COMMISSION DECISION

of 28 March 1989

on the clearance of certain Member States' accounts in respect of expenditure incurred in 1980, 1981, 1982 and 1983 on agricultural products supplied as food aid

(Only the Dutch, English, French and Italian texts are authentic)

(89/255/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2681/74 of 21 October 1974 on Community financing of expenditure incurred in respect of the supply of agricultural products as food aid [1], and in particular the second indent of Article 3 (2) thereof,

Having consulted the European Agricultural Guidance and Guarantee Fund Committee,

Whereas the Member States have sent to the Commission the supporting statements required for clearance of the accounts pursuant to Article 7 of Commission Regulation (EEC) No 249/77 [2], as last amended by Regulation (EEC) No 681/86 [3];

Whereas, pursuant to Article 1 of Regulation (EEC) No 249/77, only the net quantities taken over by the consignee of the aid at the point of delivery provided for in Community Regulations can be financed;

Whereas expenditure is financed on the basis of the provisions of the mobilization regulations and calls for tender for each operation according to the relevant rules and of Commission Regulation (EEC) No 1974/80 of 22 July 1980 laying down general rules of application for the execution of certain food-aid schemes in the form of cereals and rice [4] and Regulation (EEC) No 1354/83 of 17 May 1983 laying down general rules for the mobilization and supply of skimmed-milk powder, butter and butteroil as food aid [5];

Whereas some of the relevant expenditure does not meet this requirement and must be disallowed; whereas the amounts concerned for Belgium are Bfrs 320 573 for 1980, Bfrs 531 893 for 1981, Bfrs 32 987 328 for 1982 and Bfrs 4 492 219 for 1983; for Italy Lit 149 156 750 for 1982 and Lit 244 340 332 for 1983; for the United Kingdom £ 315 for 1980, £ 81 153,93 for 1982 and £ 24 427,30 for 1983; for France FF 132 566,07 for 1980, FF 824,72 for 1981, FF 14 475,85 for 1982 and FF 2 695 452,07 for 1983; and for the Netherlands Fl 7 948,94 for 1980 and Fl 7 671,67 for 1982.

Whereas the reserves entered at points 7 and 8 of the Annex to Commission Decision 83/548/EEC of 7 November 1983 on the clearance of the 1975 accounts [6] submitted by Belgium in respect of food aid expenditure on agriculture products can be withdrawn;

Whereas the reserves entered at points 6, 7 and 8 of the Annex to Commission Decision 84/591/EEC of 12 November 1984 on the clearance of the 1976 accounts [7] submitted by Belgium in respect of food aid expenditure on agricultural products can be withdrawn;

Whereas the reserve entered at point 7 of the Annex to Commission Decision 84/593/EEC of 12 November 1984 on the clearance of the 1978 accounts [8] submitted by Belgium in respect of food aid expenditure on agricultural products can be withdrawn;

Whereas verification shows that an additional amount of Bfr 1 139 507 qualifies for Community financing in respect of 1981 for Belgium;

Whereas, as regards 1980, a clearance reserve must be entered in respect of the operation concerning 1 300 tonnes of butteroil carried out under Regulation (EEC) No 2494/79 by Belgium;

Whereas, as regards 1982, clearance reserves must be entered in respect of the aid operations carried out by Belgium, in particular those carried out pursuant to Regulations (EEC) No 2936/81 — lots AK, AL, AH and AI (2 000 tonnes of skimmed-milk powder), (EEC) No 93/82 (974 tonnes of wheat flour), (EEC) No 3611/81 and (EEC) No 1058/82 (550 tonnes of wheat flour);

Whereas, as regards 1983, a clearance reserve must be entered in respect of the aid operation concerning 500 tonnes per lot G of skimmed-milk powder carried out by Belgium pursuant to Regulation (EEC) No 2600/81;

[1] OJ No L 288, 25. 10. 1974, p. 1.
[2] OJ No L 34, 5. 2. 1977, p. 21.
[3] OJ No L 62, 5. 3. 1986, p. 7.
[4] OJ No L 192, 26. 7. 1980, p. 11.
[5] OJ No L 142, 1. 6. 1983, p. 1.
[6] OJ No L 322, 19. 11. 1983, p. 45.
[7] OJ No L 325, 12. 12. 1984, p. 1.
[8] OJ No L 325, 12. 12. 1984, p. 5.

Whereas the reserves entered at point 6 of Commission Decisions 84/610/EEC and 84/613/EEC of 12 November 1984 on the clearance of the 1976 and 1979 accounts [1], submitted by Italy in respect of food aid expenditure on agricultural products, can be withdrawn;

Whereas an additional amount of Lit 12 716 000 arising from the difference between the expenditure charged to the Community budget and that declared for clearance by Italy can be recognized;

Whereas verification shows that an additional amount of Lit 6 058 883 qualifies for Community financing in respect of 1983 for Italy;

Whereas, for 1980, a clearance reserve must be entered in respect of the aid operation carried out by Italy arising from Commission Decision 76/748/EEC of 13 September 1976 relating to the supply of 3 750 tonnes of rice to Niger, pending the outcome of proceedings before courts;

Whereas a clearace reserve must be entered in respect of the United Kingdom in connection with Regulation (EEC) No 30/83, lot H, and Regulation (EEC) No 516/83, lot AA;

Whereas the clearance reserves entered in the Commission Decisions relating to the following clearances of accounts submitted by France in respect of food aid expenditure on agricultural products can be withdrawn; for the 1970/71 programme (Decision 76/64/EEC [2]), for 1973 (Decision 76/94/EEC [3]), for 1974 (Decision 77/755/EEC [4]), for 1975 (Decision 83/549/EEC [5]), for 1976 (Decision 84/602/EEC [6]) and for 1979 (Decision 84/605/EEC [7]); thus giving rise to additional expenditure of FF 12 743,48;

Whereas verification shows that additional amounts of FF 135 980,95 for 1980 and FF 184 246,13 for 1982 qualify for Community financing for France;

Whereas for 1982 and 1983 clearance reserves must be entered in respect of aid operations carried out by France using milk products drawn from intervention stocks;

Whereas, for 1982, a clearance reserve must be entered in respect of DM 181 308,18 for aid operations carried out by France under Regulation (EEC) No 2186/82 — 10 000 tonnes of common wheat to Zaire;

Whereas, for 1983, clearance reserves must be entered in respect of aid operations carried out by France, in particular those carried out under Regulation (EEC) No 298/83 — Lot V — 175 tonnes of butteroil — Guinea Bissau, Regulation (EEC) No 1530/83 — Lot C — 240 tonnes of butteroil — WFP, Regulation (EEC) No 2433/83 — Lot A — 345 tonnes of butteroil — Tunisia, Regulation (EEC) No 2434/83 — Lot A — 1 000 tonnes of skimmed-milk powder — Tunisia, Regulation (EEC) No 1630/82 — 20 000 tonnes of common wheat — UNHCR, Regulation (EEC) No 2779/83 — 5 748, 516 tonnes of flour — Egypt, and Regulation (EEC) No 1611/83 — 15 000 tonnes of maize — Mozambique;

Whereas verification shows that an additional amount of Fl 26 516,70 qualifies for Community financing for the Netherlands;

Whereas the Member States had been informed in detail of the corrections to their accounts and have had opportunities to comment;

Whereas this Decision is without prejudice to any financial consequences that may be drawn, on the occasion of a subsequent accounts clearance, from investigations being carried out at the time of this Decision, from irregularities within the meaning of Article 8 of Council Regulation (EEC) No 729/70 [8], as last amended by Regulation (EEC) No 2048/88 [9], or from judgments of the Court of Justice on cases now pending concerning matters which are the subject of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The accounts of the Member States concerning expenditure financed in respect of food aid in the form of agricultural products in 1980, 1981, 1982 and 1983 are hereby cleared as shown in the Annexes to this Decision.

Article 2

Claims disallowed, remaining chargeable to the Member States, are the following:

Belgium: Bfrs 37 192 506

Italy: Lit 374 722 199

U.K.: £ 105 896,23

France: FF 2 510 348, 15

[1] OJ No L 325, 12. 12. 1984, p.p. 38 and 44.
[2] OJ No L 11, 20. 1. 1976, p. 21.
[3] OJ No L 22, 29. 1. 1976, p. 5.
[4] OJ No L 313, 22. 11. 1977, p. 9.
[5] OJ No L 322, 7. 11. 1983, p. 47.
[6] OJ No L 325, 12. 12. 1984, p. 23.
[7] OJ No L 325, 12. 12. 1984, p. 29.
[8] OJ No L 94, 28. 4. 1970, p. 13.
[9] OJ No L 185, 15. 7. 1988, p. 1.

Article 3

The net amount to be recognized as supplementary expenditure by the Netherlands is Fl 10 896,09.

Article 4

The amounts referred to in Article 2 must be credited to the Commission's accounts within one month of notification of this Decision.

Article 5

This Decision is addressed to the Kingdom of Belgium, the Italian Republic, the United Kingdom, the French Republic and the Kingdom of the Netherlands.

Done at Brussels, 28 March 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission

ANNEX I

Clearance of the accounts of the departments and agencies empowered by the Kingdom of Belgium to pay expenditure arising from food aid operations in agricultural products

	(Bfrs)
1. Funds available after clearance of the 1979 accounts	225 143 932
2. Advance payments authorized in respect of:	
1980	1 603 500 000
1981	3 303 200 000
1982	3 116 400 000
1983	1 233 000 000
3. Total available to cover expenditure for these years	9 481 243 932
4. Expenditure effected in respect of these years and recognized as chargeable to Chapter 92: food aid expenditure from the general budget of the European Communities	
1980	1 853 994 528
1981	3 014 280 329
1982	3 285 608 545
1983	1 336 529 283
	9 490 412 685
5. Funds available after clearance of the accounts for these years	— 9 168 753

6. **Reservations**

1980

(a) *Regulation (EEC) No 2494/79 — 1 300 tonnes — butteroil — Egypt*

A reserve must be entered in respect of DM 16 532 because of doubts as to the exact quantity contained in the 800 butteroil receptacles. The Member State must provide additional information. The claim is provisionally accepted.

1982

(b) *Regulation (EEC) No 2936/81 — 1 500 tonnes — lots AK and AL — skimmed-milk powder — China*

In view of legal proceedings against the successful tenderer, a reserve must be entered in respect of an amount of Bfrs 6 374 970 provisionally accepted pending the outcome of the proceedings.

(c) *Regulation (EEC) No 2936/81 — 500 tonnes — lots AH and AI — skimmed-milk powder — China*

A clearance reserve is entered in respect of a total of Bfrs 7 685 613 provisionally deducted from the expenditure claimed pending the outcome of proceedings brought against the successful tenderer.

(d) *Regulation (EEC) No 93/82 — 974 tonnes — wheat flour — Djibouti*

Legal proceedings having been started against the successful tenderer, an amount of Bfrs 14 080 665 must be deducted subject to study of the judgment to be handed down in this case.

(e) *Regulations (EEC) No 3611/81 and (EEC) No 1058/82 — 550 tonnes — wheat flour — ICRC*

In view of legal proceedings now under way, a clearance reserve must be entered. In the mean time the amount at issue — Bfrs 1 667 050 — is provisionally deducted from the expenditure declared.

1983

(f) *Regulation (EEC) No 2600/81 — lot G — 500 tonnes — skimmed-milk powder — Somalia*

In view of doubts as to the quantity which actually arrived, the Member States must provide further documents and information. In the mean time, a clearance reservation is entered in respect of an amount of Bfrs 1 269 659 deducted provisionally from the expenditure declared.

7. **Reservations withdrawn**

The following reserves, entered in connection with the 1975, 1976 and 1978 clearances concerning expenditure claimed by the Kingdom of Belgium are withdrawn.

(a) *1975*

Reserve entered at points 7 and 8 of the Annex to Commission Decision 83/548/EEC.

(b) *1976*

Reservation entered at points 6, 7 and 8 of the Annex to Commission Decision 84/591/EEC.

(c) *1978*

Reservation entered at point 7 of the Annex to Commission Decision 84/593/EEC.

ANNEX II

Clearance of the accounts of the departments and agencies empowered by the Italian Republic to pay expenditure arising from food aid operations in agricultural products

	(Lit)
1. Funds available after clearance of the 1979 accounts	8 737 848 935
2. Advance payments authorized in respect of:	
1980	25 960 000 000
1981	28 850 000 000
1982	37 100 000 000
1983	12 820 000 000
3. Total available to cover expenditure for these years	113 467 848 935
4. Expenditure effected in respect of these years and recognized as chargeable to Chapter 92: food aid expenditure from the general budget of the European Communities	
1980	33 585 300 204
1981	24 308 862 166
1982	38 324 006 815
1983	14 032 616 944
	110 250 786 129
5. Funds available after clearance of the accounts for these years	3 217 062 806

6. **Reserve**

Commission Decision 76/748/EEC.

3 750 tonnes — rice — Niger

A clearance reserve is formulated pending a decision of the judicial authorities concerning the quality of the merchandise provided.

7. **Reserves withdrawn**

The reserves entered in the Commission Decision of 12 November 1984 concerning the Italian Republic are withdrawn.

ANNEX III

Clearance of the accounts of the departments and agencies empowered by the United Kingdom to pay expenditure arising from food aid operations in agricultural products

	(€)
1. Funds available after clearance of the 1979 accounts	171 041,36
2. Advance payments authorized in respect of:	
1980	15 130 000,00
1981	8 650 000,00
1982	15 200 000,00
1983	10 550 000,00
3. Total available to cover expenditure for these years	49 701 041,36
4. Expenditure effected in respect of these years and recognized as chargeable to Chapter 92: food aid expenditure from the general budget of the European Communities	
1980	8 326 282,54
1981	15 489 134,28
1982	13 388 392,66
1983	11 113 519,31
	48 317 328,79
5. Funds available after clearance of the accounts for these years	1 383 712,57

6. **Reserve**

Regulation (EEC) No 30/83 — lot H — 500 tonnes — SMP — fob — Nicaragua

Regulation (EEC) No 516/83 — lot AA — 50 tonnes — SMP — cif — ICRC/Nicaragua

The expenditure declared for 1983 is accepted with a reserve pending the clearance of the declarations for these actions in 1984 and 1985.

ANNEX IV

Clearance of the accounts of the departments and agencies empowered by the French Republic to pay expenditure arising from food aid operations in agricultural products

	(FF)
1. Funds available after clearance of the 1979 accounts	90 612 137,16
2. Advance payments authorized in respect of:	
1980	431 300 000,00
1981	1 032 200 000,00
1982	968 100 000,00
1983	576 200 000,00
3. Total available to cover expenditure for these years	3 098 412 137,16
4. Expenditure effected in respect of these years and recognized as chargeable to Chapter 92: food aid expenditure from the general budget of the European Communities	
1980	461 878 802,34
1981	1 059 481 495,11
1982	886 160 916,97
1983	607 696 392,37
	3 015 217 606,79
5. Funds available after clearance of the accounts for these years	83 194 530,37

6. **Reserves**

1982

Butteroil

The expenditure declared for actions involving milk products drawn from intervention stocks are cleared with a reserve pending verification with those declared for the years to 31 December 1987 and their concurrence with the corresponding declarations to the EAGGF Guarantee Section.

Regulation (EEC) No 2186/82 — 10 000 tonnes — common wheat — Zaire

A clearance reserve is formulated in respect of DM 181 308,18 pending further investigation of the responsibility of the tenderer in this case.

1983

Regulation (EEC) No 298/83 — lot V — 175 tonnes — butteroil — Guinea Bissau

Arising from the problem of the quantity contained in 53 torn cartons, a clearance reserve is formulated.

Regulation (EEC) No 1530/83 — lot C — 240 tonnes — butteroil — WFP — Morocco

Regulation (EEC) No 2433/83 — lot A — 345 tonnes — butteroil — Tunisia

Regulation (EEC) No 2434/83 — lot A — 1 000 tonnes — skimmed-milk powder — Tunisia

An investigation is underway concerning the quality of the product provided in these three cases. Pending the outcome, a clearance reserve is introduced.

Regulation (EEC) No 1630/82 — 20 000 tonnes — common wheat — UNHCR

A clearance reserve is formulated because of *force majeure* being invoked to justify a delay in shipment; all the details needed in order to recognize *force majeure* are not yet in place.

Regulation (EEC) No 2779/83 — 5 748,516 tonnes — flour — Egypt

Legal proceedings concerning the security have been instituted; a clearance reserve for FF 447 866,88 is therefore formulated.

Regulation (EEC) No 1611/83 — 15 000 tonnes — maize — Mozambique

This action must be the subject of a clearance reserve because of the ongoing inquiry concerning the quality of the merchandise delivered.

7. **Reserves withdrawn**

The following reserves, introduced in the context of the clearance for the 1970/71 programme, as well as those for the years 1973, 1974, 1975, 1976 and 1979 concerning the expenditure declared by the French Republic are withdrawn:

1970/71 Programme

Reserves formulated by Commission Decision 76/64/EEC.

1973

Reserves formulated by Commission Decision 76/64/EEC.

1974

Reserves formulated by Commission Decision 77/755/EEC.

1975

Reserves formulated by Commission Decision 83/549/EEC.

1976

Reserves formulated by Commission Decision 84/602/EEC.

1979

Reserves formulated by Commission Decision 84/605/EEC.

ANNEX V

Clearance of the accounts of the departments and agencies empowered by the Netherlands to pay expenditure arising from food aid operations in agricultural products

	(Fl)
1. Funds available after clearance of the 1979 accounts	837 885,27
2. Advance payments authorized in respect of:	
1980	29 160 000,00
1981	80 740 000,00
1982	91 900 000,00
1983	20 600 000,00
3. Total available to cover expenditure for these years	223 237 885,27
4. Expenditure effected in respect of these years and recognized as chargeable to Chapter 92: food aid expenditure from the general budget of the European Communities	
1980	34 929 291,38
1981	57 015 998,23
1982	107 841 951,73
1983	24 136 740,97
	223 923 982,31
5. Funds available after clearance of the accounts for these years	— 686 097,04
