COMMISSION DECISION

of 29 April 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) 1706)

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

(2004/457/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 the Council of 21 April 1970 on the financing of the common agricultural policy[18], 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[19], 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[20], provide that the Commission is to make the necessary verifications, inform the Member States of its findings, take account of the Member States' comments, initiate bilateral discussions and then formally communicate its conclusions to the Member States, 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[21].

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18 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).

19 OJ L 160, 26.6.1999, p. 103.

20 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).

21 OJ L 182, 16.7.1994, p. 45. Decision as last amended by Decision 2001/535/EC (OJ L 193, 17.07.2001, p. 25).

(2) The Member States have had an opportunity to request that a conciliation procedure be initiated. That opportunity has been used in some cases and the report issued on the outcome has 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 twenty-four months before the Commission's written notification of the results of the checks to the Member States.

(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 31 January 2004 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 Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Kingdom of the Netherlands, the Portuguese Republic and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 29 April 2004.

For the Commission
Franz FISCHLER
Member of the Commission

Table of corrections		**Date: 31/01/2004**						
Sector	Member State State	Budget item Post	Reason	Nat. Currency corr	Expenditure to exclude from financing from financing (national currency)	Deductions already made made (national currency)	Financial impact of this decision this decision (national currency)	
Fruit & vegetables	BE	1502	*Ad hoc* correction	EUR	637.388,15		637.388,15	2000-2002
	Total BE				**637.388,15**	**0,00**	**637.388,15**	
Fruit & vegetables	ES	1501	*Ad hoc* correction - failure to deliver contracted quantities	EUR	5.253.601,00		5.253.601,00	1999
Fruit & vegetables	ES	1515	Correction - infringement of Regulations (EC) Nos 2202/96 and 1169/97 - application of penalties	EUR	40.765,86		40.765,86	2000-2001
Public storage	ES	3100	Flat-rate correction of 2% - shortcomings in controls: aid for the most deprived persons	EUR	2.949.742,00		2.949.742,00	1999-2001
Arable crops	ES	1040-1062,1310, 2120-2128	Flat-rate correction of 2% - shortcomings in secondary controls	EUR	2.314.888,00		2.314.888,00	1999-2001
	Total ES				**10.558.996,86**	**0,00**	**10.558.996,86**	
Fruit & vegetables	FR	1508	Flat-rate correction of 10% - absence of key controls/compensatory aid for bananas	EUR	20.809.485,00		20.809.485,00	1999-2001
Fruit & vegetables	FR	1508	*Ad hoc* correction of 1.01% - infringement of Regulation (EC) No 404/93 - compensatory aid for bananas marketed	EUR	3.469.655,00		3.469.655,00	1999-2002

Public storage	FR	3100	Flat-rate correction of 10% - absence of a key control and 2% - shortcomings in secondary controls: rice, skimmed milk, cereals	EUR	6.206.612,00		6.206.612,00	1999-2000
Arable crops	FR	1040-1062	*Ad hoc* correction - shortcomings in key controls on area eligible for direct payments	EUR	27.678.616,00		27.678.616,00	1999-2001
	Total FR				**58.164.368,00**	**0,00**	**58.164.368,00**	
Financial audit	DE	4100-015	Financial correction - certification of accounts	EUR	73.919,00	73.919,00	0,00	2001
	Total DE				**73.919,00**	**73.919,00**	**0,00**	
Fruit & vegetables	GR	1509	Exclusion from financing beyond the triennial programme	EUR	1.140.867,35		1.140.867,35	1999-2001
Fruit & vegetables	GR	1512	Correction - failure to pay the minimum price to producers	EUR	650.549,56		650.549,56	2001
Public storage	GR	3100	Flat-rate correction of 2% - shortcomings in controls: aid for the most deprived persons	EUR	669.839,00		669.839,00	1998-2001
Public storage	GR	1851-1854,3100	Flat-rate correction of 5% - shortcomings in key controls and late deliveries: rice	EUR	2.510.456,73		2.510.456,73	1999-2001,1999
	Total GR				**4.971.712,64**	**0,00**	**4.971.712,64**	
Public storage	IT	3100	Flat-rate correction of 2% - shortcomings in controls: rice	EUR	2.758.501,00		2.758.501,00	1999-2001
Rural development	IT	4010-017	Correction - infringement of Regulation (EC) No 2075/2000: young farmers	EUR	19.058.682,00		19.058.682,00	2000-2001
	Total IT				**21.817.183,00**	**0,00**	**21.817.183,00**	

Fruit & vegetables	UK	1502	Flat-rate correction of 2% - shortcomings in key and secondary controls	GBP	218.982,84		218.982,84	2000
L'stock premiums	UK	2220-2221,3900	Flat-rate correction of 2% - shortcomings in controls	GBP	2.505.130,93		2.505.130,93	2000-2001
Arable crops	UK	1040-1060	Flat-rate correction of 2% - shortcomings in on-the-spot-checks	GBP	11.484.350,00		11.484.350,00	2002
	Total UK				**14.208.463,77**	**0,00**	**14.208.463,77**	
Fruit & vegetables	NL	1502	Correction - expenditure above the flat rate of 2%	EUR	78.314,00		78.314,00	2001-2002
L'stock premiums	NL	2120-2128	Flat-rate correction of 10% - shortcomings in key controls	EUR	1.037.614,45		1.037.614,45	2002-2003
	Total NL				**1.115.928,45**	**0,00**	**1.115.928,45**	
Public storage	PT	3100	Flat-rate correction of 2% - shortcomings in controls: aid for the most deprived persons	EUR	1.338.381,00		1.338.381,00	1998-2001
	Total PT				**1.338.381,00**	**0,00**	**1.338.381,00**	