COMMISSION DECISION

of 26 June 2002

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(2002) 2281)

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

(2002/524/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,

Having regard to Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy [3], and in particular Article 7(4) 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 and Article 7(4) of Regulation (EC) No 1258/1999 stipulate 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 Articles of Regulation (EEC) No 729/70 and Regulation (EC) No 1258/1999 as well as 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 [4], as last amended by Regulation (EC) No 2025/2001 [5], 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 [6], as last amended by Decision 2001/535/EC [7].

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

(4) Articles 2 and 3 of Regulation (EEC) No 729/70 and Article 2 of Regulation (EC) No 1258/1999 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 the Member States 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 the Member States.

(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 the Member States 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 31 October 2001 and relating to the subject thereof,

[1] OJ L 94, 28.4.1970, p. 13.
[2] OJ L 125, 8.6.1995, p. 1.
[3] OJ L 160, 26.6.1999, p. 103.
[4] OJ L 158, 8.7.1995, p. 6.
[5] OJ L 274, 17.10.2001, p. 3.
[6] OJ L 182, 16.7.1994, p. 45.
[7] OJ L 193, 17.7.2001, p. 25.

HAS ADOPTED THIS DECISION:

Article 1

The expenditure itemised in the Annex that has been incurred by the Member States' accredited paying agencies 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 Kingdom of Belgium, the Hellenic Republic, the French Republic, the Italian Republic, the Kingdom of the Netherlands, the Portuguese Republic, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 26 June 2002.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

Total corrections

Sector	Member State	Budget item	Reason	National currency	Expenditure to be excluded	Already deducted	Financial impact of this decision	Financial year
Financial audit	BE	B1-4	Administrative errors	EUR	– 21 194,89	– 21 194,89	0,00	2000
			Total BE		**– 21 194,89**	**– 21 194,89**	**0,00**	
Milk & milk products	FR	2071	Cancellation of Decision 98/358/EC by the Court of Justice	EUR	17 438 194,58	0,00	17 438 194,58	1994
Public storage	FR	3201	Flat-rate correction 5 % Martinique — Guadeloupe — inadequate checks	EUR	– 336 700,63	0,00	– 336 700,63	1999-2000
Public storage	FR	3201	Flat-rate correction 5 % Martinique — Guadeloupe — inadequate checks	EUR	– 403 069,49	0,00	– 403 069,49	1999-2000
Public storage	FR	3200	Non-compliance with adversarial procedure for sample-taking	EUR	– 89 487,57	0,00	– 89 487,57	1998
Financial audit	FR	B1-4	Over-declaration of rural development expenditure	EUR	– 316 674,26	0,00	– 316 674,26	2000
			Total FR	EUR	**16 292 262,63**	**0,00**	**16 292 262,63**	
Arable crops	GR	various	Flat-rate corrections for failings in key controls	EUR	– 103 513 610,00	– 30 217 589,00	– 73 296 021,00	1996-1999
			Total GR	EUR	**– 103 513 610,00**	**– 30 217 589,00**	**– 73 296 021,00**	
Fruit and vegetables	IT	1512	Ineligible products — non-compliance with Regulations (EEC) No 1558/91 and (EC) No 504/97	EUR	– 10 448 798,00	0,00	– 10 448 798,00	1997-1998
Fruit and vegetables	IT	1512	Flat-rate correction for inadequate check on Emilia-Romagna stocks	EUR	– 1 805 018,00	0,00	– 1 805 018,00	1997-1998
Fruit and vegetables	IT	1511	Non-compliance with Article 1(4) of Regulation (EC) No 504/97	EUR	– 1 145 024,02	0,00	– 1 145 024,02	1998
			Total IT	EUR	**– 13 398 840,02**	**0,00**	**– 13 398 840,02**	
Livestock premiums	NL	2320	Flat-rate and calculated corrections	EUR	– 20 291 540,00	0,00	– 20 291 540,00	1997-1998
			Total NL	EUR	**– 20 291 540,00**	**0,00**	**– 20 291 540,00**	
Livestock premiums	PT	2220	Flat-rate correction of 2 % — 1996-1998	EUR	– 741 444,18	0,00	– 741 444,18	1998
Livestock premiums	PT	2221	Flat rate correction of 2 % — 1996-1999	EUR	– 60 808,04	0,00	– 60 808,04	1998
Financial audit	PT	4000-4999	Administrative errors	EUR	– 249 967,00	0,00	– 249 967,00	2000
			Total PT	EUR	**– 1 052 219,22**	**0,00**	**– 1 052 219,22**	

Sector	Member State	Budget item	Reason	National currency	Expenditure to be excluded	Already deducted	Financial impact of this decision	Financial year
Arable crops	SE	1041-1062	Non-compliance with Article 15 of Regulation (EEC) No 1765/92 and Article 30 of Regulation (EEC) No 805/68 — illegal charges	SEK	**– 18 555 850,00**	**0,00**	**– 18 555 850,00**	2000
			Total SE	**SEK**	**– 18 555 850,00**	**0,00**	**– 18 555 850,00**	
Livestock premiums	UK	2126	Flat-rate correction	GBP	– 4 827 612,00	0,00	– 4 827 612,00	1998
Financial audit	UK	various	Weaknesses in handling of dossiers — IBEA, NAWAD	GBP	– 174 862,22	0,00	– 174 862,22	2000
Financial audit	UK	B1-4	Over-declaration of rural development expenditure	GBP	– 6 466 505,00	0,00	– 6 466 505,00	2000
			Total UK	**GBP**	**– 11 468 979,22**	**0,00**	**– 11 468 979,22**	