COMMISSION DECISION

of 14 December 2006

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(2006) 5993)

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

(2006/932/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 make the necessary verifications, inform the Member States of its findings, take account of the Member States' comments, initiate bilateral discussions with a view to reaching agreement with the Member States concerned and then 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 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, granted and undertaken respectively 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.

(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 October 2006 and relating to its content,

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[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).

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 Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Portuguese Republic and the Republic of Finland.

Done at Brussels, 14 December 2006.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

Total corrections — Budget item 6 7 0 1

MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions already made	Financial impact
DE	Financial audit — Late payments	2004	Failure to meet payment deadlines	one-off		EUR	– 150 191,69	– 150 191,69	0,00
DE	Financial audit — Clearance of accounts	2002	Clearance of EAGGF Guarantee accounts for financial year 2002	one-off		EUR	– 861 269,60	0,00	– 861 269,60
DE	Financial audit — Overshooting	2003	Overshooting of the financial ceilings	one-off		EUR	– 3 963,37	0,00	– 3 963,37
	Total DE						**– 1 015 424,66**	**– 150 191,69**	**– 865 232,97**
ES	Fruit and Veg's — Fig & Prune Processing	2003	Failure to meet payment deadlines	one-off		EUR	– 153 697,96	0,00	– 153 697,96
ES	Fruit and Veg's — Peach & Pear Processing	2003	Failure to meet payment deadlines	one-off		EUR	– 671 734,80	0,00	– 671 734,80
ES	Fruit and Veg's — Tomato Processing	2003	Failure to meet payment deadlines	one-off		EUR	– 131 420,25	0,00	– 131 420,25
ES	Fruit and Veg's — Withdrawals	2001	Control does not cover the final use of distributed product	flat-rate	5 %	EUR	– 33 757,94	0,00	– 33 757,94
ES	Fruit and Veg's — Withdrawals	2001	Failure to meet environmental conditions	one-off		EUR	– 2 858 447,88	0,00	– 2 858 447,88
ES	Fruit and Veg's — Withdrawals	2001	Unsatisfactory quality of controls carried out on withdrawn product	flat-rate	5 %	EUR	– 19 254,89	0,00	– 19 254,89
ES	Fruit and Veg's — Withdrawals	2002	Control does not cover the final use of distributed product	flat-rate	5 %	EUR	– 29 729,38	0,00	– 29 729,38
ES	Fruit and Veg's — Withdrawals	2002	Failure to meet environmental conditions	one-off		EUR	– 4 357 238,89	0,00	– 4 357 238,89
ES	Fruit and Veg's — Withdrawals	2002	Unsatisfactory quality of controls carried out on withdrawn product	flat-rate	5 %	EUR	– 206 215,94	0,00	– 206 215,94
ES	Fruit and Veg's — Withdrawals	2003	Control does not cover the final use of distributed product	flat-rate	5 %	EUR	– 37 920,18	0,00	– 37 920,18
ES	Fruit and Veg's — Withdrawals	2003	Failure to meet environmental conditions	one-off		EUR	– 3 679 878,76	0,00	– 3 679 878,76

MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions already made	Financial impact
ES	Fruit and Veg's — Withdrawals	2003	Unsatisfactory quality of controls carried out on withdrawn product	flat-rate	5 %	EUR	– 82 025,34	0,00	– 82 025,34
	Total ES						**– 12 261 322,21**	**0,00**	**– 12 261 322,21**
FI	Arable Crops	2003	Undue application of a tolerance for administrative cross-checks, shortcoming in controls on eligibility criteria	one-off		EUR	– 132 222,76	0,00	– 132 222,76
FI	Arable Crops	2004	Undue application of a tolerance for administrative cross-checks, shortcoming in controls on eligibility criteria	one-off		EUR	– 146 393,43	0,00	– 146 393,43
FI	Arable Crops	2005	Undue application of a tolerance for administrative cross-checks, shortcoming in controls on eligibility criteria	one-off		EUR	– 131 999,21	0,00	– 131 999,21
FI	Butterfats in Food Processing	2002	Reimbursement following erroneous calculation of financial correction (Commission Decision 2006/334/EC)	flat-rate	5 %	EUR	15 073,27	0,00	15 073,27
	Total FI						**– 395 542,13**	**0,00**	**– 395 542,13**
FR	Financial audit — Late payments	2004	Failure to meet payment deadlines	one-off		EUR	– 9 219 078,83	– 9 219 078,83	0,00
FR	Financial audit — Overshooting	2003	Overshooting of the financial ceilings	one-off		EUR	– 27 441,60	– 27 441,60	0,00
FR	Fruit and Veg's — Fig & Prune Processing	2003	Weaknesses in controls on producer organisations and processors	flat-rate	5 %	EUR	– 1 631 436,97	0,00	– 1 631 436,97
FR	Fruit and Veg's — Fig & Prune Processing	2004	Weaknesses in controls on producer organisations and processors	flat-rate	5 %	EUR	– 2 363 125,84	0,00	– 2 363 125,84
FR	Fruit and Veg's — Withdrawals	2002	Weaknesses in quality controls	flat-rate	10 %	EUR	– 553 591,97	0,00	– 553 591,97
FR	Fruit and Veg's — Withdrawals	2002	Non-eligible payments	one-off		EUR	– 390 167,12	0,00	– 390 167,12
FR	Fruit and Veg's — Withdrawals	2003	Weaknesses in quality controls	flat-rate	10 %	EUR	– 467 514,07	0,00	– 467 514,07
FR	Fruit and Veg's — Withdrawals	2003	Non-eligible payments	one-off		EUR	– 329 251,70	0,00	– 329 251,70
FR	Fruit and Veg's — Withdrawals	2004	Weaknesses in quality controls	flat-rate	10 %	EUR	– 73 418,08	0,00	– 73 418,08

MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions already made	Financial impact
FR	Fruit and Veg's — Withdrawals	2004	Non-eligible payments	one-off		EUR	– 51 662,44	0,00	– 51 662,44
	Total FR						**– 15 106 688,62**	**– 9 246 520,43**	**– 5 860 168,19**
GR	Cotton	1999	Shortcomings in controls of areas sown and failure to ensure compatibility with IACS	flat-rate	2 %	EUR	– 13 809 328,47	0,00	– 13 809 328,47
GR	Cotton	2000	Shortcomings in controls of areas sown and failure to ensure compatibility with IACS	flat-rate	2 %	EUR	– 12 772 949,94	0,00	– 12 772 949,94
GR	Cotton	2001	Shortcomings in controls of areas sown and failure to ensure compatibility with IACS	flat-rate	2 %	EUR	– 10 861 691,99	0,00	– 10 861 691,99
GR	Cotton	2002	Shortcomings in controls of areas sown and failure to ensure compatibility with IACS	flat-rate	2 %	EUR	– 9 386,27	0,00	– 9 386,27
GR	Financial audit — Late payments	2003	Failure to meet payment deadlines	one-off		EUR	– 8 585 958,60	– 11 332 816,07	2 746 857,47
GR	Fruit and Veg's — Processed dried grape products (other measures)	2000	Overestimated area, lack of geographical location for parcel identification, unsatisfactory control of harvested grape destination	flat-rate	10 %	EUR	– 10 463 301,27	0,00	– 10 463 301,27
GR	Fruit and Veg's — Processed dried grape products (other measures)	2001	Overestimated area, lack of geographical location for parcel identification, unsatisfactory control of harvested grape destination	flat-rate	10 %	EUR	– 10 211 803,93	0,00	– 10 211 803,93
GR	Fruit and Veg's — Processed dried grape products (other measures)	2002	Overestimated area, lack of geographical location for parcel identification, unsatisfactory control of harvested grape destination	flat-rate	10 %	EUR	– 10 238 190,17	0,00	– 10 238 190,17
GR	Fruit and Veg's — Citrus Processing	2002	Weaknesses in accounting controls on producer organisations and processors	flat-rate	5 %	EUR	– 1 600 595,97	0,00	– 1 600 595,97
GR	Fruit and Veg's — Citrus Processing	2003	Weaknesses in accounting controls on producer organisations and processors	flat-rate	5 %	EUR	– 1 901 064,33	0,00	– 1 901 064,33

MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions already made	Financial impact
GR	Fruit and Veg's — Citrus Processing	2004	Weaknesses in accounting controls on producer organisations and processors	flat-rate	5 %	EUR	– 66 532,29	0,00	– 66 532,29
GR	Olive Oil — Production aid	2001	Computer files are not operational, crop declarations controls are ineffective	flat-rate	5 %	EUR	– 3 149 196,05	0,00	– 3 149 196,05
GR	Olive Oil — Production aid	2001	Computer files are not operational, crop declarations controls are ineffective	flat-rate	10 %	EUR	– 51 690 441,26	0,00	– 51 690 441,26
GR	Olive Oil — Production aid	2002	Computer files are not operational, crop declarations controls are ineffective	flat-rate	5 %	EUR	777,64	0,00	777,64
GR	Olive Oil — Production aid	2002	Computer files are not operational, crop declarations controls are ineffective	flat-rate	10 %	EUR	– 55 525 481,37	0,00	– 55 525 481,37
GR	Olive Oil — Production aid	2003	Computer files are not operational, crop declarations controls are ineffective	flat-rate	10 %	EUR	– 52 364 617,95	0,00	– 52 364 617,95
GR	Olive Oil — Production aid	2004	Computer files are not operational, crop declarations controls are ineffective	flat-rate	10 %	EUR	– 979 495,25	0,00	– 979 495,25
	Total GR						**– 244 229 257,47**	**– 11 332 816,07**	**– 232 896 441,40**
LU	Financial audit — Overshooting	2003	Overshooting of the financial ceilings	one-off		EUR	– 42 350,66	– 42 350,66	0,00
	Total LU						**– 42 350,66**	**– 42 350,66**	**0,00**
NL	Financial audit — Late payments	2004	Failure to meet payment deadlines	one-off		EUR	– 313 633,90	– 313 633,90	0,00
NL	RD Guarantee new measures	2002	Ineligible expenditure claimed under the Guarantee Section of the EAGGF	one-off		EUR	– 5 670 000,00	0,00	– 5 670 000,00
NL	RD Guarantee new measures	2003	Expenditure approved under the Guidance Section, but claimed under the Guarantee Section of the EAGGF	one-off		EUR	– 578 520,00	0,00	– 578 520,00
NL	RD Guarantee new measures	2004	Expenditure approved under the Guidance Section, but claimed under the Guarantee Section of the EAGGF	one-off		EUR	– 444 629,00	– 5 599,00	– 439 030,00
	Total NL						**– 7 006 782,90**	**– 319 232,90**	**– 6 687 550,00**

MS	Measure	FY	Reason	Type	%	Currency	Amount	Deductions already made	Financial impact
PT	Arable Crops	2003	Inadequate verification of the eligibility of claims paid for durum wheat	flat-rate	5 %	EUR	– 1 962 129,00	0,00	– 1 962 129,00
PT	Arable Crops	2004	Inadequate verification of the eligibility of claims paid for durum wheat	flat-rate	5 %	EUR	– 1 983 698,00	0,00	– 1 983 698,00
PT	Financial audit — Late payments	2004	Failure to meet payment deadlines	one-off		EUR	– 855 539,34	– 884 529,11	28 989,77
PT	Fruit and Veg's — Operational Funds	2003	Failure to meet deadlines	one-off		EUR	– 293,03	0,00	– 293,03
PT	Fruit and Veg's — Peach & Pear Processing	2003	Failure to meet payment deadlines	one-off		EUR	– 2 541,18	0,00	– 2 541,18
PT	Fruit and Veg's — Tomato Processing	2003	Failure to meet payment deadlines	one-off		EUR	– 582 983,67	0,00	– 582 983,67
	Total PT						**– 5 387 184,22**	**– 884 529,11**	**– 4 502 655,11**