

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 204 final.

Brussels, 14 June 1978.

COMMISSION COMMUNICATION TO THE COUNCIL
on the procedures for the management of food aid

COM(78) 204 final.

EXPLANATORY MEMORANDUM

I.

- a) At the meeting of the Council (Development) on 28 November 1977, the Commission stated that it would be presenting proposals to enable the Commission to assume its responsibilities in the management of food aid, since the current procedures were leading to a wastage of time and energy and were scarcely compatible with the basic objective of food aid, which was to combat hunger in the short term. The attached proposals pursue these aims and are moreover in accordance with the ideas voiced by the European Parliament, which, in the debates that took place throughout 1977, reaffirmed on a number of occasions that the Commission should assume responsibility for any decision concerning implementation and the utilization of budget appropriations.
- b) The Commission for its part has already embarked on important reforms in the matter of the management of food aid, particularly in order to shorten the process leading up to the delivery of the products. The presentation as early as October 1977 of the three programmes covered by the 1978 budget bears witness to the effort made. The Commission is continuing its work to make food aid more effective, for instance by better dovetailing of the aid in the Community's general development policy.
- c) In the past the Council has also adopted measures to make the procedures for the implementation of emergency and standard food aid less cumbersome. These measures, while constituting important progress, have dealt with only part of the problem and have not succeeded in making food aid a fully effective instrument as regards speed.

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d) Under the current procedures, the major decisions and even the practical details of food aid management are adopted by the Council. The Council fixes the exact quantity of aid to be allocated to each recipient (so many tonnes to Bangladesh, so many tonnes to India, etc.) decides whether the aid is to be delivered FOB or CIF, then intervenes during the negotiations with the recipients on the nature of the products to be supplied. The Council may reconsider the advisability of supplying aid even after a decision has been taken (as in the case of 175 000 t. of cereals allocated to India, the delivery of which was thus delayed by four months), and also intervenes directly in the emergency operations to be carried out. This makes the implementation of aid operations very slow. (1) This slowness was deplored by the Council, which, in connection with decisions adopted concerning food aid on 22 March 1977, stated that it seemed desirable to seek ways of speeding up the procedures for the preparation of the annual aid programmes. (2)

The delays and their consequences are the subject of severe criticism from the Audit Board and the European Parliament. It must also be noted that the Community is unable to respect its international commitments under the Food Aid Convention, and that this makes it subject to severe and justified criticism from the other donor countries.

Lastly, the present approach is prejudicial to the recipient developing countries in as much as it makes any import programming impossible and frequently leads to inconsistencies, since aid decided on by the Community when it is necessary is often delivered after the needs have had to be met by other means or after they have had to be ignored.

- 1) For example, 82 % of the 1976 programmes, which should have been completed in the same budget year, was carried out in 1977 ; similarly, 60 % of the 1977 programmes will be carried out in 1978.
- 2) Between the transmission of the proposals by the Commission and the Council's decision a period of between three and five months is needed for the adoption of the cereal programmes and a period of between two and seven months for the milk products programmes.

- e) These cumbersome procedures also run contrary to the spirit of the EEC Treaty, and even to the letter of the Treaty, notably Article 205, which states that the Commission shall implement the budget and affirms the Commission's full responsibility in this matter ; that is the argument put forward by the Parliament - and it will probably be put forward by the Court of Auditors - which wants to be able to demand that the Commission account for its management.

The establishment of the complete system of own resources, which will involve greater responsibility for the Commission in budgetary matters, makes the present division of responsibilities between the Council and the Commission even more of an anomaly.

- f) Furthermore, on several occasions some Member States have drawn the Commission's attention to the problem of the legal basis of food aid. This question was raised particularly in the context of discussions on the financing of transport beyond the FOB stage, on the volume of skimmed milk powder food aid for 1978 and the 1978 programmes for each product as well as operation Flood II. During the discussions which took place on these different questions in the appropriate Council committees, the legal services of the Council and the Commission were in agreement that Article 43 of the EEC Treaty constituted a sufficient legal base for food aid. In effect, it appeared to them that the Community rules did not exclude the objectives of other specific Community politics being associated with the objectives of the common agricultural policy. In order to reply to the requests expressed in COREPER, the Commission made a declaration on this subject on 12 April 1978 (1) in the terms of which the proposals which will be submitted on the rationalisation and improvement of the decision making procedures of food aid would include the definition of a new legal basis for these decisions. In order to give food aid an appropriate legal base, the Commission submits for Council decision the regulations proposed in the annex.

(1) Doc. S/680/78 (Alim 35) of 13.4.78

II.

In the light of the various considerations outlined above, the Commission proposes that the responsibilities be divided as follows between the Commission and the Council (1) :

- a) On the basis of the Commission's proposals, and after the advice of the European Parliament, the Council
 - shall define the basic products (cereals, milk, sugar, etc.) to be supplied as aid ;
 - shall decide on the total quantities of each product on an annual or multiannual basis and shall distribute cereals aid between Community and national operations ;
 - shall determine in good time, i.e. before the end of October of each year, the general guidelines which will govern the aid for the following year and the criteria needs, for examining requests per capita GNP, etc.) countries and organizations.

- b) The Commission shall have the responsibilities not covered by (a).above. It shall decide in particular :
 - on the annual or multiannual distribution of the quantities available among countries and organizations, and on the volume of the reserves; the derived products to be supplied as food aid ; matters relating to the transport of the products.

- c) In the exercise of these powers, the Commission shall be assisted by a committee on food aid made up of Member States' representatives and chaired by the Commission. It shall be compulsory to consult this committee on the matters listed in (b) above. Following the model of the "ERDF-Committee", the food aid committee shall deliver its opinion by qualified majority. In the event of disagreement with the Commission, the Council may take a different decision within a period of not more than two months.

1) The proposal does not cover the mobilization of the products nor their financing since these aspects are already being managed by the Commission with the assistance of the respective product committees and the EAGGF Committee.

d) Respecting the decisions of the Council foreseen under (a) and, where applicable, any decisions taken following the consultations under (c) above, the Commission :

- shall decide upon emergency action for countries facing serious difficulties as a result of natural disasters or comparable abnormal circumstances ;
- shall decide on the conditions governing the supply of aid and the general conditions in exchanges of letters with recipients.

The Council and the Parliament will be regularly informed by the Commission of the management of food aid via the communication, as soon as they are adopted, of the guidelines for the utilization of appropriations and via the annual presentation of a report on the implementation of the various operations.

CONCLUSION

In the light of the above considerations, it is proposed that the Council lay down the new procedures applicable to food aid and adopt the acts annexed hereto.

Council Regulation
of
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 Article 43 thereof

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas, in order to ensure better management of food aid, the decision-making and implementing procedures should be amended;

Whereas, in order to facilitate the application of certain of the envisaged measures, 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 concern the procedures provided for in the context of the common market organizations or Council Regulation (EEC) No 2681/74 of 21 October 1974 on Community financing of expenditure incurred in respect of the supply of agricultural products as food aid¹,

¹OJ No L 288, 25.10.1974, p. 1.

8-

HAS ADOPTED THIS REGULATION :

Article 1

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

- define the basic products to be supplied as aid ;
- decide on the total quantities of each product on an annual or multi-annual basis and distribute cereals aid between Community and national operations ;
- determine before the 31 of October of each year, the general guidelines which will govern the aid for the following year and the criteria (needs, per capita GNP, etc.) for examining requests from countries and organizations.

Article 2

The Commission

following consultations with the committee foreseen in Article 4, shall take decisions in accordance with the procedure laid down in Article 5 on :

- the annual or 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 ;
- matters relating to the transport of the products.

Article 3

The Commission, in pursuance of the Council decisions referred to in Article 1 and of the decisions taken on completion of the consultation procedure provided for in Article 2,

- shall decide on emergency action for countries facing serious difficulties as a result of natural disasters or comparable abnormal circumstances ;

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- shall decide on the conditions governing the supply of aid and, in particular, on the general conditions in exchanges of letters with recipients.

Article 4

1. A Committee on Food Aid shall be set up, 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 5, 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 5

1. 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 a month 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 6

Following a request by the Chairman or the 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 7

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 8

The European Parliament will be informed of the management of food aid by the Communication from their adoption of the decisions referred to in Articles 1 to 3 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 2 and 3 as well as the reports mentioned above will be sent to the Council at the same time.

Article 9

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

COUNCIL REGULATION (EEC) No

of

amending Regulation (EEC) No 1703/72 as regards the Community financing of expenditure arising from the implementation of food aid conventions¹

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas, in order to ensure better management of food aid in the form of cereals, the Commission should determine the amount of aid to be allocated to each recipient and the financing arrangements;

Whereas Council Regulation (EEC) No 1703/72 of 3 August 1972 amending Regulation (EEG) No 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 1971 (1), should consequently be amended accordingly,

HAS ADOPTED THIS REGULATION :

¹OJ No L 180, 8.8.1972, p. 1.

-12-

Article 1

Regulation (EEC) No 1703/72 is amended as follows :

1. Article 8 (1)(b) is amended to read as follows :

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

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

2. Article 10(1) is amended to read as follows :

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 recipient country. The Commission may make advances for such expenditure.

Article 2

This Regulation shall enter into force upon the entry into force of Council Regulation (EEC) No..... of on the management of food aid.

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

Done at

For the Council
The President

13

COUNCIL DECISION

of

amending the Decision 72/335/EEC on the Community financing of certain special expenditure arising from the implementation of the Food Aid Convention of 1971 (1)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 209 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, in order to ensure better management of food aid in the form of cereals, the Commission should determine the amount of aid to be allocated to each recipient and the financing arrangements;

Whereas the Decision 72/335/EEC on the Community financing of certain special expenditure arising from the implementation of the Food Aid Convention of 1971 should therefore be amended accordingly,

HAS DECIDED AS FOLLOWS:

Sole Article

The Sole Article of the Council Decision of 3 August 1972 shall be replaced by the following text:

(1) O.J. No. L 227, 5.10.1972, p.11.

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) No 1703 of 3 August 1972 amending Regulation (EEC) No 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 1971, provision may be made, in exceptional or urgent cases, for Community financing, wholly or partly, of the following expenditure:

- the cost, at the fob or equivalent stage, of cereals or rice in the form of goods not included in Annex II to the Treaty, less the expenditure covered by Article 6 of Regulation (EEC) No 1703/72;
- transport to the frontier of the country of destination and, where necessary, to the destination itself;
- distribution where the goods are distributed through a specialized agency.

In such cases, Article 10(1) of Regulation (EEC) No 1703/72, shall apply mutatis mutandis and the expenditure shall be financed from the food aid appropriations of the budget of the European Communities.

Done at

For the Council

The President