II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 4 February 2004

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(2004) 194)

(Only the Spanish, Danish, German, Greek, English, French, Italian, Dutch, Finnish and Swedish texts are authentic)

(2004/136/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], 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 [2], and in particular Article 7(4) thereof,

Having consulted the Fund Committee,

Whereas:

(1) Article 5 of Regulation (EEC) No 729/70, Article 7 of Regulation (EC) No 1258/1999 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] 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 with a view to reaching 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 [4].

(2) The Member States have had an 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 examined by the Commission.

(3) Under Articles 2 and 3 of Regulation (EEC) No 729/70 and Article 2 of Regulation (EC) No 1258/1999, only refunds on exports to third countries and intervention to stabilise agricultural markets, respectively granted and undertaken according to Community rules within the framework of the common organisation of the agricultural markets, may be financed.

(4) In the light of the checks 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, therefore, be financed under the EAGGF Guarantee Section.

(5) The amounts that are not recognised as being chargeable to the EAGGF Guarantee Section should be indicated. 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.

[1] OJ L 94, 28.4.1970, p. 13. Regulation as last amended by Regulation (EC) No 1287/95 (OJ L 125, 8.6.1995, p. 1).
[2] OJ L 160, 26.6.1999, p. 103.
[3] OJ L 158, 8.7.1995, p. 6. Regulation as last amended by Regulation (EC) No 2025/2001 (OJ L 274, 17.10.2001, p. 3).
[4] OJ L 182, 16.7.1994, p. 45. Decision as last amended by Decision 2001/535/EC (OJ L 193, 17.7.2001, p. 25).

(6) 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 in a summary report on the subject.

(7) 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 October 2003 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 shall be excluded from Community financing because it does not comply with Community rules.

Article 2

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Finland and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 4 February 2004.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

Total corrections

Sector	Member State	Budget item	Reason	National currency	Expenditure to be excluded from funding	Deductions already made	Financial consequence of this decision	Financial year
Arable crops	BE	1040-1062	Flat-rate correction of 2 % for shortcomings in the ancillary controls	EUR	9 322 809,00		9 322 809,00	2000-2002
	Total BE				**9 322 809,00**	**0,00**	**9 322 809,00**	
Wine/tobacco	DE	164	Correction for non-compliance with the regulations on definitively abandoning vineyards	EUR	118 262,17		118 262,17	2001-2002
Arable crops	DE	1040-1062,1310	Flat-rate correction of 5 % for shortcomings in on-the-spot controls	EUR	7 378 659,00		7 378 659,00	2000-2002
	Total DE				**7 496 921,17**	**0,00**	**7 496 921,17**	
Livestock premiums	DK	2540, 2320	Flat-rate correction of 2 % for shortcoming in on-the-spot controls	**DKK**	46 131,00		46 131,00	2000-2001
	Total DK				**46 131,00**	**0,00**	**46 131,00**	
Fruit and vegetables	ES	1511	Correction for irregular grant of supplementary quotas and 10 % correction for shortcomings in the quality controls of the end products	EUR	8 704 853,00		8 704 853,00	1999-2002
Fruit and vegetables	ES	1515	Correction for non-compliance with the delivery schedule + shortcomings in risk analysis and controls (2 % and 5 %)	EUR	2 968 762,07		2 968 762,07	1998-2001
Olive oil	ES	1211, 1220	Part cancellation of Decision 97/608/EC of 30 July 1997 by the Court of Justice	EUR	– 444 180,44		– 444 180,44	1993
Financial audit	ES	2120, 2125	Amendment of the corrected amount in Decision 2003/364/EC of 15 May 2003	EUR	– 13 305,64		– 13 305,64	2002
	Total ES				**11 216 128,99**	**0,00**	**11 216 128,99**	
Arable crops	FI	1040-1060	Flat-rate correction of 5 % for shortcomings in the key controls	EUR	4 084 623,00		4 084 623,00	2000-2002
	Total FI				**4 084 623,00**	**0,00**	**4 084 623,00**	

Sector	Member State	Budget item	Reason	National currency	Expenditure to be excluded from funding	Deductions already made	Financial consequence of this decision	Financial year
Fruit and vegetables	FR	1511	Correction for irregular grant of supplementary quotas (aid for the processing of tomatoes)	EUR	215 061,00		215 061,00	2001
Livestock premiums	FR	2120-2128	Flat-rate corrections of 2 % and 5 % for shortcomings in the key and ancillary controls	EUR	90 911 142,65		90 911 142,65	2001-2002
	Total FR				**91 126 203,65**	**0,00**	**91 126 203,65**	
Fruit and vegetables	GR	1502	Flat-rate correction of 2 % for failings in the system for implementing controls	EUR	110 084,53		110 084,53	1999-2001
Milk/milk products	GR	2071	Partial cancellation of Decision 2001/137/EC of 5 February 2001 by the Court of Justice	EUR	– 142 099,50		– 142 099,50	1996
	Total GR				**– 32 014,97**	**0,00**	**– 32 014,97**	
Fruit and vegetables	IT	1515	Correction of 0,33 % for irregular application of the penalties in respect of the financial compensation for citrus processing	EUR	328 716,42		328 716,42	1999-2000
Public storage	IT	1013	Adjustment of the corrected amount in Decision 2002/881/EC of 5 November 2002	EUR	– 6 986,94		– 6 986,94	1998
Public storage	IT	1621-1624	Flat-rate correction of 10 % for non-compliance with Article 13(1) of Regulation (EC) No 3105/88 and Regulation (EC) No 2148/96: alcohol	EUR	6 551 550,45		6 551 550,45	2000-2001
Private storage	IT	2050	Correction for non-compliance with Article 8 of Regulation (EC) No 1255/1999: cheese	EUR	12 925 851,12		12 925 851,12	1999-2001
Rural development	IT	4051, 4072	Flat-rate corrections of 2 % and 5 % for failings in the management and control systems	EUR	226 559,00		226 559,00	2001-2002
	Total IT				**20 025 690,05**	**0,00**	**20 025 690,05**	
Financial audit	UK	3700	Correction of an amount already reimbursed: case of an irregularity — Decision 2003/481/EC of 27 June 2003	**GBP**	– 50 563,38		– 50 563,38	1995
	Total UK				**– 50 563,38**	**0,00**	**– 50 563,38**	