and economic crisis ([4]) (hereinafter 'temporary framework'). In particular, it was argued that the loans in question were granted during the financial and economic crisis of 2008 and 2009 and were aimed at overcoming that crisis.

(24) The Greek authorities also held that, due to the large number of final beneficiaries (cooperative members), the benefit from the interest-free loan for each beneficiary was so limited that it could not be considered to be causing distortions.

(25) Lastly, the Greek authorities argued that each borrower's obligation to pay a 2 % insurance premium, in accordance with Ministerial Decision No 2/21304/0025/26.10.2010 proves that there was no State aid.

(26) In their letter of 1 December 2011, the Greek authorities repeated a number of the arguments presented during the procedure concerning the need to implement these measures and the reasons for this. They also argued that the issue of Ministerial Decision No 2/21304/0025/26.10.2010 and the application of an interest rate when the loans were restructured (the rate applied by each financial institution for the same category of loans) indicated that the interest-rate subsidy did not constitute aid. They added that, in the period from 2009 to 28 November 2011, the interest-rate subsidies granted by the State amounted to EUR 7 762 113.

IV. ASSESSMENT OF THE AID

IV.1. Existence of aid within the meaning of Article 107(1) of the Treaty

(27) Under Article 107(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, in so far as it affects trade between Member States, is incompatible with the internal market.

(28) Before proceeding to the assessment of whether the measure in question meets the conditions laid down in Article 107(1) of the Treaty, the Commission would point out that there are two aspects of the measure that should be examined in the light of this provision: (a) the interest-rate subsidy, and (b) the State guarantee.

IV.1.1. *Interest-rate subsidy*

(29) The interest-rate subsidy granted by the Greek State to the cooperatives pursuant to Ministerial Decision No 56700/B.3033/8.12.2008 meets all the conditions laid down in Article 107(1) of the Treaty. The subsidy is granted by the Greek State and it confers a clear advantage, as in reality it makes the loan completely interest-free. The direct beneficiaries of the aid are the cooperatives. However, given that the intention of the State by granting the loans was to increase the income of Greek farmers by artificially increasing the price of cereals sold by producers to cooperatives, the farmers (producers) are the indirect beneficiaries of the aid. Lastly, the selectivity condition is also met, since the beneficiaries of the aid are those cooperatives only and, in the final instance, farmers who purchased or produced cereals in Greece in 2008. The interest-rate subsidy was granted until application of Ministerial Decision No 2/21304/0025/26.10.2010 and prior to the restructuring of the loans, when it was stipulated that the interest rate applicable to the restructured loan would be the rate applied by each financial institution for the same category of loans.

(30) Concerning the 'distortion of competition' condition, in accordance with the case law of the Court of Justice, the mere fact that the competitive position of an undertaking is strengthened as compared to other competing undertakings, by giving it an economic benefit which it would not otherwise have received in the normal course of its business, points to a possible distortion of competition ([5]). Aid to an undertaking appears to affect trade between Member States where that undertaking operates in a market open to intra-Community trade ([6]). Furthermore, according to the case law of the Court, there is no threshold or percentage below which trade between the Member States can be regarded as not having been affected. Even the relatively small amount of aid or the relatively small size of the undertakings does not *a priori* mean that trade between the Member States is not affected ([7]). There is substantial intra-Community trade in the cereals sector. Therefore, the present measure is liable to affect trade between Member States.

(31) In the light of the above, it appears that as regards the interest-rate subsidy all the conditions laid down in Article 107(1) are met.

([4]) OJ C 16, 22.1.2009, p. 1. The Communication was amended in October 2009 (OJ C 261, 31.10.2009).

([5]) Judgment of the Court in Case 730/79 *Philip Morris Holland BV* v *Commission of the European Communities* [1980] ECR 2671.

([6]) See in particular the judgment of the Court in Case 102/87 *French Republic* v *Commission of the European Communities* [1988] ECR 4067.

([7]) Judgment of the Court in Case C-280/00 *Altmark Trans GmbH* [2003] ECR I-7741, paragraph 81.

IV.1.2. *State guarantee*

(32) By Ministerial Decision No 2/88675/0025/9.12.2008, the Greek Government decided to grant Cooperatives its guarantee for the loans contracted with ATE Bank. In general terms, the criteria laid down in Article 107(1) of the Treaty apply to guarantees. As indicated in Section 2.1 of the Commission Notice on application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees ([8]) (hereinafter 'Notice on Guarantees'), guarantees granted directly by the State may indeed constitute State aid. The benefit of a State guarantee is that the risk associated with the guarantee is borne by the State. This risk should normally be remunerated by an appropriate premium (Section 2.2 of the Notice on Guarantees). When the State forgoes such a premium, there is both a benefit for the undertaking to which the State guarantee is granted and a drain on the resources of the State. The guarantee in this case is therefore granted through State resources. The Notice on Guarantees further specifies that if it turns out that no payments are ever made by the State under a guarantee there may still be State aid.

(33) The benefit granted to the UACs and, in the final instance, to farmers from the guarantee is clear: the borrowers did not have to pay, at least until 30 March 2011 (see recital 22) the appropriate premium which should normally be paid to remunerate the appropriate risk. Also, compared to a situation without a guarantee, the State guarantee enables the borrowers to obtain better financial terms for loans than those normally available on the financial markets. Section 3.4 of the Notice on Guarantees provides a list of all conditions that have to be met in order for a State guarantee scheme not to be considered as State aid. It is clear that the measure under examination does not meet all the conditions in question. For example, at least two of these conditions appear not to be met in this case. The guarantee in question covers more than 80 % of the loans, and the scheme under examination appears not to be closed to borrowers in financial difficulty.

(34) As mentioned in recital 29, the direct beneficiaries of this aid are the cooperatives. However, given that the intention of the Greek State in granting the loans was to increase the income of Greek farmers by artificially increasing the price of cereals sold by producers to Cooperatives, the farmers (producers) are the indirect beneficiaries of the aid. The selectivity condition is equally fulfilled, since the beneficiaries of the aid are only those cooperatives and farmers who purchased or produced cereals in Greece in 2008.

(35) The same considerations apply to the 'distortion of competition' and 'effect on trade' conditions as those referred to in recital 30.

([8]) OJ C 155, 20.6.2008, p. 10.

(36) Lastly, the Greek authorities argued that the collateral provided by the UACs to the State, as provided for in the Loan Agreement, indicates that there is no aid. However, as decided by the Commission in the decision on initiating the procedure, this is not the case for the following reasons: (a) First, if the cooperatives fail to pay back the loans, it will be at the discretion of the State whether to make use of the rights granted by the collateral agreements or not. (b) Second, it appears that the collateral does not secure the full amount of the loan, since the price paid by the UACs to the farmers for the purchase of cereals (which should normally be equal to the loan amounts) is higher than the market price.

(37) It should also be noted that this collateral was abolished by Ministerial Decision No 2/21304/0025/26.10.2010. As referred to in recital 22 above, this collateral was replaced by the 2 % premium as of the date of the first repayment due on 30 March 2011. In their letter of 7 June 2011, the Greek authorities held that, in accordance with the Notice on Guarantees, the provision of premium is a 'safe-harbour' for small and medium-sized undertakings whose repayment ability may be affected by adverse conditions. This argument is inadmissible for the reasons detailed in recitals 38, 39 and 40.

(38) First, the provision on the 2 % safe-harbour premium was established as late as October 2010 and pertained only to the amounts due in September 2010. Even if we were to accept, *quod non*, that this premium removed any State aid element, the State guarantee would still constitute State aid until that time.

(39) Second, it appears from the wording of Ministerial Decision No 2/21304/0025/26.10.2010 that the UACs *may make use*, but *are under no obligation to make use*, of the relevant provision (see recital 22). The Greek authorities noted in this respect that, in fact, the borrowers had to make use of the provision in question since, as laid down in Article 13 of the Loan Agreement, unless they repaid the loan by 30 September 2009, the amount due would become payable by the State within three months, and the latter would in turn take administrative enforcement action against the borrower. This argument is also inadmissible: if the State repays the amounts due, it is not certain that it will take action against the original debtor with a view to recovering those amounts — it can always use its discretion not to do so.

(40) Lastly, it appears the 2 % premium is not in itself an element which, pursuant to the Notice on Guarantees, proves that there is no State aid, as argued by the Greek authorities. Even if we were to accept that all the beneficiaries under the measure were small and medium-sized undertakings, as argued by the Greek authorities, the part of the Notice on Guarantees that would

apply is Section 3.5. In this Section, the Notice explains that, in order for a guarantee granted under a scheme that requires a single premium to be regarded as not constituting State aid, all the other conditions set out in points 3.4(a), (b), (c), (e), (f) and (g) have to be met. As already explained in recital 33, these conditions are not met in this case: the guarantee in question covers more than 80 % of the loans, and the scheme under examination appears not to be closed to borrowers in financial difficulty.

(41) In the light of the above, as regards the State guarantee for the loans, all the conditions laid down in Article 107(1) are met.

IV.2. **Compatibility of the aid**

IV.2.1. *General comments*

(42) The Treaty admits some exceptions to the general principle of the incompatibility of State aid with the internal market laid down in Article 107(1) of the Treaty. Some of these exceptions obviously do not apply in this case. These include those provided for in Article 107(2), which cover aid having a social character, aid to make good the damage caused by natural disasters, and aid relating to German reunification.

(43) The same applies to the exceptions provided for in Article 107(3)(a), (b) and (d) of the Treaty, given that the aid in question was neither intended to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, nor was it intended to promote important projects of common European interest or to promote culture and heritage conservation.

(44) Therefore, the only derogation which might apply in this case is the one provided for in Article 107(3)(c) of the Treaty, which provides that aid to facilitate the development of certain economic activities or of certain economic areas may be considered to be compatible with the internal market where such aid does not adversely affect trading conditions to an extent contrary to the common interest. In order to be covered by this derogation, aid must comply with the Union rules governing State aid. In the area of agriculture, these rules are set out in the Community guidelines for State aid in the agriculture and forestry sector 2007 to 2013 ([9]) (hereafter the 'agricultural guidelines').

(45) According to the information available to the Commission, the purpose of the measure in question was to deal with the situation caused by the surplus of cereals produced in Greece in 2008. In particular, the Greek authorities admit in their letter of 19 March 2010 that one of the purposes of the measure was 'to ensure a minimum income for producers'.

(46) Furthermore, since the loans of EUR 150 million were intended for the purchase by the UACs of cereals produced by their members (Ministerial Decision No 8264 of 9 December 2008), the aid appears to have been granted on the basis of the quantities produced.

(47) The type of aid granted by Greece is not provided for in the agricultural guidelines or other Union rules on the subject, nor have the Greek authorities claimed that it is. It therefore appears to constitute operating aid which was intended to increase farmers' incomes by artificially increasing cereal prices. Such measures are strictly forbidden by Union rules on State aid.

(48) It should be recalled that, according to the case law of the Court of Justice of the European Union, operating aid, i.e. aid aimed at relieving undertakings of costs that they would normally incur in the ordinary management of their activities, in principle distorts competition to the extent that, on the one hand, it does not facilitate the 'development' of any economic sector and, on the other hand, it gives the beneficiaries artificial financial support causing an ongoing distortion of competition and affecting trade in a manner contrary to the common interest.

(49) In particular, the markets for agricultural products in the European Union are thoroughly regulated through common market organisations (CMOs). One of the CMOs' tasks is to ensure fair competition between operators in the sector concerned within the European Union. Market support measures such as those introduced and financed by Greece seem to be contrary to the aims of the cereals CMO and likely to seriously disturb its operation.

(50) As the Court of Justice has repeatedly pointed out ([10]), any intervention by a Member State in market mechanisms, excluding those forms specifically provided for by Union rules, risks interfering with the operation of the common market organisations and giving unfair advantages to certain economic groups in the Union. In particular, in a more recent ruling ([11]), the Court again pointed out that in a sector covered by a common market organisation, *a fortiori* where that organisation is based on a common pricing system, Member States can no longer take action, through national provisions taken unilaterally, affecting the machinery of price formation at the production and marketing stages established under the common organisation.

([9]) OJ C 319, 27.12.2006, p. 1.

([10]) See, for example, the judgment of the Court in Case 83/78 *Pigs Marketing Board* v *Raymond Redmond* [1978] ECR 2347, paragraph 60.

([11]) Judgment of the Court in Case C-283/03 *Kuipers* [2005] ECR I-04255, paragraphs 42, 49 and 53.

(51) It should be noted that national price-support mechanisms such as those in question undermine the common pricing system and more generally the purpose of mechanisms established by Union rules on the common organisation of markets, even if their aim is to support farmers' incomes.

(52) Lastly, the Commission also considered whether the aid could be found compatible under the Communication from the Commission – Community guidelines on State aid for rescuing and restructuring firms in difficulty ([12]). However, even if a beneficiary was at the time the aid was granted a firm in difficulty within the meaning of Section 2 of those guidelines (which is not clear), the Greek authorities have provided no indication that the numerous conditions laid down therein, which could possibly justify the granting of aid to a specific beneficiary, were met in the cases in question.

IV.2.2. *Temporary framework*

(53) In order to justify the granting of the aid, the Greek authorities mention the economic crisis and the Cooperatives' lack of access to financing. In 2009, the Commission, having acknowledged the seriousness of the financial crisis, adopted the 'temporary framework' ([13]), declaring compatible with the internal market aid of up to EUR 15 000 in the case of primary agricultural producers.

(54) In their letter dated 21 January 2011, the Greek authorities argued that both the interest-rate subsidy and the State guarantee for the loans were covered by the provisions of the temporary framework. In particular, it was argued that the loans in question were granted during the financial and economic crisis of 2008 and 2009 and were aimed at overcoming that crisis. The Greek authorities added that, due to the large number of final beneficiaries (cooperative members), the benefit from the interest-free loan for each beneficiary was so limited that it could not be considered as causing distortions. Lastly, the Greek authorities held that, pursuant to Article 7 of the temporary framework, its provisions also applied in cases of non-notified State aid schemes.

(55) The Commission cannot accept the arguments presented by the Greek authorities and holds that the provisions of the temporary framework do not apply in the case in question. First, the scope of the temporary framework was extended to include primary agricultural production only on 31 October 2009 ([14]). Therefore, any State aid schemes approved prior to the entry into force of this extension cannot be covered by the temporary framework. In this particular case, Article 1 of Ministerial Decision No 56700/B.3033/8.12.2008 stipulated that the interest-rate subsidy applied to loans which had been, or would be, granted in 2008. Consequently, the said loans, and therefore the State aid, were granted prior to 31 October 2009.

(56) Second, the Commission would point out that the measures in question do not meet the condition laid down in the temporary framework, which states that in order for such aid to be considered compatible, it must apply to the entire agricultural sector and not just to one product sector, the cereals sector in the case in question.

V. **CONCLUSION**

(57) The Commission finds that Greece has illegally implemented the aid scheme in question, in breach of Article 108(3) of the Treaty. Given that the aid is incompatible with the internal market, Greece must put an end to the scheme and recover the aid granted from the beneficiaries.

(58) Individual aid granted under the scheme in question does not constitute aid if, at the time it was granted, it met the conditions laid down in a regulation adopted pursuant to Article 2 of Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid ([15]) and that was applicable at the time the aid was granted.

(59) Individual aid granted under the scheme in question which, at the time it was granted, met the conditions laid down in a regulation adopted pursuant to Article 1 of Regulation (EC) No 994/98 or under another approved aid scheme is compatible with the internal market up to the maximum aid intensities that apply to that type of aid,

HAS ADOPTED THIS DECISION:

Article 1

The scheme established in favour of cereal-producing farmers and cereal-collecting agricultural cooperatives under Ministerial Decisions No 56700/B.3033/8.12.2008 and No 2/88675/0025/9.2.2008 in the form of a loan guaranteed by the Greek State with an interest-rate subsidy constitutes State aid. This State aid granted by Greece illegally, in breach of Article 108(3) of the Treaty on the Functioning of the European Union, is incompatible with the internal market.

Article 2

Individual aid granted under the scheme referred to in Article 1 does not constitute aid if, at the time it was granted, it met the conditions laid down in a regulation adopted pursuant to Article 2 of Regulation (EC) No 994/98 and that was applicable at the time the aid was granted.

([12]) OJ C 244, 1.10.2004, p. 2.
([13]) See footnote 4.
([14]) See amendment to the temporary framework (OJ C 261, 31.10.2009, p. 2).
([15]) OJ L 142, 14.5.1998, p. 1.

Article 3

Individual aid granted under the scheme referred to in Article 1 which, at the time it was granted, met the conditions laid down in a regulation adopted pursuant to Article 1 of Regulation (EC) No 994/98 or under another approved aid scheme is compatible with the internal market up to the maximum aid intensities that apply to that type of aid.

Article 4

1. Greece shall recover the incompatible aid granted under the scheme referred to in Article 1 from the beneficiaries.

2. The sums to be recovered shall include interest calculated from the date on which the aid was put at the disposal of the beneficiaries until the date of actual recovery.

3. The interest shall be calculated on a compound basis in accordance with Chapter V of Commission Regulation (EC) No 794/2004 ([16]).

4. Greece shall cancel all outstanding payments under the aid scheme referred to in Article 1 from the date of notification of this Decision.

Article 5

1. Recovery of the aid referred to in Article 1 shall be immediate and effective.

2. Greece shall ensure that this Decision is implemented within four months of the date of its notification.

Article 6

1. Within two months of notification of this Decision, Greece shall submit the following information to the Commission:

(a) a list of the beneficiaries who have received aid under the scheme referred to in Article 1 and the total amount of aid received by each of them;

(b) the total amount (principal and interest) to be recovered from each beneficiary;

(c) a detailed description of the measures already taken and planned to comply with this Decision;

(d) documents demonstrating that the beneficiaries have been asked to refund the aid.

2. Greece shall keep the Commission informed of the progress of the national measures taken to implement this Decision until recovery of the aid referred to in Article 1 has been completed. It shall immediately submit, on simple request by the Commission, information on the measures already taken and planned to comply with this Decision. It shall also provide detailed information concerning the amounts of aid and interest already recovered from the beneficiaries.

Article 7

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 25 January 2012.

For the Commission

Dacian CIOLOȘ

Member of the Commission

([16]) OJ L 140, 30.4.2004, p. 1.