II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 3 February 1999

excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF)

(notified under document number C(1999) 208)

(1999/186/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 (EC) No 1287/95 [2], and in particular Article 5(2)(c) thereof,

After consulting the Fund Committee,

Whereas, under Article 5(2)(c) of Regulation (EEC) No 729/70, the Commission, after consulting the Fund Committee, decides on the expenditure to be excluded from Community financing where it establishes that it has not been effected according to Community rules;

Whereas, under Article 5(2)(c) of Regulation (EEC) No 729/70 and Article 8(1) and (2) of Commission Regulation (EC) No 1663/95 of 7 July 1995 laying down detailed rules for the application of Council Regulation (EEC) No 729/70 regarding the procedure for the clearance of the accounts of the EAGGF Guarantee Section [3], as last amended by Regulation (EC) No 896/97 [4], the Commission has made the necessary inspections, notified its findings to the Member States, taken note of the latter's comments, initiated bilateral discussions in an effort to come to an agreement with the Member States concerned and formally communicated its findings to them, referring to Commission Decision 94/442/EC setting up a conciliation procedure in the context of the clearance of the accounts of the European Agricultural Guidance and Guarantee Fund (EAGGF), Guarantee Section [5];

Whereas the Member States were able to make a request for conciliation; whereas they did so in a number of cases and the report delivered on completion of the conciliation procedure was examined by the Commission;

Whereas, under Articles 2 and 3 of Regulation (EEC) No 729/70, financing may be provided only for export refunds on products exported to third countries and action designed to stabilise the agricultural markets, granted or undertaken respectively in accordance with the Community rules on the common organisation of the agricultural markets;

Whereas, in the light of the inspections carried out, the outcome of the bilateral discussions and the conciliation procedures, part of the expenditure declared by the Member States does not fulfil these requirements and cannot be financed under the EAGGF Guarantee Section;

[1] OJ L 94, 28. 4. 1970, p. 13.
[2] OJ L 125, 8. 6. 1995, p. 1.
[3] OJ L 158, 8. 7. 1995, p. 6.
[4] OJ L 128, 21. 5. 1997, p. 8.
[5] OJ L 182, 16. 7. 1994, p. 145.

Whereas the amounts found not to be chargeable to the EAGGF Guarantee Section are shown in the Annex to this Decision; whereas they do not concern expenditure incurred prior to the 24-month period preceding the Commission's written notification to the Member States of the findings of the inspections;

Whereas, in the cases covered by this Decision, the evaluation of the amounts to be excluded from Community financing on grounds of non-compliance with the Community rules was communicated by the Commission to the Member States in the context of the summary reports for 1994 and 1995;

Whereas this Decision is without prejudice to any financial consequences drawn by the Commission from judgments of the Court of Justice in cases pending on the date of this Decision and relating to matters covered by this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The expenditure of the paying agencies accredited by the Member States declared under the EAGGF Guarantee Section, shown in the Annex hereto, is excluded by this Decision from Community financing, for failure to comply with the Community rules.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 3 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Sector	Member State	Budget item	Grounds	Amount in national currency		Financial year
Arable crops	Germany	1060	Final product ineligible (set-aside for industrial purposes)		−1 992 915,00	1996
Tobacco	Germany	1710	Inadequate checks — 1995 harvest		−1 379 220,00	1996
				Total DEM	−3 372 135,00	
Oils and fats	Spain	1210	Shortcomings in scrutiny of expenditure		−5 478 058 789,00	1996
	Spain	1211	Olive tree register		−276 691 426,00	1996
				Total ESP	−5 754 750 215,00	
Milk	France	2065	1996: buy-back programme — non-fulfilment of requirement		−21 634 680,00	1996
Milk	France	2065	1997: buy-back programme — non-fulfilment of requirement		−21 634 680,00	1997
Beef/Veal	France	2120	Inadequate checks		−171 835,00	1996
Beef/Veal	France	2125	Inadequate checks		−70 835,00	1996
Arable crops	France	5011	Shortcomings in system of management for agri-environmental measures		−16 023 981,00	1996
				Total FRF	−59 536 011,00	
Oils and fats	Greece	1210	Shortcomings in scrutiny of expenditure		−7 815 108 329,00	1996
				Total GRD	−7 815 108 329,00	
Fruit and vegetables	Italy	1511	Liquid added to preserved tomatoes		−4 533 168 771,00	1996
Fruit and vegetables	Italy	1511	Ineligible finished products		−9 671 715,00	1996
Fruit and vegetables	Italy	1511	Liquid added to preserved tomatoes		−7 421 939 820,00	1997
				Total ITL	−11 964 780 306,00	
Beef/Veal	United Kingdom	2220	Inadequate checks		−8 741 304,00	1996
Beef/Veal	United Kingdom	3805	Inadequate checks		−938 603,00	1996
				Total GBP	−9 679 907,00	