COMMISSION DECISION

of 21 December 1994

on the clearance of the accounts presented by the Member States in respect of the expenditure for 1991 of the European Agricultural Guidance and Guarantee Fund (EAGGF) Guarantee Section

(94/871/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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 1991 ; whereas on the basis of Article 5 (2) (a) of Regulation (EEC) No 729/70 the 1991 financial year began on 16 October 1990 and ended on 15 October 1991 ;

Whereas the Commission has carried out the checks 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 making up accounts for the European Agricultural Guidance and Guarantee Fund, 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 (ECSC, EC, Euratom) No 2730/94 [6], provides that the outcome of the clearance decision, that is to say, any discrepancy 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 part of the expenditure declared by the Member States does not meet those conditions and therefore must be disallowed ; whereas the amounts declared by each other of the Member States concerned, those recognized as chargeable to the EAGGF Guarantee Section and the differences between the two amounts together with the differences 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 performance of the operations provided for in Commission Regulation (EEC) No 1582/91 [7] declared by Italy amounting to Lit 3 162 202 599 is not covered by this Decision, given that it is covered by a separate decision, Commission Decision 94/281/EC of 29 April 1994 [8] ; whereas this amount has, therefore, been deducted from the expenditure declared by the Member State in respect of the year under consideration ;

Whereas the expenditure declared by Greece, Spain, France and Italy for private storage of wine amounting to Dra 132 358 648, Pta 636 164 384, FF 38 898 417 and Lit 8 203 376 912 respectively and the expenditure declared by Denmark and Ireland for public storage of beef amounting to Dkr 13 497 909 and £Irl 9 613 206 respectively are not covered by this Decision, since further examination of the files is required ; whereas those

[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 293, 12. 11. 1994, p. 7.
[7] OJ No L 147, 12. 6. 1991, p. 20.
[8] OJ No L 120, 11. 5. 1994, p. 59.

amounts have, therefore, been deducted from the expenditure declared by those Member States for the financial year concerned and will be cleared at a later date;

Whereas Commission Decision 93/659/EC [1] does not cover the expenditure relating to implementation of the milk improvement programme declared by Greece amounting to Dra 343 019 260; whereas the Commission has examined this expenditure on the basis of the information presented by the Member State concerned; whereas it should therefore be cleared by means of this Decision;

Whereas expenditure disallowed under this Decision with respect to the 1991 financial year for Italy includes Lit 11 347 399 140 in respect of export refunds in the tobacco sector; whereas the same applies to France in respect of FF 775 902 for levies in the cereals sector, Italy in respect of Lit 6 417 202 385 for production aid for olive oil and Greece in respect of Dra 16 735 309 160 for production aid for cotton; whereas, in view of the failure to comply with certain Community provisions, the corrected amounts should be charged to those 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 in the light of the findings and verifications currently under way; whereas this Decision is nevertheless immediately applicable;

Whereas expenditure not recognized by the present Decision includes for Italy an amount of Lit 488 800 000 000 in respect of the financial year 1991, for Spain an amount of Pta 31 020 000 000 and for Greece an amount of Dra 1 592 000 000 relating to levies in the milk sector; whereas the non-recognition of this expenditure is the result of the Commission's and the Council's joint conclusions reached on 21 October 1994 concerning the consequences of these three Member States' failure to apply the milk quota regime; whereas under the present Decision the amounts of the unrecognized expenditure must be taken over by the Member States; whereas the Commission nevertheless reserves the possibility to re-examine the non-recognition of expenditure made under this clearance of accounts if one or other aspect of the joint conclusions of 21 October 1994 is not implemented, particularly as regards the withdrawal of appeals pending before the Court of Justice in respect of the clearance decisions in the milk sector; whereas the present Decision is nevertheless immediately applicable;

Whereas Commission Decision 93/524/EEC [2] fixed, subject to revision, a financial correction of Pta 4 736 985 247 for Spain in respect of additional levies in the milk sector; whereas the additional verifications carried out by the Commission, concerning the practical implementation of the milk quota scheme, revealed no information casting doubt on the justification for the financial correction; whereas, therefore, this correction should now become definitive;

Whereas the Court of Justice, by its judgment of 10 November 1993 in Case C-48/91 Netherlands v. Commission, annulled the accounts clearance decision for 1988 in respect of the Netherlands insofar as it had adopted a financial correction of HFl 708 540 relating to co-responsibility levies in the cereals sector; whereas, as a result, and in accordance with Article 176 of the Treaty, the abovementioned amount must be charged in this clearance of accounts to the Community budget for 1988;

Whereas the Court of Justice, by its judgement of 9 August 1994 in Case C/413/92 Germany v. Commission, annulled the accounts clearance decision for 1989 in respect of Germany insofar as it had adopted a financial correction of DM 24 365 relating to aid for the production of casein and caseinates; whereas, as a result, and in accordance with Article 176 of the Treaty, the abovementioned amount must be charged in this clearance of accounts to the Community budget for 1989;

Whereas, in respect of Germany and the Netherlands, the inquiries regarding export refunds in the beef sector are now closed; whereas this Decision lays down the further action to be taken with regard to these cases;

Whereas Article 8 of Regulation (EEC) No 729/70 provides that the financial consequence arising from irregularities or negligence are not to be borne by the Community if they are the result of irregularities or negligence attributable to administrative authorities or other bodies of the Member States; whereas some of those financial consequences which cannot be borne by the Community budget should be included within the scope of this Decision;

Whereas this Decision is without prejudice to any financial consequences which may be determined in any subsequent clearance of accounts in respect of national aid or infringements for which the procedures started under Articles 93 and 169 of the Treaty are now being implemented or were terminated after 30 June 1994;

Whereas this Decision is without prejudice to any financial consequences determined by the Commission, during a subsequent accounts clearance procedure from current investigations under way at the time of this Decision,

[1] OJ No L 301, 8. 12. 1993, p. 13.
[2] OJ No L 252, 9. 10. 1993, p. 27.

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, in their joint conclusions of 21 October 1994, the Commission and the Council agreed that the additional financial burden for the Member States concerned represented by the increase in the financial corrections for the years 1989 to 1991 would be recovered in four equal annual instalments from 1995 to 1998; whereas the size of the amounts to be recovered from certain of those Member States justifies the collection by the Commission of the corrections for 1991 in three equal monthly instalments,

HAS ADOPTED THIS DECISION:

Article 1

The Member States' accounts concerning expenditure financed by the EAGGF Guarantee Section in respect of 1991 are hereby cleared as indicated in the Annex.

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] for the months given in the following table.

(in national currency)

	(1)	(2)	(3)
Belgium	105 131 314	—	
Denmark	44 400 114,86	—	
Germany	—	228 106 708,43	
Greece	—	30 598 880 825	1 592 000 000
Spain	—	40 645 071 494	31 020 000 000
France	84 413 308,92	—	
Ireland	5 961 919,11	—	
Italy	—	984 166 798 609	488 800 000 000
Luxembourg	1 515 335	—	
Netherlands	– 1 527 260,86	—	
Portugal	188 430 521	—	
United Kingdom	– 147 822,81		

(1) For February 1995.

(2) In three equal instalments for February, March and April 1995.

(3) In four equal instalments for the final month of each of the 1995, 1996, 1997 and 1998 EAGGF financial years.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 21 December 1994.

For the Commission

René STEICHEN

Member of the Commission

(1) OJ No L 249, 8. 9. 1988, p. 9.

ANNEX

BELGIUM

EAGGF Guarantee Section expenditure Financial year : 1991	Bfrs
1. **Expenditure recognized**	
(a) Expenditure declared by the Member State in respect of the present clearance	62 290 364 916
(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)	62 290 364 916
(e) Expenditure disallowed	− 105 131 314
(f) Total expenditure recognized (d + e)	62 185 233 602
2. **Expenditure charged**	
(a) Expenditure charged in respect of the present year	62 290 364 916
(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) Expenditure charged to a later exercise	0
(e) Total expenditure charged, coming under the present clearance (a + b + c − d)	62 290 364 916
3. **Expenditure chargeable to or payable to the Member State following clearance of the accounts** (2e − 1f)	105 131 314

DENMARK

EAGGF Guarantee Section expenditure Financial year: 1991	Dkr
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	9 529 296 381,31
(b) Expenditure declared during the preceding year but excluded from that clearance	0,00
(c) Expenditure declared, excluded from the present clearance	– 13 497 909,00
(d) Expenditure declared, coming under the present clearance (a + b + c)	9 515 798 472,31
(e) Expenditure disallowed	– 2 905 197,57
(f) Total expenditure recognized (d + e)	9 512 893 274,74
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	9 570 791 298,60
(b) Expenditure charged in respect of the preceding year, but excluded from that clearance	0,00
(c) Expenditure charged in respect of the present year, but excluded from the present clearance	– 13 497 909,00
(d) Expenditure charged to a later exercise	0,00
(e) Total expenditure charged, coming under the present clearance (a + b + c – d)	9 557 293 389,60
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2e – 1f)	44 400 114,86

GERMANY

EAGGF Guarantee Section expenditure Financial year: 1991	DM
1. **Expenditure recognized**	
(a) Expenditure declared by the Member State in respect of the present clearance	10 952 757 822,58
(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)	10 952 757 822,58
(e) Expenditure disallowed	− 263 959 401,46
(f) Total expenditure recognized (d + e)	10 688 798 421,12
2. **Expenditure charged**	
(a) Expenditure charged in respect of the present year	10 954 728 235,55
(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) Expenditure charged to a later exercise	37 823 106,00
(e) Total expenditure charged, coming under the present clearance (a + b + c − d)	10 916 905 129,55
3. **Expenditure chargeable to or payable to the Member State following clearance of the accounts** (2e − 1f)	228 106 708,43

GREECE

EAGGF Guarantee Section expenditure Financial year: 1991	Dr
1. **Expenditure recognized**	
(a) Expenditure declared by the Member State in respect of the present clearance	478 459 744 651
(b) Expenditure declared during the preceding year but excluded from that clearance	343 019 260
(c) Expenditure declared, excluded from the present clearance	– 132 358 648
(d) Expenditure declared, coming under the present clearance (a + b + c)	478 670 405 263
(e) Expenditure disallowed	– 32 190 914 833
(f) Total expenditure recognized (d + e)	446 479 490 430
2. **Expenditure charged**	
(a) Expenditure charged in respect of the present year	478 459 710 643
(b) Expenditure charged in respect of the preceding year, but excluded from that clearance	343 019 260
(c) Expenditure charged in respect of the present year, but excluded from the present clearance	– 132 358 648
(d) Expenditure charged to a later exercise	0
(e) Total expenditure charged, coming under the present clearance (a + b + c – d)	478 670 371 255
3. **Expenditure chargeable to or payable to the Member State following clearance of the accounts** (2e – 1f)	32 190 880 825

SPAIN

EAGGF Guarantee Section expenditure Financial year: 1991	Pta
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	430 448 707 358
(b) Expenditure declared during the preceding year but excluded from that clearance	0
(c) Expenditure declared, excluded from the present clearance	– 636 164 384
(d) Expenditure declared, coming under the present clearance (a + b + c)	429 812 542 974
(e) Expenditure disallowed	– 72 111 236 990
(f) Total expenditure recognized (d + e)	357 701 305 984
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	430 002 541 862
(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	– 636 164 384
(d) Expenditure charged to a later exercise	0
(e) Total expenditure charged, coming under the present clearance (a + b + c – d)	429 366 377 478
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2e – 1f)	71 665 071 494

FRANCE

EAGGF Guarantee Section expenditure Financial year: 1991	FF
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	45 361 326 507,29
(b) Expenditure declared during the preceding year but excluded from that clearance	0
(c) Expenditure declared, excluded from the present clearance	– 38 898 417,00
(d) Expenditure declared, coming under the present clearance (a + b + c)	45 322 428 090,29
(e) Expenditure disallowed	– 90 478 932,20
(f) Total expenditure recognized (d + e)	45 231 949 158,09
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	45 355 260 884,01
(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	– 38 898 417,00
(d) Expenditure charged to a later exercise	0
(e) Total expenditure charged, coming under the present clearance (a + b + c – d)	45 316 362 467,01
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2e – 1f)	84 413 308,92

IRELAND

EAGGF Guarantee Section expenditure Financial year: 1991	£ Irl
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	1 340 950 955,58
(b) Expenditure declared during the preceding year but excluded from that clearance	0
(c) Expenditure declared, excluded from the present clearance	– 9 613 206,00
(d) Expenditure declared, coming under the present clearance (a + b + c)	1 331 337 749,58
(e) Expenditure disallowed	– 5 841 773,66
(f) Total expenditure recognized (d + e)	1 325 495 975,92
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	1 341 071 101,03
(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	– 9 613 206,00
(d) Expenditure charged to a later exercise	0
(e) Total expenditure charged, coming under the present clearance (a + b + c – d)	1 331 457 895,03
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2e – 1f)	5 961 919,11

ITALY

EAGGF Guarantee Section expenditure Financial year : 1991	Lit
1. **Expenditure recognized**	
(a) Expenditure declared by the Member State in respect of the present clearance	8 526 896 509 336
(b) Expenditure declared during the preceding year but excluded from that clearance	0
(c) Expenditure declared, excluded from the present clearance	− 11 365 579 511
(d) Expenditure declared, coming under the present clearance (a + b + c)	8 515 530 929 825
(e) Expenditure disallowed	− 1 478 891 563 222
(f) Total expenditure recognized (d + e)	7 036 639 366 603
2. **Expenditure charged**	
(a) Expenditure charged in respect of the present year	8 520 971 744 723
(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	− 11 365 579 511
(d) Expenditure charged to a later exercise	0
(e) Total expenditure charged, coming under the present clearance (a + b + c − d)	8 509 606 165 212
3. **Expenditure chargeable to or payable to the Member State following clearance of the accounts** (2e − 1f)	1 472 966 798 609

LUXEMBOURG

EAGGF Guarantee Section expenditure Financial year : 1991	Lfrs
1. Expenditure recognized	
(a) Expenditure declared by the Member State in respect of the present clearance	118 859 802
(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)	118 859 802
(e) Expenditure disallowed	− 1 447 191
(f) Total expenditure recognized (d + e)	117 412 611
2. Expenditure charged	
(a) Expenditure charged in respect of the present year	118 927 946
(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) Expenditure charged to a later exercise	0
(e) Total expenditure charged, coming under the present clearance (a + b + c − d)	118 927 946
3. Expenditure chargeable to or payable to the Member State following clearance of the accounts (2e − 1f)	1 515 335

NETHERLANDS

EAGGF Guarantee Section expenditure Financial year: 1991	Fl
1. **Expenditure recognized**	
(a) Expenditure declared by the Member State in respect of the present clearance	6 250 029 038,54
(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)	6 250 029 038,54
(e) Expenditure disallowed	1 575 602,29
(f) Total expenditure recognized (d + e)	6 251 604 640,83
2. **Expenditure charged**	
(a) Expenditure charged in respect of the present year	6 250 077 379,97
(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) Expenditure charged to a later exercise	0
(e) Total expenditure charged, coming under the present clearance (a + b + c − d)	6 250 077 379,97
3. **Expenditure chargeable to or payable to the Member State following clearance of the accounts** (2e − 1f)	− 1 527 260,86

PORTUGAL

EAGGF Guarantee Section expenditure Financial year: 1991	Esc
1. **Expenditure recognized**	
(a) Expenditure declared by the Member State in respect of the present clearance	56 715 270 383
(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)	56 715 270 383
(e) Expenditure disallowed	− 194 843 258
(f) Total expenditure recognized (d + e)	56 520 427 125
2. **Expenditure charged**	
(a) Expenditure charged in respect of the present year	56 708 857 646
(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) Expenditure charged to a later exercise	0
(e) Total expenditure charged, coming under the present clearance (a + b + c − d)	56 708 857 646
3. **Expenditure chargeable to or payable to the Member State following clearance of the accounts** (2e − 1f)	188 430 521

UNITED KINGDOM

EAGGF Guarantee Section expenditure Financial year: 1991	£
1. **Expenditure recognized**	
(a) Expenditure declared by the Member State in respect of the present clearance	1 692 057 452,71
(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)	1 692 057 452,71
(e) Expenditure disallowed	− 2 127 641,44
(f) Total expenditure recognized (d + e)	1 689 929 811,27
2. **Expenditure charged**	
(a) Expenditure charged in respect of the present year	1 689 781 988,46
(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) Expenditure charged to a later exercise	0
(e) Total expenditure charged, coming under the present clearance (a + b + c − d)	1 689 781 988,46
3. **Expenditure chargeable to or payable to the Member State following clearance of the accounts** (2e − 1f)	− 147 822,81