COMMISSION DECISION

of 8 February 1984

on the clearance of the accounts presented by the Federal Republic of Germany in respect of the European Agricultural Guidance and Guarantee Fund, Guarantee Section, expenditure for the financial year 1979 and amending Decision 81/1034/EEC on the clearance of the accounts presented by the Federal Republic of Germany in respect of expenditure for the financial year 1975

(Only the German text is authentic)

(84/201/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy (1), as last amended by Regulation (EEC) No 3509/80 (2), and in particular Article 5 (2) thereof,

After consulting the Fund Committee,

Whereas, under Article 5 (2) (b) of Regulation (EEC) No 729/70, the Commission, on the basis of the annual accounts presented by the Member States, clears the accounts relating to expenditure made by the departments and agencies referred to in Article 4 of that Regulation;

Whereas Germany has transmitted to the Commission the documents required to clear the accounts for 1979; whereas the latter has carried out on-the-spot inspections as provided for in Article 9 (2) of Regulation (EEC) No 729/70;

Whereas Article 8 of Commission Regulation (EEC) No 1723/72 of 26 July 1972 on the clearance of the accounts of the European Agricultural Guidance and Guarantee Fund, Guarantee Section (3), provides that the Decision to clear the accounts must include the determination of the amount of expenditure incurred in each Member State during the financial year in question recognized as chargeable to the Fund, Guarantee Section, and also the determination of the amount of the Community's financial resources still available in each Member State;

Whereas under Articles 2 and 3 of Regulation (EEC) No 729/70, only refunds on exports to non-member countries and intervention intended to stabilize agricultural markets, granted and undertaken according to Community rules within the framework of the common organization of agricultural markets, may be financed; whereas the inspections carried out show that a part of the expenditure declared, totalling DM 2 436 968,22, does not satisfy these conditions and must therefore be disallowed; whereas the Member State has been fully informed of this deduction and has had an opportunity to state its views thereon;

Whereas the disallowed expenditure includes an amount of DM 187 899,42 for aid to the private storage of table wines and an amount of DM 193 402,45 for aid to supplementary storage of table wines and an amount of DM 3 689,54 for aid to relocation of table wines; whereas the information available to the Commission at the present time does not, however, rule out the possibility that such expenditure or part of it may qualify for EAGGF financing; whereas to avoid delaying this Decision, it should be provided that such expenditure may still be recognized when the 1980 accounts are cleared on condition that the Member State submits the necessary evidence justifying Community financing; whereas the Commission, in the light of the judgment of the Court of Justice in the appeal by the Grand Duchy of Luxembourg against Commission Decisions 83/38/EEC (4) and 83/49/EEC (5) concerning a similar question, will review its position in the course of the first accounts clearance operation subsequent to following the Court's ruling;

Whereas under Council Regulation (EEC) No 1078/77 introducing a system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds (6), as last amended by Regulation (EEC) No 1365/80 (7), 60 %

(1) OJ No L 94, 28. 4. 1970, p. 13.
(2) OJ No L 367, 31. 12. 1980, p. 87.
(3) OJ No L 186, 16. 8. 1972, p. 1.
(4) OJ No L 38, 10. 2. 1983, p. 32.
(5) OJ No L 40, 12. 2. 1983, p. 57.
(6) OJ No L 131, 26. 5. 1977, p. 1.
(7) OJ No L 140, 5. 6. 1980, p. 18.

of expenditure relating to these measures is borne by the Guarantee Section of the EAGGF and 40 % by the Guidance Section; whereas these measures rank as intervention within the meaning of Article 3 of Regulation (EEC) No 729/70 and constitute a 'common measure' within the meaning of Article 6 (1) of that Regulation; whereas the relevant Guidance Section expenditure items must therefore be included when the accounts for guarantee expenditure financed by the EAGGF are cleared;

Whereas this Decision does not affect the financial implications of a particular case concerning buying-in and use for manufacture of compound feed of a product not being skimmed-milk powder eligible for such operations;

Whereas, under Commission Decision 81/1034/EEC of 16 November 1981 (1), a fraction of the declared expenditure, corresponding to monetary compensatory amounts granted on export for deliveries in respect of national food-aid measures, was not financed for the reason that these amounts were not granted in accordance with Community rules under the common organization of agricultural markets;

Whereas, an amount of DM 11 570 202,60 has already been taken as chargeable to the EAGGF under the clearance of accounts for the financial year 1976, and that for this reason the amount not financed by the EAGGF for the financial year 1975 is reduced to DM 5 407 890,68;

Whereas, by its judgment of 7 November 1983 in Case 46/82 the Court of Justice annulled Decision 81/1034/EEC in so far as the Commission refused to charge to the EAGGF the disputed amount paid by the authorities of the Federal Republic of Germany as monetary compensatory amounts granted on export to non-member countries in the context of national food aid;

Whereas, under Article 176 of the Treaty, the Commission is required to take the necessary measures to comply with the judgment of the Court of Justice; whereas, therefore, the said expenditure incurred by the Federal Republic of Germany in respect of 1975 should be recognized as chargeable to the EAGGF, Guarantee Section,

HAS ADOPTED THIS DECISION:

Article 1

1. The expenditure by the Federal Republic of Germany recognized as chargeable to the European Agricultural Guidance and Guarantee Fund, Guarantee Section, in respect of 1979 totals, in accordance with Annex I, DM 6 203 444 643,02.

2. The expenditure recognized as chargeable to the EAGGF pursuant to Regulation (EEC) No 1078/77 totals, in accordance with Annex II, DM 188 385 705,28.

Article 2

The expenditure declared by the Federal Republic of Germany in respect of monetary compensatory amounts granted on exportation to non-member countries in the context of national food-aid measures are recognized as chargeable to the EAGGF, Guarantee Section, for an additional amount of DM 5 407 890,68 in respect of the financial year 1975.

Article 3

The financial resources available at the end of 1979 totals, in accordance with Annex I, a negative balance of DM 118 734 835,58, and in accordance with Annex II, DM 38 027 616,23.

Article 4

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 8 February 1984.

For the Commission
Poul DALSAGER
Member of the Commission

(1) OJ No L 357, 30. 12. 1981, p. 7.

ANNEX I

Clearance of the accounts concerning the expenditure financed by the EAGGF, Guarantee Section, for 1979

			(DM)
1.	Funds available after clearance of 1978 accounts		−32 982 301,88
2.	Advances received for 1979		6 123 100 000,00
3.	Total funds available to cover expenditure for 1979		6 090 117 698,12
4.	Expenditure recognized for 1979 (1):		
	(a) Expenditure declared	6 205 881 611,24	
	(b) Expenditure disallowed	2 436 968,22	
	— of which, definitive decision deferred to 1980	384 991,41	
	(c) Expenditure recognized:		
	— for 1979		6 203 444 643,02
	— modification of Decision 81/1034/EEC		5 407 890,68
5.	Funds available after clearance of 1979 accounts		−118 734 835,58

(1) Excluding expenditure on measures under Regulation (EEC) No 1078/77.

ANNEX II

Clearance of the accounts concerning the expenditure financed by the EAGGF under Regulation (EEC) No 1078/77 for 1979

			(DM)
1.	Funds available after clearance of 1978 accounts		13 213 321,51
2.	Advances received for 1979		213 200 000,00
3.	Total funds available to cover 1979 expenditure		226 413 321,51
4.	Expenditure incurred in 1979 recognized as chargeable to the EAGGF		118 385 705,28
	(a) Guarantee Section	113 031 423,17	
	(b) Guidance Section	75 354 282,11	
5.	Funds available after clearance of 1979 accounts		38 027 616,23