II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 14 February 2003

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(2003) 500)

(only the Danish, German, English, Spanish, French, Greek, Italian, Dutch and Portuguese texts are authentic)

(2003/102/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 either granted or undertaken in accordance with the Community rules governing the common organisations of agricultural markets.

[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.

(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 14 October 2002 and relating to its content,

HAS ADOPTED THIS DECISION:

Article 1

The expenditure itemised in the Annex hereto 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 Denmark, the Federal Republic of Germany, the French Republic, the Hellenic Republic, the Kingdom of Spain, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Portuguese Republic and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 14 February 2003.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Total corrections

Sector	Member State	Budget item	Reason	Currency	Expenditure excluded from financing	Deductions already made	Financial impact of decision	Financial year
Olive oil	E	1220	flat-rate correction of 2,75 %	EUR	– 3 372 844,42	0,00	– 3 372 844,42	1997-1999
Livestock premiums	E	2120-2125	inadequate and insufficient number of checks	EUR	– 5 593 699,06	0,00	– 5 593 699,06	1998-2000
Livestock premiums	E	2120-2128	flat-rate corrections — major shortcomings	EUR	– 964 109,17	0,00	– 964 109,17	1999-2000
Financial audit	E	4051	cancellation of a previous correction (recovery under heading 3990-060)	EUR	1 267,78	0,00	1 267,78	1999
Financial audit	E	various	non-compliance with payment deadlines	EUR	– 1 916 896,26	– 1 916 896,26	0,00	2001
		Total E			**– 11 846 281,13**	**– 1 916 896,26**	**– 9 929 384,87**	
Arable crops	D	1041-1310	major shortcomings in checks	EUR	– 26 446 505,00	0,00	– 26 446 505,00	1999-2000
		Total D			**– 26 446 505,00**	**0,00**	**– 26 446 505,00**	
Livestock premiums	DK	2122	major shortcomings in checks	DKK	– 377 788,09	0,00	– 377 788,09	1998
		Total DK			**– 377 788,09**	**0,00**	**– 377 788,09**	
Fruit and vegetables	F	1512	flat-rate correction of 5 % — major shortcomings	EUR	– 3 510 799,21	0,00	– 3 510 799,21	1998-2000
Livestock premiums	F	2120-2125	shortcomings in the management of beef premiums	EUR	– 360 148,00	0,00	– 360 148,00	1998-2000
Livestock premiums	F	2120-2125	shortcomings in key checks	EUR	– 827 926,05	0,00	– 827 926,05	1998-2000
Financial audit	F	various	shortcomings in management of advance payments, guarantees and debtors	EUR	– 6 989 874,95	0,00	– 6 989 874,95	2000
Financial audit	F	1210-2125	non-compliance with payment deadlines	EUR	– 233 570,54	– 233 570,54	0,00	2001
		Total F			**– 11 922 318,75**	**– 233 570,54**	**– 11 688 748,21**	
Public storage	EL	3231	flat-rate correction of 25 % — major shortcomings	EUR	– 9 926 005,21	0,00	– 9 926 005,21	1999-2001
		Total EL			**– 9 926 005,21**	**0,00**	**– 9 926 005,21**	
Rural development	IRL	4072	correction overestimated in Decision No 9	EUR	892 975,00	0,00	892 975,00	
Financial audit	IRL	1041-2125	non-compliance with payment deadlines	EUR	– 59 864,81	– 59 864,81	0,00	2001
		Total IRL			**833 110,19**	**– 59 864,81**	**892 975,00**	
Rural development	I	4051-5012	flat-rate correction of 2 % — major shortcomings	EUR	– 8 022 916,00	0,00	– 8 022 916,00	1998-2000
Rural development	I	4051-5012	flat-rate correction of 5 % — major shortcomings (Region of Lazio)	EUR	– 660 035,00	0,00	– 660 035,00	1998-2000
Rural development	I	4051-5012	flat-rate correction of 5 % — major shortcomings (Region of Piedmont)	EUR	– 951,00	0,00	– 951,00	1998-2000

Sector	Member State	Budget item	Reason	Currency	Expenditure excluded from financing	Deductions already made	Financial impact of decision	Financial year
Rural development	I	4051-5012	flat-rate correction of 5 % — major shortcomings (Region of Tuscany)	EUR	– 2 911 483,00	0,00	– 2 911 483,00	1998-2000
Rural development	I	4051-5012	flat-rate correction of 5 % — major shortcomings (Region of Sicily)	EUR	– 161 175,00	0,00	– 161 175,00	1998-2000
Financial audit	I	various	non-compliance with payment deadlines	EUR	– 14 498 092,31	– 14 498 092,31	0,00	2001
		Total I			**– 26 254 652,31**	**– 14 498 092,31**	**– 11 756 560,00**	
Arable crops	L	1041	cancellation of previous correction following judgment of Court of Justice	EUR	1 390 851,24	0,00	1 390 851,24	1996-1998
		Total L			**1 390 851,24**	**0,00**	**1 390 851,24**	
Milk and milk products	NL	2024	cancellation of previous correction following judgment of Court of Justice	EUR	847 818,45	0,00	847 818,45	1996
Milk and milk products	NL	2024	cancellation of previous correction following judgment of Court of Justice	EUR	14 859 727,01	0,00	14 859 727,01	1995
		Total NL			**15 707 545,46**	**0,00**	**15 707 545,46**	
Fruit and vegetables	P	1515	non-compliance with Regulation (EC) No 1169/97	EUR	– 28 515,69	0,00	– 28 515,69	2000
		Total P			**– 28 515,69**	**0,00**	**– 28 515,69**	
Public storage	UK	2111-2114	flat-rate correction of 10 % — major shortcomings	GBP	– 492 177,00	0,00	– 492 177,00	1998
Livestock premiums	UK	2120-2125	shortcomings in key checks	GBP	– 14 346 980,09	0,00	– 14 346 980,09	2000
Financial audit	UK	1050-1060	non-compliance with payment deadlines	EUR	– 55 047,63	– 55 047,63	0,00	2001
		Total UK		**GBP**	**– 14 839 157,09**	**0,00**	**– 14 839 157,09**	
				EUR	**– 55 047,63**	**– 55 047,63**	**0,00**	