II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 23 September 1992

on the clearance of the accounts presented by the Member States in respect of the expenditure for 1989 of the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section

(92/491/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 2048/88 [2], and in particular Article 5 (2) thereof,

After consulting the Fund Committee,

Whereas, pursuant to 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 of the authorities and bodies referred to in Article 4 of that Regulation;

Whereas the Member States have transmitted to the Commission the documents required to clear the accounts for 1989; whereas on the basis of Article 5 (2) (a) of Regulation (EEC) No 729/70 the 1989 financial year began on 16 October 1988 and ends on 15 October 1989;

Whereas the Commission has carried out the verifications 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 accounts of the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section [3], as last amended by Regulation (EEC) No 295/88 [4], 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 Guarantee Section of the Fund; whereas Article 102 of the Financial Regulation of 21 December 1977 [5], as last amended by Regulation (Euratom, ECSC, EEC) No 610/90 [6], provides that the outcome of the clearance decision, i.e. any discrepancy which may exist between the total expenditure booked to the accounts for a financial year pursuant to Articles 100 and 101 and the total expenditure recognized by the Commission when clearing the accounts is to be booked, under a single article, as additional expenditure or a reduction in expenditure;

Whereas, pursuant to Articles 2 and 3 of Regulation (EEC) No 729/70, only refunds on exports to third countries and intervention to stabilize agricultural markets, respectively granted and undertaken according to Community rules within the framework of the common organization of the agricultural markets, may be financed; whereas the inspections carried out show that a part of the expenditure declared by the Member States does not meet these conditions and therefore must be disallowed; whereas the amounts declared by each of the Member States concerned, those recognized as chargeable to the EAGGF Guarantee Section and the difference between

[1] OJ No L 94, 28. 4. 1970, p. 13.
[2] OJ No L 185, 15. 7. 1988, p. 1.
[3] OJ No L 186, 16. 8. 1972, p. 1.
[4] OJ No L 30, 2. 2. 1988, p. 7.
[5] OJ No L 356, 31. 12. 1977, p. 1.
[6] OJ No L 70, 16. 3. 1990, p. 1.

the two amounts and the difference between the expenditure recognized as chargeable to the EAGGF Guarantee Section and that charged in respect of the year are shown in the Annex to this Decision;

Whereas the expenditure relating to export refunds in the beef and veal sector declared by Germany amounting to DM 760 841 808 and by Ireland amounting to £ Irl 293 514 782 as well as that relating to the cereals sector declared by the United Kingdom amounting to £ 19 702 437 are not covered by the present Decision, given that further examination of these cases is necessary; whereas these amounts have therefore been deducted from the expenditure declared by the Member States in respect of the year under consideration and will be cleared subsequently; whereas the same applies as regards the expenditure of Drs 56 501 630 965 for production aid for cotton and Drs 804 208 822 for public buying-in of baled tobacco declared by Greece, as well as the expenditure of Drs 700 000 000 by Greece, of Pta 1 766 026 057 by Spain, of FF 499 800 000 by France and of Lit 103 600 591 415 by Italy for the grubbing-up of vines; whereas these cases will be cleared on the basis of additional verifications; and whereas the amounts indicated above, which are equal to the total of the expenditure declared, do not prejudice any financial consequence which may be drawn under a later clearance;

Whereas the expenditure disallowed for Belgium comprises an amount of FB 101 462 150, for Spain an amount of Pta 626 592 450, for Ireland an amount of £ Irl 5 990 097 and for the United Kingdom an amount of £ 4 051 029, in respect of export refunds paid in the cereals and sugar sectors by Spain, in the cereals and milk and milk products sectors by Belgium and the United Kingdom and in the beef and veal sector by Ireland; whereas, taking account of the inadequacy of physical checks, these amounts must be charged to the Member States; whereas the special circumstances of these cases, however, justify re-examination by the Commission of the disallowance during the present clearance provided the aforementioned Member States, provide the evidence requested within six months of notification of this Decision; whereas this Decision is nonetheless immediately applicable;

Whereas expenditure disallowed for Belgium comprises an amount of FB 71 307 680 in respect of the basic and additional co-responsibility levies which should have been collected in the cereals sector; whereas this amount must be charged to the Member State pursuant to this Decision; whereas, however, the special circumstances of this case justify re-examination by the Commission of the disallowance, provided that Belgium provides the evidence requested within a time limit which will be notified to it by the Commission; whereas this Decision is nonetheless immediately applicable;

Whereas the expenditure disallowed for Germany comprises an amount of DM 4 217 752 in respect of export refunds for beef meat and an amount of DM 1 609 109 in respect of the private storage of beef, for France comprises an amount of FF 1 500 000 in respect of the late payment of part of the minimum price within the framework of the production aid for peas and field beans, for Italy an amount of Lit 1 241 513 490 in respect of the financial compensation for the withdrawal of fruit and vegetables and for Portugal an amount of Esc 80 074 799 in respect of the financial compensation for withdrawals of fish in the fisheries sector; whereas these amounts must be charged to the Member States pursuant to this Decision; whereas, however, the special circumstances of these cases justify re-examination by the Commission of the disallowance during the present clearance, provided that the Member States in question provide the evidence requested within a time limit which will be notified to them by the Commission; whereas this Decision is nonetheless immediately applicable;

Whereas the expenditure disallowed for Greece comprises an amount of Drs 120 296 927 in respect of export refunds granted in the cereals sectors; whereas, in view of the illegal grant of national export subsidies, this amount must be charged to the Member State pursuant to this Decision; whereas, however, the special circumstances of this case justify re-examination by the Commission of the disallowance during the present clearance, on the basis of the findings of additional verifications by the Commission; whereas this Decision is nonetheless immediately applicable;

Whereas the expenditure disallowed for Spain includes an amount of Pta 23 419 800 000 and for Italy includes an amount of Lit 896 844 000 000 concerning the supplementary levy which should have been paid by Spain and Italy in the milk and milk products sector; whereas these amounts must be charged to these Member States pursuant to this Decision; whereas the information at present available to the Commission does not yet allow it to establish with precision the aforementioned financial corrections; whereas the Commission will undertake complementary verifications on this matter and reserves the possibility of modifying the aforementioned financial corrections under a subsequence clearance of accounts in accordance with the results of these verifications, in particular of the effective implementation of the milk quota

scheme in these two Member States; whereas this Decision is nonetheless immediately applicable;

Whereas Commission Decision 89/627/EEC [1], as amended by Decision 90/213/EEC [2], fixed, with a reservation, a financial correction of DM 234 334 970 in respect of the additional levy which should have been paid by Germany in the milk and milk products sector; whereas Commission Decision 90/644/EEC [3] also fixed a financial correction of DM 104 418 850; whereas in these Decisions the Commission reserved the right to re-examine these disallowances as and when Germany incurred expenditure within the framework of a programme to buy back reference quantities before 31 March 1991;

Whereas an inspection carried out in April 1991 showed that Germany, in implementing a buying-back programme, was able, before 31 March 1991, to reduce the sum of the individual reference quantities so that they no longer exceeded the guaranteed total quantity fixed for Germany; whereas the above-mentioned amounts should therefore be charged to the Community budget;

Whereas Decision 90/644/EEC fixed, with a reservation, a financial correction of Lit 13 953 883 351 in respect of premiums to sheepmeat and goatmeat producers granted by Italy; whereas in this Decision the Commission reserved the right to re-examine this disallowance provided that the Member State provided the evidence requested within a time limit which would be notified to it by the Commission; whereas scrutiny of the documents provided by Italy revealed no information placing in question the justification for the financial correction; whereas, therefore, that correction should now become definitive;

Whereas the Commission, in its clearance of accounts decision for 1988, reserved the right to review the monetary compensatory amounts in respect of exports to third countries declared by Greece as own resources and, if warranted, to apply the necessary corrections in a future clearance decision; whereas, on the basis of the information provided by Greece, an amount of Drs 940 108 937 should be disallowed for the 1988 financial year;

Whereas Decision 90/644/EEC does not cover expenditure of Lit 183 369 315 937 declared by Italy in respect of consumption aid for olive oil; whereas the Commission has examined this expenditure on the basis of additional information provided by the Member State concerned; whereas this expenditure should be cleared in this Decision;

Whereas the Court of Justice, by its judgment in Case C-22/90, annulled the accounts clearance decision for 1987 in respect of France in so far as it had adopted a financial correction of FF 10 569 874 relating to the collection by France of the additional levy in the milk and milk products sector; whereas, as a result, in accordance with Article 176 of the Treaty, the abovementioned amount must be charged in this clearance of accounts to the Community budget for 1987; whereas, in addition, the amount of FF 5 623 402 which, for the same reason, was the subject of a financial correction for France for 1988 must also be charged to the Community budget in the context of the present clearance;

Whereas, in respect of Spain, the inquiry regarding the quality of olive oil in intervention storage is now closed, as are the inquiries in respect of Greece regarding the grant of production aid for durum wheat and the storage aid for dried grapes, the inquiry in respect of Italy regarding the payment of financial compensation for the withdrawal of citrus fruit and to encourage the processing thereof and, in respect of Germany and Ireland, the inquiries regarding the grant of private storage aid for beef and the prefinancing of export refunds for beef and, in respect of Spain, Greece and the United Kingdom, the inquiries regarding the grant of the ewe premium; whereas this Decision rules as to further action to be taken with regard to these cases;

Whereas this Decision is without prejudice to any financial consequences which may be drawn in any subsequent clearance of accounts in respect of national aid for infringements for which the procedures started pursuant to Articles 93 and 169 of the Treaty are now being implemented or were terminated after 19 February 1992;

Whereas this Decision is without prejudice to any financial consequences drawn by the Commission, during a subsequent accounts clearance procedure from current investigations underway at the time of this Decision, from irregularities within the meaning of Article 8 of Regulation (EEC) No 729/70 or from judgments of the Court of Justice in cases now pending and relating to matters covered by this Decision;

Whereas, the clearance of accounts concerning food aid took place on 31 March 1992, the financial consequences for the Guarantee Section will be determined during the clearance of accounts of the 1992 financial year,

[1] OJ No L 359, 8. 12. 1989, p. 23.
[2] OJ No L 113, 4. 5. 1990, p. 32.
[3] OJ No L 350, 14. 12. 1990, p. 82.

HAS ADOPTED THIS DECISION:

Article 1

The Member States' accounts concerning expenditure financed by the EAGGF Guarantee Section in respect of 1989 are hereby cleared as indicated in the Annex to this Decision.

Article 2

The amounts arising under point 3 of the Annex are to be taken into account as part of the expenditure referred to in Article 3 of Commission Regulation (EEC) No 2776/88 [1], as last amended by Regulation (EEC) No 775/90 [2], for the month of November 1992.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 23 September 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

[1] OJ No L 249, 8. 9. 1988, p. 9.
[2] OJ No L 83, 30. 3. 1990, p. 85.

ANNEX

BELGIUM

EAGGF Guarantee Section expenditure Financial year : 1989	Bfrs
1. **Expenditure recognized**	
(a) Expenditure declared by the Member State in respect of the present clearance	26 354 639 016
(b) Expenditure declared during the preceding year but excluded from that clearance	0
(c) Expenditure declared, excluded from the present clearance	0
(d) Expenditure declared, coming under the present clearance (a + b + c)	26 354 639 016
(e) Expenditure disallowed	− 979 184 991
(f) Financial consequences of previous years	0
(g) Total expenditure recognized (d + e + f)	25 375 454 025
2. **Expenditure charged**	
(a) Expenditure charged in respect of the present year	25 840 187 017
(b) Expenditure charged in respect of the preceding year, but excluded from that clearance	0
(c) Expenditure charged in respect of the present year, but excluded from the present clearance	0
(d) Total expenditure charged, coming under the present clearance (a + b + c)	25 840 187 017
3. **Expenditure chargeable to or payable to the Member State following clearance of the accounts** (2d − 1g)	464 732 992

DENMARK

EAGGF Guarantee Section expenditure Financial year: 1989	Dkr
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	8 191 279 058,66
(b) Expenditure declared during the preceding year but excluded from that clearance	0,—
(c) Expenditure declared, excluded from the present clearance	0,—
(d) Expenditure declared, coming under the present clearance (a + b + c)	8 191 279 058,66
(e) Expenditure disallowed	− 13 115 961,62
(f) Financial consequences of previous years	0,—
(g) Total expenditure recognized (d + e + f)	8 178 163 097,04
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	8 164 597 176,15
(b) Expenditure charged in respect of the preceding year, but excluded from that clearance	0,—
(c) Expenditure charged in respect of the present year, but excluded from the present clearance	0,—
(d) Total expenditure charged, coming under the present clearance (a + b + c)	8 164 597 176,15
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2d − 1g)	− 13 565 920,89

GERMANY

EAGGF Guarantee Section expenditure Financial year : 1989	DM
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	8 797 162 588,90
(b) Expenditure declared during the preceding year but excluded from that clearance	0,—
(c) Expenditure declared, excluded from the present clearance	– 760 841 808,23
(d) Expenditure declared, coming under the present clearance (a + b + c)	8 036 320 780,67
(e) Expenditure disallowed	– 221 453 467,22
(f) Financial consequences of previous years	– 5 826 861,—
(g) Total expenditure recognized (d + e + f)	7 809 040 452,45
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	8 766 750 350,18
(b) Expenditure charged in respect of the preceding year, but excluded from that clearance	0,—
(c) Expenditure charged in respect of the present year, but excluded from the present clearance	– 760 841 808,23
(d) Total expenditure charged, coming under the present clearance (a + b + c)	8 005 908 541,95
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2d – 1g)	196 868 089,50

GREECE

EAGGF Guarantee Section expenditure Financial year : 1989	Drs
1. **Expenditure recognized**	
(a) Expenditure declared by the Member State in respect of the present clearance	294 411 944 758
(b) Expenditure declared during the preceding year but excluded from that clearance	0
(c) Expenditure declared, excluded from the present clearance	– 58 005 839 787
(d) Expenditure declared, coming under the present clearance (a + b + c)	236 406 104 971
(e) Expenditure disallowed	– 2 098 042 266
(f) Financial consequences of previous years	– 2 329 022 317
(g) Total expenditure recognized (d + e + f)	231 979 040 388
2. **Expenditure charged**	
(a) Expenditure charged in respect of the present year	294 417 232 275
(b) Expenditure charged in respect of the preceding year, but excluded from that clearance	0
(c) Expenditure charged in respect of the present year, but excluded from the present clearance	– 58 005 839 787
(d) Total expenditure charged, coming under the present clearance (a + b + c)	236 411 392 488
3. **Expenditure chargeable to or payable to the Member State following clearance of the accounts** (2d – 1g)	4 432 352 100

SPAIN

EAGGF Guarantee Section expenditure Financial year : 1989	Pta
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	253 884 805 392
(b) Expenditure declared during the preceding year but excluded from that clearance	0
(c) Expenditure declared, excluded from the present clearance	– 1 766 026 057
(d) Expenditure declared, coming under the present clearance (a + b + c)	252 118 779 335
(e) Expenditure disallowed	– 28 619 442 234
(f) Financial consequences of previous years	– 1 316 384 825
(g) Total expenditure recognized (d + e + f)	222 182 952 276
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	252 121 376 094
(b) Expenditure charged in respect of the preceding year, but excluded from that clearance	0
(c) Expenditure charged in respect of the present year, but excluded from the present clearance	– 1 766 026 057
(d) Total expenditure charged, coming under the present clearance (a + b + c)	250 355 350 037
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2d – 1g)	28 172 397 761

FRANCE

EAGGF Guarantee Section expenditure Financial year: *1989*	FF
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	34 606 418 286,19
(b) Expenditure declared during the preceding year but excluded from that clearance	0,—
(c) Expenditure declared, excluded from the present clearance	– 499 800 000,—
(d) Expenditure declared, coming under the present clearance (a + b + c)	34 106 618 286,19
(e) Expenditure disallowed	– 191 077 766,11
(f) Financial consequences of previous years	16 193 276,—
(g) Total expenditure recognized (d + e + f)	33 931 733 796,08
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	34 608 223 357,17
(b) Expenditure charged in respect of the preceding year, but excluded from that clearance	0,—
(c) Expenditure charged in respect of the present year, but excluded from the present clearance	– 499 800 000,—
(d) Total expenditure charged, coming under the present clearance (a + b + c)	34 108 423 357,17
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2d – 1g)	176 689 561,09

IRELAND

EAGGF Guarantee Section expenditure Financial year: 1989	£ Irl
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	966 050 573,89
(b) Expenditure declared during the preceding year but excluded from that clearance	0,—
(c) Expenditure declared, excluded from the present clearance	– 293 514 782,91
(d) Expenditure declared, coming under the present clearance (a + b + c)	672 535 790,98
(e) Expenditure disallowed	– 8 384 134,01
(f) Financial consequences of previous years	– 3 656 557,—
(g) Total expenditure recognized (d + e + f)	660 495 099,97
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	964 644 245,39
(b) Expenditure charged in respect of the preceding year, but excluded from that clearance	0,—
(c) Expenditure charged in respect of the present year, but excluded from the present clearance	– 293 514 782,91
(d) Total expenditure charged, coming under the present clearance (a + b + c)	671 129 462,48
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2d – 1g)	10 634 362,51

ITALY

EAGGF Guarantee Section expenditure Financial year: 1989	Lit
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	7 217 999 852 752
(b) Expenditure declared during the preceding year but excluded from that clearance	183 369 315 937
(c) Expenditure declared, excluded from the present clearance	– 103 600 591 415
(d) Expenditure declared, coming under the present clearance (a + b + c)	7 297 768 577 274
(e) Expenditure disallowed	– 971 206 734 625
(f) Financial consequences of previous years	– 23 174 707 514
(g) Total expenditure recognized (d + e + f)	6 303 387 135 135
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	7 176 317 112 762
(b) Expenditure charged in respect of the preceding year, but excluded from that clearance	183 369 315 937
(c) Expenditure charged in respect of the present year, but excluded from the present clearance	– 103 600 591 415
(d) Total expenditure charged, coming under the present clearance (a + b + c)	7 256 085 837 284
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2d – 1g)	952 698 702 149

LUXEMBOURG

EAGGF Guarantee Section expenditure Financial year : 1989	Lfrs
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	112 462 343
(b) Expenditure declared during the preceding year but excluded from that clearance	0
(c) Expenditure declared, excluded from the present clearance	0
(d) Expenditure declared, coming under the present clearance (a + b + c)	112 462 343
(e) Expenditure disallowed	– 36 918 998
(f) Financial consequences of previous years	0
(g) Total expenditure recognized (d + e + f)	75 543 345
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	81 336 108
(b) Expenditure charged in respect of the preceding year, but excluded from that clearance	0
(c) Expenditure charged in respect of the present year, but excluded from the present clearance	0
(d) Total expenditure charged, coming under the present clearance (a + b + c)	81 336 108
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2d – 1g)	5 792 763

NETHERLANDS

EAGGF Guarantee Section expenditure Financial year : 1989	Hfl
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	8 790 181 465,04
(b) Expenditure declared during the preceding year but excluded from that clearance	0,—
(c) Expenditure declared, excluded from the present clearance	0,—
(d) Expenditure declared, coming under the present clearance (a + b + c)	8 790 181 465,04
(e) Expenditure disallowed	– 4 017 394,68
(f) Financial consequences of previous years	0,—
(g) Total expenditure recognized (d + e + f)	8 786 164 070,36
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	8 789 965 794,62
(b) Expenditure charged in respect of the preceding year, but excluded from that clearance	0,—
(c) Expenditure charged in respect of the present year, but excluded from the present clearance	0,—
(d) Total expenditure charged, coming under the present clearance (a + b + c)	8 789 965 794,62
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2d – 1g)	3 801 724,26

PORTUGAL

EAGGF Guarantee Section expenditure Financial year: 1989	Esc
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	29 971 233 442,—
(b) Expenditure declared during the preceding year but excluded from that clearance	0,—
(c) Expenditure declared, excluded from the present clearance	0,—
(d) Expenditure declared, coming under the present clearance (a + b + c)	29 971 233 442,—
(e) Expenditure disallowed	– 263 305 784,—
(f) Financial consequences of previous years	0,—
(g) Total expenditure recognized (d + e + f)	29 707 927 658,—
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	29 971 233 442,—
(b) Expenditure charged in respect of the preceding year, but excluded from that clearance	0,—
(c) Expenditure charged in respect of the present year, but excluded from the present clearance	0,—
(d) Total expenditure charged, coming under the present clearance (a + b + c)	29 971 233 442,—
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2d – 1g)	263 305 784,—

UNITED KINGDOM

EAGGF Guarantee Section expenditure Financial year: 1989	£
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	1 225 974 596,48
(b) Expenditure declared during the preceding year but excluded from that clearance	0,—
(c) Expenditure declared, excluded from the present clearance	– 19 702 437,99
(d) Expenditure declared, coming under the present clearance (a + b + c)	1 206 272 158,49
(e) Expenditure disallowed	– 1 737 002,69
(f) Financial consequences of previous years	– 5 592 720,—
(g) Total expenditure recognized (d + e + f)	1 198 942 435,80
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	1 224 828 738,73
(b) Expenditure charged in respect of the preceding year, but excluded from that clearance	0,—
(c) Expenditure charged in respect of the present year, but excluded from the present clearance	– 19 702 437,99
(d) Total expenditure charged, coming under the present clearance (a + b + c)	1 205 126 300,74
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2d – 1g)	6 183 864,94