COMMISSION

COMMISSION DECISION

of 12 December 2001

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

(notified under document number C(2001) 4008)

(Only the Italian text is authentic)

(2001/889/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 Committee for the European Agricultural Guidance and Guarantee Fund,

Whereas:

(1) Article 5(2)(c) of Regulation (EEC) No 729/70 stipulates that the Commission is to exclude expenditure from Community financing where it finds that it has not been incurred in accordance with Community rules.

(2) The above Article 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 2025/2001 [4], provide that the Commission is to carry out the necessary checks, forward its findings to the Member States, consider any comments from the latter, enter into bilateral discussions to reach an agreement with the Member States concerned and formally communicate its conclusions to them, referring to Commission Decision 94/442/EC of 1 July 1994 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], as last amended by Decision 2001/535/EC [6].

(3) The Member States have had the opportunity to request that a conciliation procedure be initiated. That procedure has been applied and the report issued on the outcome has been considered by the Commission.

(4) Articles 2 and 3 of Regulation (EEC) No 729/70 provide that refunds on exports to third countries and intervention intended to stabilise agricultural markets may be financed only where they are, respectively, granted and undertaken in accordance with the Community rules governing the common organisation of the agricultural markets.

(5) The findings of checks performed, the results of bilateral discussions and the outcome of the conciliation procedures have shown that some expenditure declared by Italy does not meet those conditions and cannot therefore be financed under the EAGGF Guarantee Section.

(6) The Annex to this Decision sets out the amounts that are not recognised as being chargeable to the EAGGF Guarantee Section. Those amounts do not relate to expenditure incurred more than 24 months before the Commission's written notification of the results of the checks to Italy.

[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 274, 17.10.2001, p. 3.
[5] OJ L 182, 16.7.1994, p. 45.
[6] OJ L 193, 17.7.2001, p. 25.

(7) As regards the cases covered by this Decision, the assessment of the amounts to be excluded on grounds of non-compliance with Community rules was notified by the Commission to Italy and is set out in a summary report on the subject.

(8) This Decision is without prejudice to any financial conclusions that the Commission may draw from the judgments of the Court of Justice in cases pending on 1 November 2001 and relating to the subject thereof,

HAS ADOPTED THIS DECISION:

Article 1

The expenditure itemised in the Annex that has been incurred by Italy's accredited paying agency and declared under the EAGGF Guarantee Section is hereby excluded from Community financing because it does not comply with Community rules.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 12 December 2001.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Total corrections

(National currency)

Sector	Member State	Budget heading	Reason	Expenditure to be excluded from financing (national currency)	Already deducted (national currency)	Financial consequences of this decision (national currency)	Financial year
Milk and milk products	IT	2071-102	Additional levy due less amounts already declared and amounts subject to judicial review at national level	– 246 271 279 212,00	– 246 271 279 212,00 (1)	0,00	1996
Milk and milk products	IT	2071-122	Interest due for late payment	– 51 838 864 550,00	0,00	– 51 838 864 550,00	1996
Milk and milk products	IT	2071-103	Additional levy due less amounts already declared and amounts subject to judicial review at national level	– 187 104 014 608,00	– 151 107 377 003,00	– 35 996 637 605,00	1997
Milk and milk products	IT	2071-123	Interest due for late payment	– 26 277 651 252,00	0,00	– 26 277 651 252,00	1997
			IT Total	– 511 491 809 622,00	– 397 378 656 215,00	– 114 113 153 407,00	

(1) This amount represents ITL 291 416 642 411 being the amount already deducted less ITL 45 145 363 199 to be held in reserve with regard to cases subject to judicial review at national level

Total corrections in euro

Sector	Member State	Budget heading	Reason	Expenditure to be excluded from financing (euro)	Already deducted (euro)	Financial consequences of this decision (euro)	Financial year
Milk and milk products	IT	2071-102	Additional levy due less amounts already declared and amounts subject to judicial review at national level	– 127 188 501,20	– 127 188 501,20 [1]	0,00	1996
Milk and milk products	IT	2071-122	Interest due for late payment	– 26 772 539,24	0,00	– 26 772 539,24	1996
Milk and milk products	IT	2071-103	Additional levy due less amounts already declared and amounts subject to judicial review at national level	– 96 631 159,19	– 78 040 447,36	– 18 590 711,84	1997
Milk and milk products	IT	2071-123	Interest due for late payment	– 13 571 274,28	0,00	– 13 571 274,28	1997
			IT Total	– 264 163 473,91	– 205 228 948,55	– 58 934 525,35	

[1] This amount represents EUR 150 504 135,48 being the amount already deducted less EUR 23 315 634,29 to be held in reserve with regard to cases subject to judicial review at national level