COMMISSION

COMMISSION DECISION

of 29 April 2005

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(2005) 1307)

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

(2005/354/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EEC) No 729/70 of the Council 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 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 [4].

(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.

[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 465/2005 (OJ L 77, 23.3.2005, p. 6).
[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).

(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 October 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 Kingdom of Denmark, 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 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX

Sector	Member State	Budget item	Reason	National Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
Financial audit	BE	Various	Flat-rate corrections 2 % — Failure to comply with approval criterion laid down in Regulation (EC) No 1663/95	EUR	– 354 172,05	0,00	– 354 172,05	2000-2001
	Total BE				**– 354 172,05**	**0,00**	**– 354 172,05**	
Export refunds	DE	2100-013 to 2100-016	Disallow all expenditure on export refunds of live cattle for rail transport and flat-rate correction of 5 % to exports for road transport — failure to comply with Directive 91/628/EEC and Regulation (EC) No 615/98	EUR	– 13 823 822,23	0,00	– 13 823 822,23	1999-2001
Public storage	DE	2111, 2112, 2113	Shortcomings in tendering procedure + delivery of consignments less than the 10 tonnes required by Article 17(1) of Regulation (EC) No 562/2000	EUR	– 3 860 285,14	0,00	– 3 860 285,14	2001-2002
	Total DE				**– 17 684 107,37**	**0,00**	**– 17 684 107,37**	
Financial audit	DK	Various	Correction — Application of Regulation (EC) No 1258/99 — Failure to comply with payment deadlines	DKK	– 4 910,60	– 346 907,17	341 996,57	2002
	Total DK				**– 4 910,60**	**– 346 907,17**	**341 996,57**	
Livestock premiums	GR	2129	Flat-rate corrections of 2 % — absence of identification and registration system	EUR	– 33 809,35	0,00	– 33 809,35	2001-2002
Arable crops	GR	1041-1060, 1310, 1858	Flat-rate corrections of 5 % — insufficient assurance provided that claims are regular	EUR	– 25 361 283,00	0,00	– 25 361 283,00	2002
Olive oil	GR	1220	Delays withdrawing accreditation and imposing quality penalties	EUR	– 200 146,68	0,00	– 200 146,68	1996-1998
Financial audit	GR	Various	Correction — application of Regulation (EC) No 1258/99 — failure to comply with payment deadlines	EUR	– 875 706,08	– 1 083 685,95	207 979,87	2001
	Total GR				**– 26 470 945,11**	**– 1 083 685,95**	**– 25 387 259,16**	

Sector	Member State	Budget item	Reason	National Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
Fruit and vegetables	ES	1508	Flat-rate corrections of 5 % for shortcomings in the key checks/compensation in the banana sector	EUR	– 348 947,00	0,00	– 348 947,00	2000
Flax and hemp	ES	1400, 1402	Flat-rate corrections of 25 % for flax and 10 % and 25 % for hemp — major shortcomings in the control system	EUR	– 21 077 981,00	0,00	– 21 077 981,00	1996-2000
Flax	ES	1400	Flat-rate corrections of 100 % — major shortcomings in the control system + general fraud	EUR	– 113 399 346,00	0,00	– 113 399 346,00	1999-2004
Rural development	ES	4051-4072	Flat-rate corrections of 2 % — Shortcomings in the application of the management and control system — Agri and forestry measures — national level	EUR	– 71 222,00	0,00	– 71 222,00	2001-2002
Rural development	ES	4051	Flat-rate corrections of 2 % and 5 % — Shortcomings in the application of the management and control system — Agri measures (Andalusia)	EUR	– 8 067,00	0,00	– 8 067,00	2001-2002
Rural development	ES	4051	Flat-rate corrections of 5 % — Shortcomings in the application of the management and control system — Agri measures (Castille-La Mancha)	EUR	– 1 186,00	0,00	– 1 186,00	2001-2002
	Total ES				**– 134 906 749,00**	**0,00**	**– 134 906 749,00**	
Export refunds	FR	2100-013 to 2100-016	Flat-rate corrections of 5 % — inadequate controls — and 10 % — weaknesses detected in how the controls laid down by Article 4 of Regulation (EC) No 615/98 are organised	EUR	– 1 649 755,75	0,00	– 1 649 755,75	1999-2001
Livestock premiums	FR	2120, 2122, 2124, 2125, 2128	Flat-rate corrections of 2 % — correction at national level —, 5 % — national database not operational and cross-checks not performed and 10 % — absence of checks despite high level of anomalies noted	EUR	– 293 300,82	0,00	– 293 300,82	2001-2003

Sector	Member State	Budget item	Reason	National Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
Fruit and vegetables	FR	1508	Flat-rate corrections of 10 % (Guadeloupe) and 5 % (Martinique) for shortcomings in key checks/ compensation in banana sector	EUR	– 14 216 626,64	0,00	– 14 216 626,64	2001-2003
Financial audit	FR	Various	Certification of 2001 accounts — anomalies and shortcomings in the management of the aid by several paying agencies under various budget lines	EUR	– 1 234 211,49	0,00	– 1 234 211,49	2001
Financial audit	FR	4040-4051	Certification of 2001 accounts — anomalies and shortcomings in the management of the aid by several paying agencies under various budget lines	EUR	– 1 058 464,21	0,00	– 1 058 464,21	2001
	Total FR				**– 18 452 358,91**	**0,00**	**– 18 452 358,91**	
Olive oil	IT	1210	Ceiling for maximum actual production of olive oil exceeded in marketing years 1998/1999 and 1999/2000	EUR	– 68 708 032,11	0,00	– 68 708 032,11	2000-2003
	Total IT				**– 68 708 032,11**	**0,00**	**– 68 708 032,11**	
Fruit and vegetables	NL	1502	Correction for expenditure exceeding the flat rate of 2 %	EUR	– 68 812,25	0,00	– 68 812,25	2003
	Total NL				**– 68 812,25**	**0,00**	**– 68 812,25**	
Fruit and vegetables	PT	1502	Correction — operational programmes — application of Article 4 of Regulation (EC) No 296/96 — payment deadlines	EUR	– 78 935,21	0,00	– 78 935,21	2002
	Total PT				**– 78 935,21**	**0,00**	**– 78 935,21**	

Sector	Member State	Budget item	Reason	National Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
Milk	UK	2071	Corrigendum to financial correction in the 1994 Clearance of Accounts Decision 98/358/EC	GBP	76 152,65	0,00	76 152,65	1991-1993
Rural development	UK	40	Correction — error in the application of exchange rate in calculating the advance	GBP	– 151 106,80	0,00	– 151 106,80	2000
Livestock premiums	UK	2120, 2122, 2124, 2125, 2128	Flat-rate correction 2 % and 5 % — weaknesses as regards identification and registration, minimum level of on-site audits provided for in Article 6(3) of Regulation (EEC) No 3887/92 not achieved for claim year 2000	GBP	– 6 822 958,75	0,00	– 6 822 958,75	2000-2001
Livestock Premiums	UK	2126	Flat-rate corrections of 5 % and 10 % — control weaknesses in the initial period of operation	GBP	– 566 921,00	0,00	– 566 921,00	1998
Livestock Premiums	UK	3700	Correction of an amount already reimbursed: irregularity — Decision 2003/481/EC of 27 June 2003	GBP	43 474,18	0,00	43 474,18	1995
	Total UK				**– 7 421 359,72**	**0,00**	**– 7 421 359,72**	