

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 1 final.

Brussels, 11 January 1979

PROPOSAL FOR A COUNCIL
REGULATION
on the management of food aid

Proposal for a
COUNCIL REGULATION (EEC)
amending Regulations (EEC) Nos 2052/69 and
1703/72, Decision 72/335/EEC and Regulation
(EEC) No 2681/74 on Community financing of
expenditures incurred in respect of the supply
of agricultural products as food aid, and
repealing Decision 72/335/EEC.

(submitted to the Council by the Commission
pursuant to the second paragraph of Article 149 of
the EEC Treaty)

COM(79) 1 final.

-2-

EXPLANATORY MEMORANDUM

1. On 14 June 1978 the Commission presented to the Council a proposal for a regulation on the procedures for the management of food aid (1). This proposal also included a "proposal for a Council regulation amending Regulation (EEC) n° 1703/72 as regards the Community financing of expenditure arising from the implementation of food aid conventions" and a "proposal for a Council decision amending Decision 72/335/EEC on the Community financing a certain special expenditure arising from the implementation of the Food Aid Convention of 1971".

The European Parliament was requested to deliver its opinion on these three texts, the last of which was also submitted to the Court of Auditors for its opinion.

2. In July, September, October and November 1978, the Council devoted a large number of meetings to examining the Commission proposal. The matter was discussed initially by the Working Party on Development Cooperation, and subsequently by the Permanent Representatives Committee. Although the discussions failed to produce a final common position endorsed by all the delegations, a certain line of thought did emerge from them.

Parliament delivered its opinion on the proposal on 14 November; this was based on the report prepared by Mr LEZZI and also on the opinion of the Committee on Budgets drawn up by Mr SCOTT-HOPKINS (2). Lastly, the Court of Auditors delivered its opinion on 26 October (3).

3. The prime objective of the Commission's proposal was to establish management procedures which were more effective and more in keeping with the spirit and letter of the EEC Treaty (Article 205 of which lays down that the Commission alone is responsible for implementing the Community budget), without raising the substantive problems linked with the concept of food aid policy, for discussion of those matters would necessarily have caused considerable delays in the adoption of the new procedures.

In order to achieve that aim, the Commission made the following main proposals :

- a) the general political decisions (definition of basic products, decision on annual quantities, formulation of general aid guidelines) should be assigned to the Council and adopted by a qualified majority;
- b) the management powers at present held by the Council should be transferred to the Commission, in particular the annual allocation of quantities and decisions on emergency aid, derived products and transport problems;
- c) provision should be made for close cooperation between the Member States and the Commission within a Committee on food aid;

(1) COM (78) 204 final

(2) 414/78, 31.10.78.

(3) R/2820/78, 6.11.78.

4. The discussion held in the Council and Parliament on the Commission's plan revealed that these two institutions were not content with improved management procedures but wanted the framework regulation to include substantive clauses which could make food aid one of the pillars of the Community's development cooperation policy.

The three institutions are of the opinion that in order to bring about this major improvement, of which the Commission approves and which it has, furthermore, recommended for many years, the legal basis for food aid should no longer be constituted only by Article 43 of the EEC Treaty, which lays the foundations of the common agricultural policy, but should refer to Article 235 of the EEC Treaty in view of the new content it will give to food aid.

The Commission, for its part, considers that since it is no longer intended merely to improve the management procedures for food aid, but also to formulate a real food aid policy, a composite legal basis should be adopted made up of Articles 43 and 235 of the EEC Treaty - Article 43 to stress that the products allocated will be procured primarily on the Community market and Article 235 to establish food aid firmly as a new, independent policy.

With this composite legal basis, it will generally be possible, for the goods supplied to be procured in accordance with the market organization rules in force (reference to Article 43) but it will also mean that in appropriate cases, such as non-availability of supplies on the European market or emergencies, the necessary goods can be procured by other means, notably purchases from other developing countries.

5. Given this prospect of a qualitative improvement in food aid, it is above all essential that the Community should be able to involve itself in annual and multiannual development projects and participate directly in their implementation. The possibility of granting food aid to developing countries for the purpose of building up stocks of cereals is another important measure to be implemented under a real food aid policy, and could bring about lasting improvements in the standard of nutrition of the recipients. Both these methods of assistance have the same objective: food aid must, in appropriate cases, provide the means of correcting the deteriorating food situation in the developing countries in the medium term. This can only be done effectively in a multiannual framework.

6. With regard to the transfer of a number of management powers from the Council to the Commission, the Commission considers that its initial proposal represents the best way of meeting the basic requirements of increasing the effectiveness and improving the implementation of the aid. This approach has moreover been approved by Parliament and the Court of Auditors.

In this context, it is important that the Council should continue to take the major decisions which it is required to take by qualified majority.

7. As for the method of operation, the voting system and the powers of the committee on food aid, the Commission's initial proposal ties in, as indicated in 3. above, with a number of similar proposals and constitutes a compromise between the position adopted by the Council, which would like to establish for itself an automatic right of appeal which could be invoked systematically in the event of disagreement between the Commission and the committee, and the position adopted by Parliament, which recommends that only an advisory committee be set up.

8. Lastly, the new content that will thus be given to Community food aid must also be translated into budgetary terms. (1) Expenditure on food aid has up to now been charged against two headings : a portion of the expenditure considered to represent the refunds on exports of the product delivered, was charged against the Guarantee Section of the EAGGF (Title 6 of the Budget) while the other portion, considered to represent the "world price" of the goods supplied to developing countries, was included in Title 9 of the Budget under Chapter 92 : "Food aid". This breakdown of the expenditure, which is purely artificial since the Community finances all Community food aid expenditure on the basis of the internal prices fixed by the Council for each farm year, caused administrative complications at all stages of the implementation of the aid. Since food aid constitutes a completely separate branch of the Community's coopération policy, it is important that the corresponding expenditure should be presented coherently in the Budget : food aid appropriations must therefore be grouped together according to the nature of the operations financed, and be charged against Title 9 : ("Cooperation with developing countries and other non-member countries") of the General Budget of the European Communities. (2)

CONCLUSION

On the basis of the foregoing, and in the light of the discussions held within the Council and the opinions delivered by the European Parliament and the Court of Auditors, the Commission is submitting to the Council the amended proposals for Council regulations contained in the Annex.

The main aim of the amendments made to the Commission's initial proposal (passages underlined in the annexed texts) is to insert in the framework regulation the legal and substantive elements required to transform food aid into an independent policy aimed at development objectives.

It is therefore proposed that the Council adopt the amended acts annexed hereto, so that the new procedures can already be used for drawing up the food aid programmes for 1979.

(1) A proposal to this effect was submitted as early as 15 July 1977 (COM (77) 333 final). This proposal, which had Parliament's approval, was not adopted by the Council.

(2) However, as it is necessary to know the value of the food aid at the world price (which represents the net flow of foreign currency to the recipient countries or organizations) and to communicate this information to the relevant international authorities, the value will be indicated in the budget commentaries.

4

ANNEX I.

Proposal for a Council Regulation
on the management of food aid

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic
Community, and in particular Articles 43 and 235 thereof

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

.../...

Whereas food aid is provided on humanitarian grounds and constitutes one of the essential aspects of the Community's policy of cooperation with the developing countries;

Whereas food aid should be made into a real instrument of the Community's policy of cooperation with the developing countries, thereby enabling the Community to participate fully in multiannual development projects;

Whereas it is necessary, to that end, that the Community should be able to provide steady flows of aid and be in a position to undertake to supply to the developing countries minimum quantities of products under a multiannual programme;

Whereas, in order to ensure that food aid is managed more efficiently and in greater conformity with the interests and requirements of the recipient countries, the decision-making and implementing procedures should be improved;

Whereas, in order to facilitate the application of certain of the measures envisaged, provision should be made for close cooperation between the Member States and the Commission within a committee on food aid;

Whereas these procedures and the subsequent decisions take account of the division of responsibilities between the institutions as laid down in the Treaty, and in particular Article 205 thereof;

Whereas this regulation does not affect the procedures provided for in the context of the common market organizations or Council Regulation (EEC) N° 2681/74 of 21 October 1974 on Community financing of expenditure incurred in respect of the supply of agricultural products as food aid (1);

HAS ADOPTED THE REGULATION :

TITLE I : FOOD AID-OBJECTIVES AND GENERAL GUIDELINES

Article 1

Under its cooperation policy, the Community shall carry out food aid operations.

Article 2

1. These food aid operations shall have the following objectives in particular :

- to raise the standard of nutrition of the recipients,
- to help in emergencies,
- to contribute towards the economic development of the recipient countries.

(1) OJ N° L 288, 25.10.1974, p. 1.

- 6
2. Food aid shall be allocated primarily on the basis of an objective evaluation of the real needs justifying the aid. To that end, the following three criteria shall in particular be taken into account :
 - basic food needs,
 - per capita income,
 - the balance-of-payments situation.
 3. The granting of food aid shall, if necessary, be conditional on the implementation of annual or multiannual development projects; where appropriate, the aid may contribute directly to the implementation of such projects. Complementarity may be ensured through the use of counterpart funds where the products supplied by the Community as aid are intended for sale.
 4. Food aid may be granted to enable the recipients to build up stocks of cereals.
 5. The Community may finance the building up of stocks of foodstuffs in order to contribute towards the implementation of emergency action as provided for in Article 6.

Article 3

1. Goods supplied as food aid shall be procured on the Community market.
2. However, in an emergency or if the products to be supplied as aid are not available on the Community market, they may be purchased on the markets of developing countries which export them. As a last resort, the products may be purchased on the markets of other exporting countries.
3. The products shall be procured in accordance with the rules and procedures laid down under the common market organizations.
4. With the agreement of the recipients, limited quantities of derived products, in particular cereal-based products, may be supplied as Community food aid.

TITLE II : PROCEDURES FOR IMPLEMENTING FOOD AID OPERATIONS

Article 4

In the field of food aid, the Council, acting by a qualified majority on a proposal from the Commission, and after obtaining the opinion of the European Parliament, shall

- define the basic products to be supplied as aid;
- determine by 31 October each year, within the framework laid down by Article 2, the general guidelines which will govern the aid for the following year;
- decide on the total quantities of each product on an annual and multi-annual basis and fix the percentage of the total that can be channelled through international organizations;

.../...

apportion the cereals aid provided for under the Food Aid Convention as between Community and national operations and fix the total amount of Community cereals aid not covered by the Convention.

Article 5

The Commission, following consultations with the committee provided for in Article 7, shall take decisions in accordance with the procedure laid down in Article 8 on :

- the annual and multiannual distribution of the quantities available among countries and organizations, and the volume of the reserve;
- the derived products to be supplied as food aid;
- the application of Article 2 (3) (4) and (5);
- transportation of the products.

Article 6

The Commission, in accordance with the Council decisions referred to in Article 4 and of the decisions taken under Article 5, shall decide on :

- a) emergency action for countries facing serious difficulties as a result of natural disasters or comparable abnormal circumstances;
- b) the conditions governing the supply of aid and, in particular, on the general conditions applicable to recipients.

For the purposes of a) "emergency" shall mean an unforeseeable situation in which famine or a danger of famine poses a serious threat to the lives and health of the population. The volume of aid which it shall be decided to supply in each particular case shall be limited to the quantities that the people affected require in order to cope with the situation for a period not exceeding three months.

Article 7

1. There is hereby established a Committee on Food Aid, chaired by a representative of the Commission and composed of representatives of the Member States. The secretariat of the Committee shall be provided by the Commission.
2. Where recourse is had to the procedure defined in Article 8, the votes of the Member States shall be weighted as set out in Article 148 (2) of the Treaty. The Chairman shall not vote.
3. The Committee shall draw up its rules of procedure.

.../...

Article 8

2. Where recourse is had to the procedure defined in this Article, the Committee shall be duly informed by its Chairman, either on the latter's own initiative or at the request of a representative of a Member State.

2. The Commission representative shall submit drafts of decisions to be taken. The Committee shall deliver its opinion on these drafts within a time limit which may be fixed by the Chairman according to the urgency of the matters under examination. It shall act by a majority of 41 votes.

3. The Commission shall take decisions which are immediately applicable. If, however, such decisions are not in accordance with the opinion delivered by the Committee, they shall be communicated to the Council by the Commission forthwith. In that event, the Commission shall postpone, for not more than two months following the date of said communication, the application of the decisions taken by it. The Council, acting by a qualified majority, may take a different decision within two months.

Article 9

Following a request by the Chairman or a representative of a Member State, the coordination of Community and national food aid schemes shall be examined by the Committee. To this end, the Member States shall provide the Commission with information about national schemes.

Article 10

The Committee may examine any other matter concerning food aid raised by its Chairman, either on the latter's own initiative or at the request of a representative of a Member State.

Article 11

The European Parliament shall be informed of the management of food aid by the communication of the decisions referred to in Articles 4 to 6 immediately upon their adoption and by the annual presentation of progress reports on the implementation of the various operations for the relevant financial years.

The decisions referred to in Articles 5 and 6 and the reports mentioned above shall be communicated to the Council at the same time.

Article 12

This Regulation shall enter into force on the third day following its publication in the Official Journal of the European Communities.

.../...

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at

For the Council

The President

10

ANNEX II.

Proposal for a
COUNCIL REGULATION (EEC)
amending Regulations (EEC) Nos 2052/69 and 1703/72, Decision 72/335/EEC and Regulation (EEC) No 2681/74 on Community financing of expenditures incurred in respect of the supply of agricultural products as food aid, and repealing Decision 72/335/EEC.

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43, 209 and 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Auditors,

Whereas food aid should be made into a real instrument of the Community's policy of cooperation with the developing countries;

Whereas food-aid appropriations should be presented in the Budget in a way that is consistent with the nature of the operations financed and meets the need for greater budgetary transparency and better management of the aid;

Whereas the full cost of Community food-aid operations should consequently be charged to Title 9 ("Cooperation with developing countries and other non-member countries") of the General Budget of the European Communities;

Whereas certain financial provisions need to be adapted to the new Regulation on the management of food aid, in particular the following :

- Council Regulation (EEC) N° 2052/69 of 17 October 1969 on the Community financing of expenditure arising from the implementation of the Food Aid Convention (1);

(1) OJ N° L 263, 21.10.1969, p. 6.

- Council Regulation (EEC) N° 1703/72 of 3 August 1972 amending Regulation (EEC) N° 2052/69 on the Community financing of expenditure arising from the implementation of the Food Aid Convention of 1967 and laying down rules for the Community financing of expenditure arising from the implementation of the Food Aid Convention of 1967 and laying down rules for the Community financing of expenditure arising from the implementation of the Food Aid Convention 1971 (2);

- Council Regulation (EEC) N° 2681/74 of 21 October 1974 on Community financing of expenditure incurred in respect of the supply of agricultural products as food aid (3);

Whereas it is necessary, for the sake of clarity, to incorporate in this Regulation the provisions of Council Decision 72/335/EEC of 3 August 1972 (4) and to repeal that Decision,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) N° 2052/69 is amended as follows :

1. Article 1 (1) is replaced by the following :

"In respect of national transactions carried out in implementation of the Food Aid Convention, that part of the expenditure corresponding to the refund on exports to third countries, less costs incurred beyond the port of embarkation stage, shall be eligible for financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund".

2. In Article 4 (1), the first subparagraph up to the end of point (a) is amended to read as follows :

"1. Expenditure relating to Community transactions arising from the implementation of the Food Aid Convention shall be financed by the Community; the said expenditure shall be charged in its entirety to Title 9 ("Cooperation with developing countries and other non-member countries") of the General Budget of the European Communities, and, in pursuance of the Decisions taken by the Community institutions, shall include :

a) the value of the goods at the port of embarkation."

Article 2

Regulation (EEC) N° 1703/72 is amended as follows :

(2) OJ N° L 180, 8.8.1972, p. 1.

(3) OJ N° L 288, 25.10.1974, p. 1.

(4) OJ N° L 227, 5.10.1972, p. 11.

1. The first sentence of Article 6 (1) is replaced by the following :

"For national measures taken under the Food Aid Convention of 1971 for which products procured in the Community were used, the Guarantee Section of the Fund shall finance that part of the expenditure which corresponds to the refund on exports to third countries, less costs incurred beyond the port of embarkation stage."

2. Article 8 (1) up to the end of point (b) is amended to read as follows :

"For Community measures under the Food Aid Convention of 1971 taken pursuant to the Decisions adopted by the institutions of the Community :

a) The Community shall provide finance to the value, at the port of embarkation or equivalent stage, of the cereals or the rice, whether in the natural state or processed, or, where the goods are procured on the world market, to the value obtained by adding to the purchase price any necessary expenditure relating thereto.

b) The following further expenditure may be wholly or partly financed by the Community :

- forwarding costs to the frontier of the country of destination and, if necessary, to the destination itself;
- distribution costs, where the goods are distributed through a specialized agency".

3. Article 10 (1) is replaced by the following :

"1. The Commission shall effect the expenditure referred to in Article 8 (1) (b) in cases where an agreement concluded by the Community provides, in respect of that expenditure, for repayment on the basis of supporting documents or for the payment of a lump-sum contribution either to the intermediary agency, or, where exceptional circumstances so justify, to the beneficiary country. The Commission may make advances for such expenditure".

Article 3

For measures under the Food Aid Convention of 1971 taken pursuant to the Decisions adopted by the institutions of the Community, in addition to the expenditure referred to in Article 6 of Council Regulation (EEC) N°1703/72 of 3 August 1972 amending Regulation (EEC) N° 2052/69 on the Community financing of expenditure arising from the implementation of the Food Aid Convention of 1967 and laying down rules for the Community financing of expenditure arising from the implementation of the Food Aid Convention of 1971 (1), provision may be made, in exceptional or urgent cases, for Community financing, of all or part, of the following expenditure :

(1) OJ N° L 40, 8.8.1977, p.1.

- the value, at the fob or equivalent stage, of cereals or rice in the form of goods not included in Annex II to the Treaty;
- forwarding costs to the frontier of the country of destination and, if necessary, to the destination itself,
- distribution costs, where the goods are distributed through a specialized agency.

In such cases, Article 10 (1) of Regulation (EEC) N° 1703/72 shall apply mutatis mutandis and the expenditure shall be financed from the food-aid appropriations of the budget of the European Communities.

Article 4

Council Decision 72/335/EEC of 5 August 1972 is hereby repealed.

Article 5

Regulation (EEC) N° 2681/74 is amended as follows :

1. The following paragraph is added to Article 1 :

"The expenditure referred to in the preceding paragraph shall be charged in its entirety to Title 9 ("Cooperation with developing countries and other non-member countries") of the General Budget of the European Communities and shall be covered by a single chapter (Chapter on "Food aid")."

2. Article 2 is hereby repealed.

Article 6

This Regulation shall enter into force on the same day as Council Regulation (EEC) N° of on the management of food aid (1).

The provisions of Articles 1(2) and 5(1) shall apply with effect from the financial year 1980.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at

For the Council

The President

FINANCIAL ANNEX

This proposal on management procedures for food aid does not involve any new or additional expenditure and its implementation will have no effect on the size of the appropriations earmarked for food aid.