COMMISSION DECISION

of 22 July 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) 2587)

(Only the French, Greek and Italian texts are authentic)

(2003/536/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.

(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 30 April 2003 and relating to its content,

[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 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 Hellenic Republic, the French Republic and the Italian Republic.

Done at Brussels, 22 July 2003.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX

Total corrections

Sector	Member State	Budget item	Reason	Nat. currency	Expenditure to be excluded from financing	Deductions already made	Financial impact of this decision	Financial year
Milk and milk products	FR	2040, 2049	Flat-rate correction of 10 % for shortcomings in key controls + correction for poor management of guarantees	EUR	932 171,48	0,00	932 171,48	1997-1999
Fruit and vegetables	FR	1512	Incorrect calculation of Community withdrawal compensation (CWC)	EUR	8 949,00	0,00	8 949,00	2002
Arable crops	FR	1041-1062	Flat-rate correction of 2 % for shortcomings in inspection visits	EUR	5 585 865,00	0,00	5 585 865,00	2000-2001
Total FR					6 526 985,48	0,00	6 526 985,48	
Wine and tobacco	GR	1630	Unsound control procedure for alcoholic strength of grapes and lack of key controls	EUR	1 107 610,00		1 107 610,00	1999-2000
Livestock premiums	GR	2120-2122	Flat-rate corrections of 25 % (2000) and 10 % (1999) for shortcomings in key controls	EUR	12 979 608,50	814 240,55	12 165 367,95	1999-2000
Livestock premiums	GR	2220, 2221	Flat-rate correction of 5 % for shortcomings in key controls	EUR	14 200 695,85		14 200 695,85	1999-2000
Olive oil, fibre plants and seed	GR	1210	Flat-rate correction of 5 % for shortcomings in control system	EUR	45 138 544,00	20 998 254,38	24 140 289,62	1999-2000
Total GR					73 426 458,35	21 812 494,93	51 613 963,42	
Fruit and vegetables	IT	1515	Flat-rate corrections of 5 % (2000/2001) and 10 % (1999/2000) for shortcomings in controls	EUR	22 251 827,08	0,00	22 251 827,08	1999-2002
Olive oil, fibre plants and seed	IT	1210	Flat-rate correction of 2 % for shortcomings in the management and effectiveness of controls	EUR	13 048 335,00		13 048 335,00	2000
Total IT					35 300 162,08	0,00	35 300 162,08	