

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(81) 127 final

Brussels, 23rd March 1981

## PROPOSAL FOR A COUNCIL FINANCIAL REGULATION (EEC)

on the application of the Agreement in the form of an exchange of  
letters between the European Economic Community and the Portuguese  
Republic concerning the implementation of pre-accession aid for Por-  
tugal

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(presented by the Commission to the Council)

EXPLANATORY MEMORANDUM

1. The Community and the Portuguese Republic signed in Brussels, on 3 December 1980, an Agreement in the form of an exchange of letters concerning the implementation of pre-accession aid for Portugal<sup>(1)</sup>. The Agreement entered into force on 1 January 1981. Its implementation requires that the Community adopt certain implementing and administrative rules, notably on determining the procedure for examining and approving the projects, programmes or other action provided for in the Agreement and on defining the detailed rules for supervising the use of the aid.
2. During the discussions which preceded the negotiations of the Agreement, it was agreed that, with regard to approval of the projects, programmes or other action submitted by Portugal, the procedure followed for implementing the Financial Protocols concluded with the Mediterranean countries would be applied. This statement, which was entered in the minutes of the Council meeting of 7 October 1980, was again referred to at the Council meetings held on 10 November and 25 November.
3. In the light of the foregoing, the Commission has drawn up a proposal for a financial regulation on the application of the Agreement, largely based on the rules established in respect of the Agreements and Financial Protocols concluded by the Community with certain Mediterranean countries. In Article 7, for example, the Commission proposes, in respect of the Committee to be set up under its auspices, a formula similar to that proposed in 1977 and amended in 1978 for the Mediterranean protocols. It considers such a formula sufficient to enable the aid to be implemented in a time-scale compatible with its objective. This same concern for speed and flexibility has led the Commission to propose, in regard to other points, solutions which differ in part from its 1977/78 proposals. In Article 5(2) the Commission proposes that the Committee to be set up under its auspices should adopt its own rules of procedure, which is moreover the usual procedure for committees of this type. For the same reasons, in Article 10(2)

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(1) OJ No L 349, 23.12.1980.

the Commission has not proposed the procedure which it put forward in 1977/78 in the context of the Mediterranean protocols, in respect of the Committee to be set up under the auspices of the Bank, but prefers a formula similar to that adopted by the Council in its draft common guidelines, which were accepted. The Commission wishes, however, to draw the Council's attention to the importance which it attaches to the second indent of the first paragraph of this Article, which it regards as the minimum guarantee of consistency between the various types of assistance provided by the Community as pre-accession aid.

4. In the light of these considerations, the Commission calls upon the Council to commence discussions on the attached proposal very rapidly with a view to taking a decision at the earliest opportunity. The Commission would point out that delay could result in a legal void, which not only might prove detrimental to sound administration of the aid but would also have unfavourable repercussions on relations between the Community and Portugal. The Commission therefore requests that an emergency procedure be applied for the mandatory referral of the proposal to Parliament and the Court of Auditors and also for the deliberations in the Council.

PROPOSAL FOR COUNCIL FINANCIAL REGULATION

(EEC) No ..... of .....

on the application of the Agreement in the form of an exchange of letters between the European Economic Community and the Portuguese Republic concerning the implementation of pre-accession aid for Portugal

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 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 the European Economic Community and the Portuguese Republic have concluded an Agreement in the form of an exchange of letters concerning the implementation of pre-accession aid for Portugal, hereinafter referred to as "the Agreement"<sup>1</sup>;

Whereas this Agreement fixes the total amount of pre-accession aid provided by the Community for Portugal at 275 million ECU, made up of 125 million ECU in the form of grant aid and 150 million ECU in the form of loans accorded by the European Investment Bank, hereinafter referred to as "the Bank", from its own resources;

Whereas it is necessary to lay down implementing and administrative rules which, while based on those established in respect of the Agreements and Protocols concluded by the Community with certain Mediterranean countries, take account of the specific objectives of pre-accession aid;

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<sup>1</sup>OJ No L 349, 23.12.1980, p. 1.

Whereas the rules for the management of aid should be established, the procedure for examining and approving the projects, programmes or schemes provided for in the Agreement should be determined, and the detailed rules for supervising the use of the aid should be defined;

Whereas a Committee of representatives of the Member States should be set up under the auspices of the Commission in respect of operations administered by the Commission;

Whereas it should be stipulated that financing applications for operations not covered from the Bank's own resources be submitted for opinion to a Committee of representatives of the Governments of the Member States and to the Commission;

Whereas the work done by the Commission and the Bank to apply the Agreement should be harmonized;

HAS ADOPTED THIS FINANCIAL REGULATION:

ARTICLE 1

In implementing the aid to Portugal, the Commission shall ensure that the general guidelines and objectives of the Agreement are applied.

ARTICLE 2

1. The appropriations for the financing of aid not covered from the Bank's own resources shall be administered by the Commission, in accordance with the Financial Regulation applicable to the general budget of the European Communities, without prejudice to the Bank's powers in administering certain forms of aid.

2. However, the Commission shall adopt detailed administrative rules, having particular regard to the appointment of financial implementing bodies and conditions guaranteeing equal competition, to the extent that such rules are necessary for the purpose of implementing the Agreement.

### ARTICLE 3

1. A mandate shall be given to the Bank, on behalf of the Community, to administer the interest rate subsidies for loans from its own resources.

The Commission shall administer grants for the cooperation projects or programmes and technical assistance operations, referred to respectively in Articles 5 and 6 of the Agreement.

2. The mandate given to the Bank in accordance with paragraph 1 above, and in particular the provisions concerning movements of funds and the remuneration for executing the mandate, shall be the subject of an agreement between the Commission and the Bank. This agreement shall include the provisions set out in Articles 8 to 10.

### ARTICLE 4

The implementation of the aid shall be discussed periodically by representatives of the Member States, the Commission and the Bank. These discussions shall cover in particular the information obtained by the Commission and the Bank from Portugal on the financing sought and on the operations which the Commission and the Bank intend to submit for opinions in accordance with Articles 6 to 10.

### ARTICLE 5

1. A committee, hereinafter referred to as the "Article 5 Committee", consisting of representatives of the Member States, shall be set up under the auspices of the Commission.

The Article 5 Committee shall be chaired by a representative of the Commission; its secretarial services shall be provided by the Commission.

A representative of the Bank shall attend its meetings.

2. The Committee shall adopt its own rules of procedure.

3. Within the Article 5 Committee, the votes of the Member States shall be weighted in accordance with Article 148(2) of the Treaty.

The Article 5 Committee shall act by a majority of 45 votes.

#### ARTICLE 6

1. The Article 5 Committee shall give its opinion on draft financing decisions for cooperation projects or programmes and technical assistance schemes in Portugal submitted to it by the Commission.

2. The draft financing decisions for projects, programmes or schemes shall explain their relevance in the context of Portugal's preparation for accession and shall assess the effectiveness of each project, programme or scheme by setting the effects it is expected to produce against the resources to be invested in it.

3. The assessment by the Article 5 Committee shall relate inter alia to the conformity of the projects, programmes or schemes with the aid objectives laid down in the Agreement.

#### ARTICLE 7

The draft financing decisions referred to in Article 6, together with the opinion of the Article 5 Committee, shall be submitted to the Commission for a decision.

The Commission shall adopt decisions which shall apply immediately. However, if the Committee has not delivered a favourable opinion, these decisions shall forthwith be communicated by the Commission to the Council. In that event, the Commission shall defer application of the decisions which it has adopted for not more than two months from the date of such communication. The Council, acting by a qualified majority, may take a different decision within two months.

#### ARTICLE 8

1. A Committee consisting of representatives of the Governments of the Member States, hereinafter referred to as the "Article 8 Committee", shall be set up under the auspices of the Bank.

The Article 8 Committee shall be chaired by the representative of the Government of the Member State currently holding the presidency of the Board of Governors of the Bank; its secretarial services shall be provided by the Bank.

A representative of the Commission shall attend its meetings.

2. The Council, acting unanimously, shall adopt the rules of procedure of the Article 8 Committee.

3. Within the Article 8 Committee, the votes of the Member States shall be weighted as specified in Article 148(2) of the Treaty.

The Article 8 Committee shall act by a majority of 45 votes.

#### ARTICLE 9

1. Applications for loans with an interest rate subsidy, submitted by the Portuguese Government, or on which that Government has expressed a favourable opinion, shall be transmitted by the Bank to the Members of the Article 8 Committee and to the Commission, accompanied by any relevant comments.



2. The loan application shall be considered acceptable if the Bank does not receive - within two months from the date of transmission of the application - any request for consultation of the Article 8 Committee from a member of the Article 8 Committee or from the Commission.

3. If such a request is received, the Article 8 Committee shall examine the loan application and give its opinion thereon.

The Commission representative shall state the Commission's position on the application.

4. The Commission's position and the Committee's assessment shall cover inter alia the conformity of the application with the aid objectives laid down in the Agreement.

5. In addition, the Article 8 Committee shall be informed by the Bank of loans without an interest rate subsidy which it intends to grant from its own resources.

#### ARTICLE 10

1. The document in which the Bank submits loan applications to the Article 8 Committee shall, in particular, explain the relevance of the project in the context of Portugal's preparation for accession and, where appropriate, indicate the situation as regards loans granted by the Community.

The Commission and the Bank shall make a joint selection of the branches of activity eligible for loans carrying an interest rate subsidy.

Where, in respect of an application for a loan with an interest rate subsidy, the procedure provided for in Article 9 results either in tacit agreement or in a favourable opinion from the Article 8 Committee, the application shall be submitted for a decision to the Board of Directors of the Bank, which shall act in accordance with the Bank's Statute.

In the absence of a favourable opinion from the Article 8 Committee, the Bank shall either withdraw the application or decide to maintain it. In the latter case, the application, together with a reasoned opinion of the Committee, shall be submitted for a decision to the Board of Directors of the Bank, which shall act in accordance with the provisions of its Statute.

ARTICLE 11

1. The Commission shall ascertain from the Bank that the mandate provided for in Article 3 is carried out. It shall also ascertain how the aid which it administers is used by Portugal or by any other recipients referred to in Article 10 of the Agreement.
2. It shall ascertain too, in close collaboration with the relevant authorities in Portugal, how projects financed with Community aid are used by the recipients:
3. When carrying out the examinations provided for in paragraphs 1 and 2, the Commission shall, together with the Bank, examine to what extent the objectives of the aid have been attained.
4. The Commission shall inform the Council and the European Parliament, at their request and at least once a year, of its findings pursuant to paragraphs 1, 2 and 3.

ARTICLE 12

This Regulation shall enter into force on the third day following that of 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