



EUROPEAN COMMISSION

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Proposal for a

COUNCIL DECISION

**establishing the position to be adopted, on behalf of the European Union, within the
Food Aid Committee as regards the extension of the Food Aid Convention, 1999**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Food Aid Convention, 1999 (FAC, 1999) was concluded by the Community by Council Decision 2000/421/EC. Originally introduced in the 1960s, it was created as an instrument for a coordinated and acceptable disposal of agricultural surpluses from developed countries to developing countries in need. It remains in force until 30 June 2012, following an extension by decision of the Food Aid Committee at its 104th session on 18 May 2011.

The FAC, 1999 and the Grains Trade Convention (GTC), 1995 are linked in so far as the FAC may only be extended when the Grains Trade Convention 1995 exists for the same period. The Grains Trade Convention of 1995 has been extended until 30 June 2013, thus allowing formally the FAC, 1999 to also be extended for one year.

As the FAC, 1999 expires on 30 June 2012, the question of an extension will be formally addressed in the meeting of the Food Aid Committee in June 2012. At its 103rd session on 14 December 2010, members of the Food Aid Committee agreed to start the formal renegotiation of the FAC, 1999. While the EU would have wished the negotiations to be finalised by June 2011, the final steps of the negotiations of a modernised Food Assistance Convention is only expected to be concluded in April 2012, as and when the French and English versions – both being equally authentic – of the new Convention will be agreed upon by the negotiators.

The FAC, 1999 expires on 30 June 2012 while the Food Assistance Convention would enter into force on 1 January 2013 on condition that by 31 October 2012 six Parties have ratified the Convention. There is likely to be a gap of six months between the expiration of the FAC, 1999 and the entry into force of the Food Assistance Convention. At the 105th session of the Food Aid Committee on 30 November 2011, Parties agreed that an overlap, where the FAC, 1999, and the new Convention would be both in force during a certain period of time, should be avoided. The question of a possible further extension of the FAC, 1999 will be formally addressed by the Food Aid Committee in its meeting in June 2012. Therefore, the EU has to prepare a common position. Based on discussions with EU Member States in the Council Working Group on Humanitarian Aid and Food Aid (COHAFA) on 29 February 2012, the Commission and EU Member States would favour a six-month gap rather than an extension of the current FAC, as it is most likely that the latter would be for one year (until 30 June 2013).

Under the FAC, 1999 the yearly commitments made by the EU and its Member States to deliver a minimum annual amount of food aid are expressed both in wheat equivalents and in value terms, and the current commitments are 1,320,000 tonnes of wheat equivalent plus €130 million (including transport and other operational costs). From the wheat equivalent commitment of 1,320,000 tonnes, 990,000 tonnes is the share handled by the European Union as part of an internal EU agreement.

The extension of the FAC, 1999 is not a legal necessity to facilitate the entry into force of a new modernised Convention, nor is it a political imperative. The extension of the FAC, 1999 would lead to an extension of the EU's annual commitment to provide food aid under Article III(e) of the Convention. It is important to note that for the last four reporting periods, the European Union has not been in a position to meet its commitment in terms of tonnage. At the same time, however, the EU has largely exceeded its value commitments. This is to a large

extent due to the EU's shift to a modern food assistance approach, which is not acknowledged under the current Convention.

If the FAC, 1999 is not extended, it will cease to exist. Subsequently, there would be no minimum commitments directly determined in the Food Assistance Convention, each Party thereto determining the amount of the minimum commitment it undertakes to fulfil. This would not affect the budgetary allocation to humanitarian food assistance and food security under the EU General Budget. However, there might be consequences such as a negative perception by recipient populations/countries, who may fear that the predictability of food aid/assistance will deteriorate. Therefore, communication and dialogue will be required to reassure them that the EU's commitment to address food and nutrition insecurity of the most vulnerable remains. The expected conclusion of the Food Assistance Convention by the EU is proof thereof, with a strong political and financial commitment. It will also be important to remind that the EU has been the driving force behind the renegotiation.

2. EXISTING PROVISIONS IN THE AREA OF THE PROPOSAL

The EU has agreed to several successive extensions of the FAC, 1999 by means of the following decisions:

- Council Decision 2000/421/EC
 - Council Decision 2006/906/EC
 - Council Decision 2007/317/EC
 - Council Decision 2009/393/EC
 - Council Decision 2010/316/EU
 - Council Decision 2011/339/EU
- Consistency with the other policies and objectives of the Union

Pursuant to Article XXV(b) of the FAC, 1999, a further extension for a period of one year is conditional upon the remaining in force, for the same period, of the Grains Trade Convention 1995. The Grains Trade Convention 1995 remains in force until 30 June 2013 as decided at the International Grains Council meeting on 6 June 2011.

3. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

At the Council Working Group on Humanitarian Aid and Food Aid (COHAFA) of 29 February 2012, Member States expressed support for a six-month time gap and the development of an EU position to oppose an extension of the FAC, 1999.

Collection and use of expertise

There was no need for external expertise.

- **Impact Assessment**

Not applicable.

4. LEGAL ELEMENTS OF THE PROPOSAL

- Legal basis

Article 214 (1) and (4) and Article 218(9) of the Treaty on the Functioning of the European Union.

- Subsidiarity

The proposal falls under parallel competence.

- Proportionality

The proposal complies with the proportionality principle.

- Choice of instrument

Proposed instrument: Council Decision.

Other means would not be adequate for the following reason: pursuant to article 218(9) TFEU, it is the only way to adopt the European Union's position to be expressed within the Food Aid Committee.

5. BUDGETARY IMPLICATION

The extension of the FAC, 1999 would mean that the yearly commitments to provide food aid by the European Union and its Member States under Article III(e) of the FAC would be extended for one more year. The European Union has taken responsibility for a share of the commitments undertaken by the EU and its Member States within the FAC. A single FAC notification is consolidated together with Member States and does not indicate separate operations. The FAC (Article VI) provides for carryover and carry-forward from one year to another, where the commitments have been exceeded, but this has never been invoked.

It is important however to note that for four consecutive reporting years: i.e. 2007/08, 2008/09, 2009/10 and 2010/11 the European Union has not been in a position to meet its tonnage commitments.

CONCLUSIONS

In view of the above, the Commission proposes that the Council establishes the following position on behalf of the European Union, and authorises the Commission accordingly to oppose the emergence of a consensus in the Food Aid Committee, pursuant to Rule 13 of the Rules of Procedures of the Food Aid Committee, favouring an extension of the Food Aid Convention.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 214(1) and (4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Food Aid Convention 1999 (hereinafter referred to as 'FAC') was concluded by the European Community by Council Decision 2000/421/EC¹, and extended by various decisions of the Food Aid Committee.
- (2) The current FAC expires in June 2012 and the question of its possible extension will be addressed in the session of the Food Aid Committee in June 2012.
- (3) Pursuant to Article XXV(b) of the Food Aid Convention, its extension is conditioned by the Grains Trade Convention 1995 which remains in force until 30 June 2013, after its extension was decided by the International Grains Council on 6 June 2011.
- (4) At its 103rd session on 14 December 2010 members of the Food Aid Committee agreed to begin the formal process of renegotiating the FAC with a series of negotiation sessions.
- (5) The current FAC expires on 30 June 2012 while the new Food Assistance Convention would enter into force on 1 January 2013. There is likely to be a gap of six months between the expiration of the FAC and the entry into force of the Food Assistance Convention.
- (6) At the 105th session of the Food Aid Committee on 30 November 2011, Parties to the FAC agreed that an overlap should be avoided. A six-month gap should therefore be preferred over an extension of the FAC.
- (7) The European Commission, which represents the European Union in the Food Aid Committee, should therefore be authorised by a Council Decision to oppose a consensus in the Food Aid Committee favouring an extension,

¹ OJ L 163, 4.7.2000, p. 37.

HAS DECIDED AS FOLLOWS:

Article 1

The position of the European Union within the Food Aid Committee shall be to oppose the emergence of a consensus in the Food Aid Committee, pursuant to Rule 13 of the Rules of Procedures of the Food Aid Committee, favouring an extension of the Food Aid Convention.

Article 2

The Commission is hereby authorised to express this position within the Food Aid Committee.

Article 3

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

*For the Council
The President*