II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 20 July 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) 2756)

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

(Text with EEA relevance)

(2005/579/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] require the Commission 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.

[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).

(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 15 April 2005 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 Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Portuguese Republic and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 20 July 2005.

For the Commission

Mariann FISCHER BOEL

Member of the Commission

ANNEX

Total corrections

Sector	Member State	Budget item	Reason	National Currency	Expenditure excluded from financing	Deductions already made	Financial impact of decision	Financial year
Export refunds	BE	2310, 301, 30, 110, 200	5 % flat-rate correction — inadequate implementation of a key check (physical check).	EUR	– 225 713,07	0,00	– 225 713,07	2000-2001
Financial audit	BE	1800	Correction — application of Regulation (EC) No 1258/1999 — non-compliance with payment deadlines.	EUR	– 9 128,82	– 17 989,43	8 860,61	2003
	Total BE				**– 234 841,89**	**– 17 989,43**	**– 216 852,46**	
Fruit and vegetables	EL	1512	Correction for non-compliance with payment deadlines.	EUR	– 30 662,52	0,00	– 30 662,52	2002
Public storage	EL	3230, 3231	Correction for non-compliance with payment deadlines; 5 % flat-rate correction for non-fixing of penalties for over-declaration in aid applications (aid for the production of potatoes); 5 % flat-rate correction — unsatisfactory inspection reports (aid for vineyards).	EUR	– 3 105 400,72	0,00	– 3 105 400,72	2000-2002
Tobacco	EL	1710	5 % flat-rate correction — shortcomings related to key checks and secondary checks.	EUR	– 23 975 602,85	0,00	– 23 975 602,85	2000-2003
Livestock premiums	EL	2220, 2221, 2222	10 % flat-rate correction — persistent and recurrent weaknesses in the checking system.	EUR	– 38 550 236,16	0,00	– 38 550 236,16	2002-2003
Arable crops	EL	various	Repayment following the Court's annulment of Commission Decision 2002/524/EC in case C-300/02.	EUR	40 721 931,00	0,00	40 721 931,00	1996, 1997, 1999
Financial audit	EL	1043, 1050, 1051, 1053, 1056, 2120, 2122, 2124, 2125, 2128	Correction — application of Regulation (EC) No 1258/1999 — non-compliance with payment deadlines.	EUR	– 7 452 063,34	– 7 452 063,34	0,00	2002
	Total EL				**– 32 392 034,59**	**– 7 452 063,34**	**– 24 939 971,25**	

Sector	Member State	Budget item	Reason	National Currency	Expenditure excluded from financing	Deductions already made	Financial impact of decision	Financial year
Fruit and vegetables	ES	1507	10 % flat-rate correction — non-compliance with payment deadlines and other shortcomings related to checks.	EUR	– 16 992 532,63	0,00	– 16 992 532,63	2001-2002
Public storage	ES	3221	5 % flat-rate correction — major shortcomings in the effectiveness of key checks.	EUR	– 286 402,94	0,00	– 286 402,94	2000-2002
Financial audit	ES	1049, 1053, 1055, 1060, 1210, 1400, 1402, 1502, 1511, 1515, 1858, 2124, 2125, 2128, 2320	Correction — application of Regulation (EC) No 1258/1999 — non-compliance with payment deadlines.	EUR	– 13 212 853,30	– 18 813 333,12	5 600 479,82	2003
	Total ES				**– 30 491 788,87**	**– 18 813 333,12**	**– 11 678 455,75**	
Fruit & vegetables	FR	1502, 1512	Correction for non-compliance with payment deadlines and failure to reduce aid for operational programmes where requests for final payments were submitted after the deadline.	EUR	– 438 755,08	0,00	– 438 755,08	2002
Milk	FR	3120	Correction for non-compliance with payment deadlines and in relation to ineligible payments made to 'outdoor centres' under the school milk scheme.	EUR	– 1 704 065,71	0,00	– 1 704 065,71	2001-2003
Wine	FR	1650	10 % one-off correction for the area restructured or reconverted; expenses incurred beyond the 10 % limit are ineligible for the use of new planting rights.	EUR	– 14 521 216,85	0,00	– 14 521 216,85	2001-2003
Rural development	FR	4092	Recovery of an amount claimed twice by the French authorities for interest subsidies in 2001.	EUR	– 18 443 923,00	0,00	– 18 443 923,00	2001
Financial audit	FR	1590	Financial correction — certification of accounts 2002.	EUR	1 540 669,82	0,00	1 540 669,82	2002
	Total FR				**– 33 567 290,82**	**0,00**	**– 33 567 290,82**	

Sector	Member State	Budget item	Reason	National Currency	Expenditure excluded from financing	Deductions already made	Financial impact of decision	Financial year
Tobacco	IT	1 7 1 0	5 % flat-rate correction — shortcomings in key checks.	EUR	– 16 568 665,50	0,00	– 16 568 665,50	2001-2002
	Total IT				**– 16 568 665,50**	**0,00**	**– 16 568 665,50**	
Public storage	PT	3 2 1 1	5 % flat-rate correction — shortcomings in checks and inspection reports (aid for the production of potatoes) and shortcomings in the procedure for applying the penalties provided for in Article 3(6) (aid for the maintenance of the dairy herd).	EUR	– 1 174 131,43	0,00	– 1 174 131,43	2000-2002
	Total PT				**– 1 174 131,43**	**0,00**	**– 1 174 131,43**	
Livestock premiums	UK	2 1 2 5	Rectification of financial correction included in Commission Decision 2005/354/EC	GBP	499 443,63	0,00	499 443,63	2001-2002
	Total UK				**499 443,63**	**0,00**	**499 443,63**	