



European Commission  
Directorate-General for Agriculture

# The clearance of accounts procedure

The European Agricultural Guidance and Guarantee Fund (EAGGF)<sup>1</sup>, forms part of the general budget of the European Communities.

Through the Guarantee fund, it finances expenses arising from the common market organisations in the various product sectors, most notably direct payments, costs arising from intervention buying and export refunds. This section also co-finances all rural development measures outside Objective 1<sup>2</sup> regions, as well as the accompanying measures throughout the EU (namely agri-environment, aid for early retirement, afforestation and less favoured areas). Finally, it funds the Community's financial contribution towards specific veterinary and plant health measures, as well as information and certain evaluation measures relating to the common agricultural policy (CAP).

Through the Guidance fund, it co-finances certain rural development measures<sup>3</sup> in Objective 1 regions as well as the Community initiative (Leader+) in favour of rural development.

The EAGGF accounts for just under half the EU budget, and it is essential that proper systems are in place to ensure that funds are spent correctly. Every year, the Member States and the European Commission undertake audits and inspection activities. These audits are carried out in different ways for the two sections of the EAGGF.

For expenditure under the Guarantee section, the Commission applies the "clearance of accounts" procedure, based on the regulation on the financing of the common agricultural policy<sup>4</sup>. As expenditure under the Guidance section is part of the Structural Funds, financial control is governed by the Structural Fund regulation<sup>3</sup> and takes place in the context of multi-annual programmes.

The purpose of this factsheet is to give an overview of the way Member States administer expenditure under the EAGGF Guarantee section and the way the Commission applies the clearance of accounts procedure.

<sup>1</sup> Set up by Council Regulation (EEC) No 25 of 1962 [OJ L 30, 20.04.1962, p. 991], as amended by Regulation (EEC) No 729/70 [OJ L 94, 28.4.1970, p. 13] and as last amended by Council Regulation (EC) 1258/99 on the financing of the common agricultural policy, OJ L 160 of 26.6.1999, p. 103]. Regulation (EC) 1258/1999 applies for expenditure from 01.01.2000– [OJ L 160, 26.6.1999, p. 103]

<sup>2</sup> Objective 1: development and structural adjustment of regions whose development is lagging behind.

<sup>3</sup> Not financed by the EAGGF Guarantee Section

<sup>4</sup> Council Regulation (EC) 1260/99 laying down general provisions on the Structural Funds, [OJ L 161, 26.6.1999, p. 1]

## The clearance of accounts

### How are payments to beneficiaries administered?

The Commission is responsible for the administration of the EAGGF and specific rules have been set for expenditure covered by the Guarantee fund. However, the Commission does not make payments to beneficiaries. This is the responsibility of the Member States, who themselves work through 90 approved national and/or regional paying agencies (see box below). Paying agencies have to respect detailed requirements regarding their administrative organisation and control procedures in order to be accredited by Member States.

#### What is a Paying Agency?

Paying agencies are the authorities and bodies of the Member States, whose role is to provide sufficient guarantees that:

- The admissibility of claims and compliance with Community rules are checked before payment is authorised;
- The payments effected are correctly and fully recorded in the accounts;
- Relevant documentation is submitted within deadlines and in the way stipulated in Community rules.

Each Member State must forward to the Commission:

- Details of the authorities and bodies it has accredited to make payments;
- Where more than one agency is accredited, details of the authority or body responsible for collecting the information to be supplied to the Commission and for promoting the harmonised application of Community rules (so-called co-ordinating agencies);
- The names, status and acts of accreditation of the paying agencies;
- Details of the administrative, accounting and internal audit conditions for payments made within the framework of the CAP to implement Community rules.

Every month the Member States forward statements of the paying agencies' expenditure to the Commission, which reimburses them two months later. These reimbursements are considered as pre-payments given the fact that the clearance of account procedure has not yet taken place.

Member States have the primary responsibility for checking expenditure under the Guarantee section. The rules, which vary from market sector to market sector, are very precise as to the audits and inspections that Member States have to undertake. In order to carry out these audits, Member States make use of advanced technical tools, in particular remote sensing by aerial or satellite photography, and computer databases that allow extensive cross-checks on aid claims. The Member States must also carry out *ex-post* examinations of the commercial records of those receiving significant amounts.

At the end of the financial year<sup>5</sup> every Member State forwards its annual accounts to the European Commission after an audit by a certifying body<sup>6</sup>. The aim of this audit is to examine the quality of the paying agencies' administrative structures to ensure that compliance with Community rules has been checked before payments are made to beneficiaries.

After the examination, the certifying body draws up a certification report and where appropriate, gives an audit certificate of its findings which states whether it has gained reasonable assurance that the accounts to be transmitted to the Commission are true, complete and accurate and that the internal control procedures have operated satisfactorily. The audit certificate and the certification report, together with Member States annual expenditure statement, are forwarded to the European Commission, which is then responsible for clearing the accounts.

### **What is the certifying body?**

The certifying body is a department or body which carries out audits in accordance with internationally accepted auditing standards. It conducts examinations on paying agencies accounts both during and after each financial year and it draws up a certification report and an audit certificate of its findings.

I. In the report the certifying body has to examine whether:

- the paying agencies' procedures, with particular regard to the accreditation criteria, can give reasonable assurance that the operations charged to the EAGGF comply with Community rules;
- the Member States annual expenditure accounts are in accordance with the books and records of the paying agencies;
- the statements of expenditure and of intervention operations are a true, complete and accurate record of the operations charged to the EAGGF;
- the financial interests of the Community are properly protected as regards advances paid, guarantees obtained, intervention stocks and amounts to be collected;
- recommendations for the improvement of systems addressed to the paying agency have been followed up.

II. In the audit certificate, the certifying body states whether the paying agencies' administrative structures are capable of ensuring that payments are in compliance with Community rules and that this compliance has been checked before payments are made.

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<sup>5</sup> The financial year runs from 16 October to 15 October of the following year

<sup>6</sup> The department or body in the Member State, operationally independent of the paying agencies and approved by the Commission (see box above)

## How is the clearance of accounts procedure applied?

The clearance of accounts procedure was established for the first time in 1970. Council Regulation (EEC) No 729/70 states that Community expenditure must be made subject to close supervision carried out by Member States and to verification carried out by Commission officials. It states that “measures must be taken to prevent and deal with any irregularities and to recover the amounts lost, as a result of such irregularities or negligence”. For expenditure from 01.01.2000, Council Regulation (EC) No 1258/99, which replaced Council Regulation (EEC) No 729/70, applies.

The clearance of accounts procedure was substantially modified for the first time for the EAGGF financial year 1996. This review was adopted in order to increase Member States’ responsibility for correct implementation of Community regulations, to minimise the risk of wrong payments being made and to maximise the prevention of irregularities.

The clearance of accounts procedure is divided into two steps, the *accounting clearance*, and the *compliance clearance*.

<b>Accounting clearance: Indicative timetable</b>	
End of the EAGGF year	15 October
Deadline for the receipt of certified accounts and audit reports (from the paying agencies)	10 February
Analysis of reports, missions on the spot	10 February-25 March
Communication of findings to the Member States	31 March
Preparation of decision and follow-up of problem cases	April
Decision by the Commission	By 30 April

### 1. The accounting clearance

The accounting clearance concerns the accreditation and certification of accounts and deals with:

- The correctness of the paying agencies’ annual accounts;
- The ability of their procedures to ensure that only eligible claims are paid;
- Ensuring that all amounts to be recovered are subsequently received;
- Ensuring that the annual accounting clearance decision (see below) is based on the certified accounts of the accredited paying agencies;
- Providing the Commission with reasonable assurance that the accounts to be transmitted are true, complete and accurate.

The Commission has to adopt an annual accounting clearance decision, under which it accepts Member States’ annual accounts on the basis of the certificates and reports of the certifying bodies, but without prejudice to subsequent decisions to recover any expenditure that is found not to have complied with Community rules. The Commission has to clear the accounts and adopt the accounting clearance decision before the 30th of April of the year following the financial year concerned. On the 30th of April 1999, the Commission adopted the decision of the Member States’ expenditure for the 1998 financial year.

### 2. The compliance clearance

The compliance clearance concerns the legality and regularity of the underlying transactions. The Commission has to take separate decisions - known as ad hoc compliance decisions - that aim to exclude from Community financing, expenditure for which a Member State fails to provide the Commission with reasonable assurance as to the effectiveness of the management and control procedures used to check the legality and regularity of the aid schemes.

The two parts of the clearance procedure described above are separate. While the accounting clearance is an annual exercise, the compliance clearance is not linked to this annual cycle - it can cover expenditure incurred in more than one EAGGF budget year. However, compliance clearance decisions can only cover the 24 month period prior to the official notification to the Member States of the Commission’s findings.

For a compliance clearance decision the following steps have to be taken:

**Step 1:** The Directorate General for Agriculture at the European Commission carries out a risk analysis to identify the specific schemes/areas as well as the Member States in which enquiries have to be made. On the basis of this analysis, a letter is sent to the Member State concerned, announcing the enquiry, the number of audit visits and when they will start.

**Step 2:** Following the audit, the Commission prepares an audit report and a letter is sent to the Member States concerned, within a period of approximately two months after every audit visit. The letter constitutes an official communication<sup>7</sup> and presents the findings arising from the audit visit as well as possible corrective measures that need to be taken. It indicates whether financial consequences are envisaged with regard to the expenditure incurred – at most - in the 24 months prior to the date of the official receipt of this letter. The Member States have to send a written reply to the Commission within two months.

**Step 3:** After examining the replies, the Commission arranges a meeting with the Member States within the following two months to discuss and clarify the issues raised, to evaluate the seriousness of the problems and to agree on the measures needed to remedy the situation. In the invitation letter, the Commission may include an estimate of the envisaged amount of the financial correction (see section 3.) as well as a request for additional information.

**Step 4:** After examining all the information provided, the Commission communicates its conclusions to the Member States on the financial correction to be proposed. The formal notification provides the Member State with the possibility of submitting a reasoned request for conciliation within 30 working days from the date of its official receipt. Should the request for conciliation be accepted, the Conciliation body (see box on the right) must make its report within four months.

**Step 5:** After receiving the Conciliation Body's report, the Commission confirms by letter the final conclusions on the financial consequences.

**Step 6:** The Commission adopts<sup>8</sup> - after consulting the EAGGF Committee - its clearance decision<sup>9</sup>.

<sup>7</sup> Under the provisions of Article 8 of Commission Regulation (EC) No 1663/95 laying down detailed rules for the application of Council Regulation (EEC) No 729/70 [OJ L158, 8.7.1995, p. 6] regarding the procedure for the clearance of the accounts of the EAGGF Guarantee Section, OJ L 158 of 8th July, 1995, p. 6]

### What is the conciliation body?

The conciliation body is composed of five members (president and 4 members) who are independent experts from different Member States. The Commission approves them after consulting the EAGGF Committee and they have a three-year renewable mandate. Their task is to mediate between the Commission and the Member States in the event of disagreement over a clearance decision.

The conciliation body has four months to achieve this task. At the end of its work it has to prepare a report on the results of the conciliation procedure, accompanied by any observations which it considers useful.

### Compliance clearance: Indicative timetable

Risk analysis	Starting after the receipt of Member States' annual expenditure statement	
Audit planning	after risk analysis	
Missions on the spot	Date X	A
Reporting on mission findings	A+60	B
Letter to Member States on findings	B+30	C
Reply of the Member States	C+60	D
Translation and examination of reply	D+90	E
Bilateral meeting on issues disagreed	E+45	F
Conclusion letter and bilateral meeting	F+15	G
Reply and examination and translation	G+105	H
Draft final conclusion	H+45	I
Deadline conciliation request	I+30	J
Deadline conciliation	J+120	K
Draft final position	K+45	L
<b>Total number of days since the start of investigation</b>	<b>645 days</b>	
<b>Proposal for compliance decision</b>	<b>2 to 3 times per year</b>	

<sup>8</sup> Since the reform of the clearance of accounts procedure, 5 ad hoc decisions have been taken

<sup>9</sup> The Member States have the possibility of appealing to the Court of Justice after the Commission's clearance decision

The Commission sends out a team of some 50 auditors from the clearance of accounts unit of the Directorate General for Agriculture. On average 140 audits take place in the Member States every year. The auditors' role in clearing the accounts of the Member States' paying agencies is essentially to audit the accounts and the underlying expenditure. On the basis of these audits, the Commissions assesses which expenditure can be recognised as chargeable to the EAGGF and which expenditure cannot be recognised, and should therefore be refused. This is the major difference between the audits conducted by the European Commission and other audit bodies such as the European Court of Auditors and the European Anti-fraud Office (OLAF)<sup>10</sup> which do not have the power to impose financial corrections.

### **3. How are the financial corrections applied?**

Financial corrections are applied when a Member State fails to carry out the essential checks needed to ensure the regularity of the expenditure under the Guarantee section. Before deciding on the amount of a financial correction, the Commission<sup>11</sup> evaluates the degree of non-compliance as well as the nature and gravity of the infringement and the financial loss suffered by the European Union budget.

The calculations of the financial correction can be made either on the basis of errors in individual files or on the basis of the risks of financial loss.

#### **Evaluation based on errors of individual files**

a) When the Commission finds that a particular payment does not comply with Community rules, it refuses EU budget financing.

b) If an examination of Member States' procedures for checking claims before they are paid reveals that they are not sufficient and when this is supported through a statistically valid sample, the Commission can calculate the total ineligible claims by extrapolating the results of its checks.

#### **Evaluation based on the risks of financial loss**

However, the Commission in many circumstances cannot determine the true value of all the ineligible claims paid by a Member State. By the very nature of ex-post auditing, it can rarely be established at the time of the audit whether a claim was valid or not. For example, the number of olive trees may be verifiable at any later time, but the number of sheep or the quality of exported cheese cannot be verified at a later date. The probable loss to the EU budget must therefore be assessed by an evaluation of the risk to which it is exposed as a result of the weaknesses in the Member States' controls. In such cases, the Commission applies flat-rate corrections, which are proportionate to the seriousness of the failings and to the risks to the EU budget. In order to ensure equal treatment of all cases of this type, the Commission has adopted guidelines<sup>12</sup> on the rates to be applied.

The guidelines distinguish between two types of checks that the Member States should undertake:

- Key checks. These are the physical and administrative checks which are required to verify substantive elements and in particular the existence of the subject of the claim, the quantity and the qualitative conditions including the respect of time limits, harvesting requirements etc. They are performed on the spot and by cross-checks of independent databases such as land registers.
- Ancillary checks. They involve the administrative operations required to process claims correctly and include verifying the respect of time limits for the submission of claims, identifying duplicate claims, risk analysis, the application of sanctions and the appropriate supervision of the procedures.

A correction of 2% is justified when a Member State has failed to take measures to improve the application of ancillary checks.

When all key checks are applied, but not in the number, frequency or depth required, then a correction of 5% is justified as it can reasonably be concluded that the checks do not provide a sufficient level of assurance of the regularity of claims and therefore that the risk of loss to the EAGGF was significant.

<sup>10</sup> OLAF: Office Européen de Lutte Antifraude

<sup>11</sup> In accordance with article 5.2 c) of Regulation 729/70 [OJ L 94, 28.4.1970, p. 13]

<sup>12</sup> The guidelines were first adopted in 1993 and revised by the Commission on 8.12.1997

When one or more key checks are not applied or applied so poorly or so infrequently that they are completely ineffective in determining the eligibility of the claim or in preventing irregularity, then a correction of 10% is justified as it can reasonably be concluded that there was a high risk of widespread loss to the EAGGF.

When a Member State's application of a control system is completely absent or gravely deficient and there is evidence of widespread irregularity and negligence in countering irregular or fraudulent practices, then a correction of 25% is justified as it can reasonably be assumed that the freedom to submit irregular claims may lead to exceptionally high losses to the EAGGF.

The rate of correction may be fixed at an even higher rate to exclude all expenditure when weaknesses are so serious that they constitute a complete failure to comply with Community rules.

#### 4. Results

The two tables below show all the ad hoc compliance decisions taken since the reform of the clearance of accounts procedure in 1996, together with the financial corrections by Member State and by sector:

<b>Member State</b>	<b>Ad hoc 1' 02/03/1999</b>	<b>Ad hoc 2' 05/04/1999</b>	<b>Ad hoc 3' 07/08/1999</b>	<b>Ad hoc 4' 01/03/ 2000</b>	<b>Ad hoc 5' 05/07/ 2000</b>
Belgium			0.2	0.4	1.6
Denmark			0.6	0.1	30.1
Germany	1.7		9.4	21.9	19.2
Greece	23.8		7.9	9.1	88.3
Spain	34.4		15.6	1.1	17.2
France	9.0		0.4	102.9	128.7
Ireland			1.9	6.4	13.4
Italy	6.1		27.3	45.7	22.2
Luxembourg				1.3	
Netherlands			0.2	0.4	2.6
Austria			0.0 <sup>2</sup>		0.8
Portugal			10.9	21.9	7.2
Finland			4.3		
Sweden			0.3	0.5	
United Kingdom	14.6	32.5	8.9	21.0	19.5
<b>TOTAL</b>	<b>89.6</b>	<b>32.5</b>	<b>83.6</b>	<b>237.0</b>	<b>350.8</b>

*1 The empty cells indicate no correction for the Member State in this ad hoc decision, either because the procedure is still on-going or the Member State was not checked in the period concerned.*

*2 The amount of correction was very low.*

**Table 2 (in million EUR)**

Sector	Ad hoc 1 <sup>1</sup>	Ad hoc 2 <sup>1</sup>	Ad hoc 3 <sup>1</sup>	Ad hoc 4 <sup>1</sup>	Ad hoc 5 <sup>1</sup>
	02/03/1999	05/04/1999	07/08/1999	01/03/2000	05/07/2000
Accompanying measures				4.6	24.9
Arable crops	3.4		1.5	18.2	174.4
Debtors				0.2	0
Export refunds				160.7	49.8
Flax and hemp				0.2	14.4
Fruit and vegetables	6.1		2.3	8.1	17.9
Late payments			75.5	14.7	8.7
Promotion				0.2	
Animal premia	14.7	32.5	1.9	26.1	55.6
Wine				4.0	
Public storage			10.1		2.1
Olive oil	58.2		-9.0		0.5
Tobacco	0.7		1.3		
Milk	6.5				2.5
<b>TOTAL</b>	<b>89.6</b>	<b>32.5</b>	<b>83.6</b>	<b>237.0</b>	<b>350.8</b>

<sup>1</sup> The empty cells indicate no correction for the sector in this ad hoc decision, either because the procedure is still on-going or there were no irregularities found.

### Legal basis

Council Regulation (EC) No 1258/99 on the financing of the common agricultural policy [OJ L 160, 26.6.1999, p. 103] replaced Regulation (EEC) No 729/70 of the Council of 21 April 1970 [OJ L 94, 28.4.1970, p. 13].

### Commission Accounting Clearance decisions

#### For the year 1996

Commission Decision No 316/97 of 5 May 1997 [OJ L 138, 29.5.1997, p. 24]

Commission Decision No 609/97 of 1 August 1997 [OJ L 245, 9.9.1997, p. 25]

#### For the year 1997

Commission Decision No 324/98, of 29 April 1998 [OJ L 141, 13.5.1998, p. 38]

Commission Decision No 151/99 of 11 February 1998 [OJ L 49, 25.2.1999, p. 42]

#### For the year 1998

Commission Decision No 327/99 of 30 April 1999 [OJ L 124, 18.5.1999, p. 28]

Commission Decision No 179/2000 of 14 February 2000 [OJ L 57, 2.3.2000, p. 31]

#### For the year 1999

Commission Decision No 314/2000 of 28 April 2000 [OJ L 104, 29.4.2000, p. 82]

### Commission Compliance decisions (ad hoc decisions)

I. Commission Decision No 186/99 of 3 February 1999 [OJ L 61, 10.3.1999, p. 34]

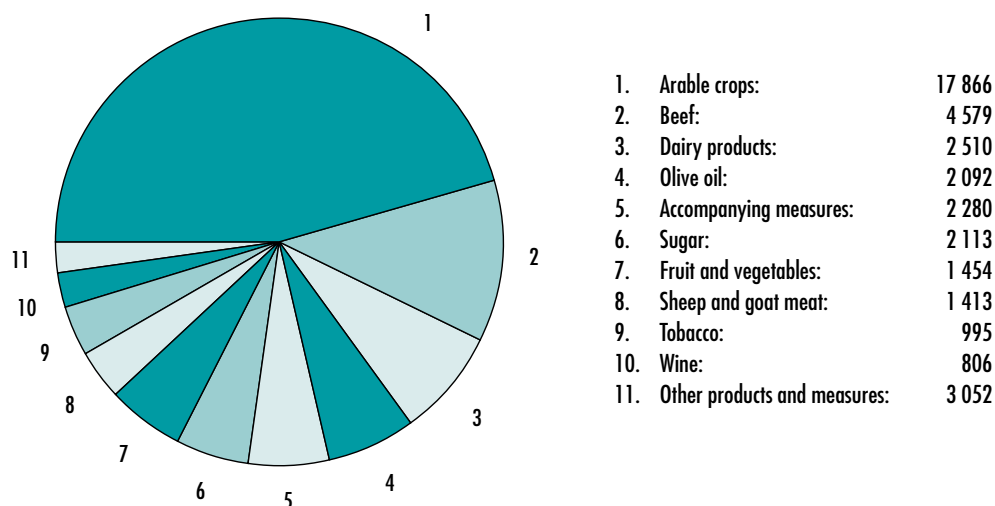
II. Commission Decision No 350/99 of 4 May 1999 [OJ L 133, 28.5.1999, p. 60]

III. Commission Decision No 603/99 of 28 July 1999 [OJ L 234, 4.9.1999, p. 6]

IV. Commission Decision No 216/2000 of 1 March 2000 [OJ L 67, 15.3.2000, p. 37]

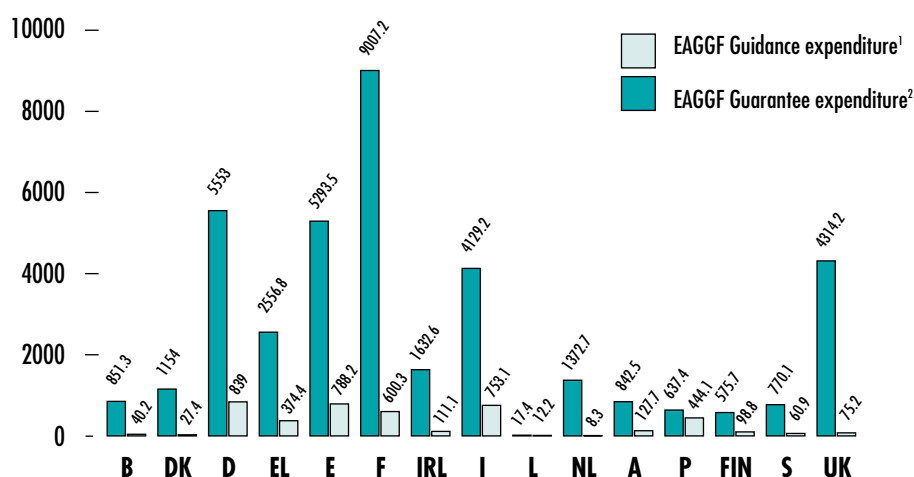
V. Commission Decision of 5 July 2000

## Allocation of resources under the Guarantee section, 1999<sup>1</sup> (in mio €)



<sup>1</sup> In line with Agenda 2000, the EAGGF Guarantee section now also co-finances most rural development measures  
 Source: European Commission, Directorate-General for Agriculture

## EAGGF Guarantee and Guidance expenditure, by Member State, 1998 (in mio €)



<sup>1</sup> Expenditure from appropriations for commitment

<sup>2</sup> Adjusted for expenditure against carryovers and financial consequences of clearance of accounts decisions

Source: European Commission, Directorate-General for Agriculture



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