

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 27 July 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) 3331)***(Only the Spanish, Greek, English, French, Italian and Portuguese texts are authentic)**

(2006/554/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 commu-

nicate 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 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 Commission 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 5 April 2006 and relating to its content,

from Community financing because it does not comply with Community rules.

Article 2

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

HAS ADOPTED THIS DECISION:

Done at Brussels, 27 July 2006.

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

For the Commission
Mariann FISCHER BOEL
Member of the Commission

ANNEX

Member State	Audit Field	Reason	Correction	Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
ES	Arable crops	Absence of a computerised LPS	flat-rate 2 %	EUR	- 43 299,48	0,00	- 43 299,48	1999-2000
ES	Arable crops	Deficient aid application procedure	flat-rate 5 %	EUR	- 2 024 643,26	0,00	- 2 024 643,26	2002-2004
ES	Arable crops	Non-application of penalties	flat-rate 2 %	EUR	- 316 545,67	0,00	- 316 545,67	2003-2004
ES	Animal premiums — OTMS	Animals subject of financing for both purchase and destruction	one-off	EUR	- 156 180,00	0,00	- 156 180,00	2002
ES	Animal premiums — OTMS	Non-reliable administrative and accounting system to monitor and account for animals	flat-rate 10 %	EUR	- 160 692,00	0,00	- 160 692,00	2001
ES	Butterfats in food processing	Overtracing — aid paid for part of tracers added	one-off 1,5 %	EUR	- 144 902,68	0,00	- 144 902,68	2002-2005
ES	Fruit and Veg — Bananas	Weaknesses in the determination of marketed quantities, non-representative sampling in quality controls	flat-rate 2 %	EUR	- 5 291 087,63	0,00	- 5 291 087,63	2002-2004
ES	Fruit and Veg — processing of peaches & pears	Non-compliance with payment deadlines	one-off	EUR	- 643 142,42	0,00	- 643 142,42	2002
ES	POSEI	Non-compliance with key controls	flat-rate 5 %	EUR	- 415 161,50	0,00	- 415 161,50	2003-2004
ES	POSEI	Non-compliance with payment deadlines	one-off	EUR	- 3 931 651,61	0,00	- 3 931 651,61	2003-2004
ES	Wine — production potential	Deficiencies in managing production potential	flat-rate 10 %	EUR	- 33 357 596,61	0,00	- 33 357 596,61	2001-2004
Total ES					- 46 484 902,86	0,00	- 46 484 902,86	
FR	Arable crops	Application of the rate of irrigation in wet regions	one-off	EUR	- 7 874 178,00	0,00	- 7 874 178,00	2001-2003
FR	Arable crops	Parcels not eligible for aid after grubbing of vines	one-off	EUR	- 36 610 625,00	0,00	- 36 610 625,00	2001-2005
FR	Arable crops	Meadows turned over in wet regions	one-off	EUR	- 12 521 275,00	0,00	- 12 521 275,00	2001-2005
FR	Arable crops	Penalties for aid paid unduly	one-off	EUR	- 20 128 846,00	0,00	- 20 128 846,00	2001-2005
FR	Olive oil — Production aid	Key controls not applied with sufficient rigour	flat-rate 2 %	EUR	- 156 181,66	0,00	- 156 181,66	2002-2004

Member State	Audit Field	Reason	Correction	Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
FR	Rural Development Guarantee new measures	Weaknesses in key and secondary controls	flat-rate 5 %	EUR	- 4 349 136,00	0,00	- 4 349 136,00	2001-2002
FR	Rural Development Guarantee new measures	Weaknesses in controls on reduced-interest loans	flat-rate 5 %	EUR	- 4 331 384,00	0,00	- 4 331 384,00	2001-2002
Total FR					- 85 971 625,66	0,00	- 85 971 625,66	
UK	Butterfats in food processing	Insufficient quantity controls on manufactured quantities	flat-rate 5 %	GBP	- 1 351 441,25	0,00	- 1 351 441,25	2001-2004
UK	Butterfats in food processing	Overtracing — aid paid for part of tracers added	one-off	GBP	- 55 534,20	0,00	- 55 534,20	2002-2004
UK	Export refunds and food aid outside the EU	Deficiency in the scheduling regime	flat-rate 2 %	GBP	- 250 887,47	0,00	- 250 887,47	2001-2003
UK	Export refunds and food aid outside the EU	Failure to carry out the required number of substitution controls	flat-rate 5 %	GBP	- 7 314,57	0,00	- 7 314,57	2000-2001
Total UK					- 1 665 177,49	0,00	- 1 665 177,49	
GR	RD Guarantee accompanying measures	Key controls inadequately applied	flat-rate 5 %	EUR	- 1 795 865,00	0,00	- 1 795 865,00	2004
GR	RD Guarantee accompanying measures	Key controls inadequately applied	flat-rate 10 %	EUR	- 6 271 694,00	0,00	- 6 271 694,00	2002-2003
GR	RD Guarantee accompanying measures	Various weaknesses in the system for management, control and penalties	flat-rate 5 %	EUR	- 6 460 070,00	0,00	- 6 460 070,00	2004
Total EL					- 14 527 629,00	0,00	- 14 527 629,00	
IE	Animal premiums — OTMS	Administrative deficiencies	flat-rate 2 %	EUR	- 170 297,64	0,00	- 170 297,64	2001-2003
Total IE					- 170 297,64	0,00	- 170 297,64	

Member State	Audit Field	Reason	Correction	Currency	Expenditure to exclude from financing	Deductions already made	Financial impact of this decision	Financial year
IT	Fruit and vegetable — With-drawals	Inadequate rate of controls on composting and bio-degradation	one-off 100 %	EUR	- 9 107 445,49	0,00	- 9 107 445,49	2000-2002
IT	Fruit and vegetable — With-drawals	Several weaknesses in the system of checks as instituted	flat-rate 5 %	EUR	- 304 839,45	0,00	- 304 839,45	2001-2003
IT	Public storage of meat	Late payments	one-off	EUR	- 4 575,54	0,00	- 4 575,54	2001
IT	Public storage of meat	Presence of specified risk material, removal of neck muscle, acceptance of ineligible carcasses, poor storage conditions, labelling failings, reporting failings and inspection weaknesses	flat-rate 5 %	EUR	- 2 635 067,09	0,00	- 2 635 067,09	2001-2003
Total IT					- 12 051 927,57	0,00	- 12 051 927,57	
PT	Fruit and vegetable — Bananas	Deficiencies in the system for checking quantities eligible for aid and in the system for checking full payment of aid to beneficiaries, lack of oversight over delegated checks	flat-rate 2 %	EUR	- 257 901,65	0,00	- 257 901,65	2002-2004
Total PT					- 257 901,65	0,00	- 257 901,65	