COMMISSION DECISION

of 19 March 2009

excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) and under the European Agricultural Guarantee Fund (EAGF)

(notified under document number C(2009) 1945)

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

(2009/253/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy [1], and in particular Article 7(4) thereof,

Having regard to Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy [2], and in particular Article 31 thereof,

Having consulted the Committee on the Agricultural Funds,

Whereas:

(1) Under Article 7(4) of Regulation (EC) No 1258/1999, and Article 31 of Regulation (EC) No 1290/2005, the Commission is to carry out the necessary verifications, communicate to the Member States the results of these verifications, take note of the comments of the Member States, initiate a bilateral discussion so that an agreement may be reached with the Member States in question, and formally communicate its conclusions to them.

(2) The Member States have had an opportunity to request the launch of a conciliation procedure. That opportunity has been used in some cases and the report issued on the outcome has been examined by the Commission.

(3) Under Regulation (EC) No 1258/1999 and Regulation (EC) No 1290/2005, only agricultural expenditure which has been incurred in a way that has not infringed Community rules may be financed.

(4) In the light of the verifications carried out, the outcome of the bilateral discussions and the conciliation procedures, part of the expenditure declared by the Member States does not fulfil this requirement and cannot, therefore, be financed under the EAGGF Guarantee Section and the European Agricultural Guarantee Fund, hereinafter referred to as EAGF.

(5) The amounts that are not recognised as being chargeable to the EAGGF Guarantee Section and the EAGF 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 verifications 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 6 January 2009 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 or under the EAGF shall be excluded from Community financing because it does not comply with Community rules.

[1] OJ L 160, 26.6.1999, p. 103.
[2] OJ L 209, 11.8.2005, p. 1.

Article 2

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

Done at Brussels, 19 March 2009.

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

Budget item 6 7 0 1

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
BE	Export refunds — Sugar and isoglucose	2004	Insufficient quantity of laboratory controls of sugar.	forfaitaire	2,00	EUR	– 2 752 373,87	0,00	– 2 752 373,87
BE	Export refunds — Sugar and isoglucose	2005	Insufficient quantity of laboratory controls of sugar.	forfaitaire	2,00	EUR	– 3 348 166,37	0,00	– 3 348 166,37
BE	Export refunds — Sugar and isoglucose	2006	Insufficient quantity of laboratory controls of sugar.	forfaitaire	2,00	EUR	– 1 096 253,86	0,00	– 1 096 253,86
BE	Fruit and Vegetables — Operational Programmes	2005	Ineligible expenditure comprising environmental packaging and VAT	ponctuelle		EUR	– 1 189 054,23	0,00	– 1 189 054,23
BE	Fruit and Vegetables — Operational Programmes	2006	Ineligible expenditure including environmental packaging and VAT	ponctuelle		EUR	– 535 735,88	0,00	– 535 735,88
						TOTAL BE	**– 8 921 584,21**	**0,00**	**– 8 921 584,21**
CY	Wine — Restructuring	2005	Overpayments of amounts to individual producers	ponctuelle		CYP	– 2 094,55	0,00	– 2 094,55
						TOTAL CY	**– 2 094,55**	**0,00**	**– 2 094,55**
DK	Arable Crops	2003	Weakness in the control of the compliance with set-aside areas	forfaitaire	5,00	DKK	– 16 820 597,23	0,00	– 16 820 597,23
DK	Arable Crops	2003	Weakness in the control of the compliance with set-aside areas	forfaitaire	10,00	DKK	– 48 235 864,52	0,00	– 48 235 864,52
DK	Arable Crops	2003	Weakness in the control of the compliance with set-aside areas	forfaitaire	5,00	DKK	– 180 971 473,05	0,00	– 180 971 473,05
DK	Arable Crops	2004	Weakness in key-control: remote sensing.	forfaitaire	2,00	DKK	– 6 594 611,09	0,00	– 6 594 611,09
DK	Arable Crops	2004	Weakness in the control of the compliance with set-aside areas	forfaitaire	5,00	DKK	– 199 488 578,07	0,00	– 199 488 578,07
DK	Arable Crops	2004	Weakness in the control of the compliance with set-aside areas	forfaitaire	10,00	DKK	– 48 736 215,92	0,00	– 48 736 215,92

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
DK	Arable Crops	2005	Weakness in key-control: remote sensing.	forfaitaire	2,00	DKK	– 1 987 122,96	0,00	– 1 987 122,96
DK	Arable Crops	2005	Weakness in the control of the compliance with set-aside areas	forfaitaire	5,00	DKK	– 201 721 301,02	0,00	– 201 721 301,02
DK	Arable Crops	2005	Weakness in the control of the compliance with set-aside areas	forfaitaire	10,00	DKK	– 45 156 517,78	0,00	– 45 156 517,78
						TOTAL DK	**– 749 712 281,64**	**0,00**	**– 749 712 281,64**
ES	Fruit and Vegetables — Citrus Processing	2005	Non-recognitnion of one of the producers' organisation criterion.	ponctuelle		EUR	– 78 111,82	0,00	– 78 111,82
ES	Fruit and Vegetables — Citrus Processing	2006	Non-recognitnion of one of the producers' organisation criterion.	ponctuelle		EUR	– 79 222,56	0,00	– 79 222,56
ES	Fruit and Vegetables — Citrus Processing	2007	Non-recognitnion of one of the producers' organisation criterion.	ponctuelle		EUR	– 39 411,30	0,00	– 39 411,30
ES	Meat Premiums — Ewe and Goats	2003	Updated calculation of correction based on the new financial data obtained	ponctuelle		EUR	– 2 415,00	0,00	– 2 415,00
ES	Meat Premiums — Ewe and Goats	2004	Updated calculation of correction based on the new financial data obtained	ponctuelle		EUR	– 102 075,02	0,00	– 102 075,02
ES	Meat Premiums — Ewe and Goats	2005	Updated calculation of correction based on the new financial data obtained	ponctuelle		EUR	– 95 914,93	0,00	– 95 914,93
						TOTAL ES	**– 397 150,63**	**0,00**	**– 397 150,63**
FR	Irregularities		Reimbursment due to erroneous application of the 50/50 rule			EUR	265 473,73	0,00	265 473,73
FR	Food Aid within the Community	2005	Failure to meet payment deadlines. Absence of sanctions.	forfaitaire	2,00	EUR	– 959 937,85	0,00	– 959 937,85
FR	Food Aid within the Community	2005	Failure to meet payment deadlines. Absence of sanctions.	ponctuelle		EUR	– 148 951,85	0,00	– 148 951,85
FR	Food Aid within the Community	2006	Failure to meet payment deadlines. Absence of sanctions.	forfaitaire	2,00	EUR	– 838 194,08	0,00	– 838 194,08

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
FR	Food Aid within the Community	2006	Failure to meet payment deadlines. Absence of sanctions.	ponctuelle		EUR	– 340 621,43	0,00	– 340 621,43
						TOTAL FR	**– 2 022 231,48**	**0,00**	**– 2 022 231,48**
GB	Export Refunds	2003	Risk analysis not used properly — reduction of control rate not justified	forfaitaire	5,00	GBP	– 890 012,69	0,00	– 890 012,69
GB	Export Refunds	2004	Risk analysis not used properly — reduction of control rate not justified; Insufficient certification of exit from Community	forfaitaire	5,00	GBP	– 2 291 169,57	0,00	– 2 291 169,57
GB	Export Refunds	2004	Non-Annex I goods — insufficient verification of recipes	forfaitaire	10,00	GBP	– 43 131,68	0,00	– 43 131,68
GB	Export Refunds	2005	Risk analysis not used properly — reduction of control rate not justified; Insufficient certification of exit from Community	forfaitaire	5,00	GBP	– 3 395 655,55	0,00	– 3 395 655,55
GB	Export Refunds	2005	Non-Annex I goods — insufficient verification of recipes	forfaitaire	10,00	GBP	– 68 291,82	0,00	– 68 291,82
GB	Export Refunds	2006	Risk analysis not used properly — reduction of control rate not justified; Insufficient certification of exit from Community	forfaitaire	5,00	GBP	– 2 291 169,57	0,00	– 2 291 169,57
GB	Export Refunds	2006	Non-Annex I goods — insufficient verification of recipes	forfaitaire	10,00	GBP	– 68 291,82	0,00	– 68 291,82
GB	Export Refunds	2007	Risk analysis not used properly — reduction of control rate not justified	forfaitaire	5,00	GBP	– 247 225,73	0,00	– 247 225,73
						TOTAL GB	**– 9 294 948,43**	**0,00**	**– 9 294 948,43**
GR	Export refunds — Non-Annex I	2004	Insufficient controls. Risk of ineligible payments. Unreliable data on quantities of sugar exported.	forfaitaire	10,00	EUR	– 160 378,12	0,00	– 160 378,12
GR	Export refunds — Non-Annex I	2005	Insufficient controls. Risk of ineligible payments. Unreliable data on quantities of sugar exported.	forfaitaire	10,00	EUR	– 104 574,50	0,00	– 104 574,50

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
GR	Export refunds — Non-Annex I	2006	Insufficient controls. Risk of ineligible payments. Unreliable data on quantities of sugar exported.	forfaitaire	10,00	EUR	– 10 276,40	0,00	– 10 276,40
GR	Export refunds — Sugar and isoglucose	2004	Insufficient controls. Risk of ineligible payments. Unreliable data on quantities of sugar exported.	forfaitaire	10,00	EUR	– 838 787,30	0,00	– 838 787,30
GR	Export refunds — Sugar and isoglucose	2005	Insufficient controls. Risk of ineligible payments. Unreliable data on quantities of sugar exported.	forfaitaire	10,00	EUR	– 99 948,50	0,00	– 99 948,50
GR	Export refunds — Sugar and isoglucose	2006	Insufficient controls. Risk of ineligible payments. Unreliable data on quantities of sugar exported.	forfaitaire	10,00	EUR	– 69 462,90	0,00	– 69 462,90
						TOTAL GR	**– 1 283 427,72**	**0,00**	**– 1 283 427,72**
IE	Export Refunds & Food Aid outside the UE	2003	Weaknesses in risk analysis. Insufficient quality and quantity of physical checks.	forfaitaire	2,00	EUR	– 824 680,26	0,00	– 824 680,26
IE	Export Refunds & Food Aid outside the UE	2004	Weaknesses in risk analysis. Insufficient quality and quantity of physical checks.	forfaitaire	2,00	EUR	– 916 724,78	0,00	– 916 724,78
IE	Export Refunds & Food Aid outside the UE	2005	Weaknesses in risk analysis. Insufficient quality and quantity of physical checks.	forfaitaire	2,00	EUR	– 653 050,12	0,00	– 653 050,12
IE	Export Refunds & Food Aid outside the UE	2006	Weaknesses in risk analysis. Insufficient quality and quantity of physical checks.	forfaitaire	2,00	EUR	– 46 017,73	0,00	– 46 017,73
						TOTAL IE	**– 2 440 472,89**	**0,00**	**– 2 440 472,89**
IT	Other Direct Aid — Silk Worms	2004	Insufficient administrative controls of aid applications and not satisfactory control of minimum weight	forfaitaire	5,00	EUR	– 226,54	0,00	– 226,54
IT	Other Direct Aid — Silk Worms	2005	Insufficient administrative controls of aid applications and not satisfactory control of minimum weight	forfaitaire	5,00	EUR	– 1 632,44	0,00	– 1 632,44
IT	Other Direct Aid — Silk Worms	2006	Insufficient administrative controls of aid applications and not satisfactory control of minimum weight	forfaitaire	5,00	EUR	– 857,69	0,00	– 857,69

MS	Measure	FY	Reason for correction	Type	%	Currency	Amount	Deductions already made	Financial impact
IT	Other Direct Aid — Silk Worms	2007	Insufficient administrative controls of aid applications and not satisfactory control of minimum weight	forfaitaire	5,00	EUR	– 1 625,77	0,00	– 1 625,77
						TOTAL IT	**– 4 342,44**	**0,00**	**– 4 342,44**
SI	Direct Payments	2005	Deficiencies in key-controls: incorrect control approach, technique and tools.	forfaitaire	5,00	SIT	– 175 559 567,33	0,00	– 175 559 567,33
SI	Direct Payments	2006	Deficiencies in key-controls: incorrect control approach, technique and tools.	forfaitaire	5,00	SIT	– 180 027 349,79	0,00	– 180 027 349,79
						TOTAL SI	**– 355 586 917,12**	**0,00**	**– 355 586 917,12**