

# European Communities

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## EUROPEAN PARLIAMENT

# Working Documents

### 1978 - 1979

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31 October 1978

DOCUMENT 414/78

## Report <sup>(\*)</sup>

drawn up on behalf of the Committee on Development and Cooperation

on the communication from the Commission of the European Communities to the Council (Doc. 237/78) on the procedures for the management of food aid

Rapporteur: Mr P. LEZZI

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(\*) This report replaces the report (Doc. 320/78) which was referred back to the committee on 12 October 1978.



By letter of 5 July 1978 the President of the Council of the European Communities requested the European Parliament to deliver an opinion on the communication from the Commission of the European Communities to the Council on the procedures for the management of food aid (Doc. 237/78).

On 18 August 1978 the President of the European Parliament referred this communication to the Committee on Development and Cooperation as the committee responsible and to the Committee on Budgets for its opinion.

On 20 September 1978 the Committee on Development and Cooperation appointed Mr Lezzi rapporteur.

It considered the draft report at its meeting of 20 September 1978. After a full exchange of views the motion for a resolution and the explanatory statement were adopted unanimously.

At the sitting of the European Parliament of 12 October 1978 the report and the amendments tabled to it were referred back to the Committee on Development and Cooperation at the request of the rapporteur.

The Committee on Development and Cooperation considered the amendments at its meeting of 19 October 1978 and unanimously adopted the report as amended.

Present: Miss Flesch, chairman; Mr Bersani, Mr Lagorce and Mr Sandri, vice-chairmen; Mr Broeksz, Lord Castle, Mr Cunningham, Mr Delmotte, Mr Deschamps, Mr Dewulf, Mr Nolan, Mr Vergeer and Mr Wawrzik.

The opinion of the Committee on Budgets is attached.

C O N T E N T S

	<u>Page</u>
A. MOTION FOR A RESOLUTION .....	5
B. EXPLANATORY STATEMENT .....	12
Opinion of the Committee on Budgets .....	18

The Committee on Development and Cooperation hereby submits to the European Parliament the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the communication from the Commission of the European Communities to the Council on the procedures for the management of food aid;

The European Parliament,

- having regard to the communication from the Commission of the European Communities to the Council<sup>1</sup>;
  - having been consulted by the Council (Doc. 237 /78),
  - having regard to the report of the Committee on Development and Cooperation and the opinion of the Committee on Budgets (Doc. 414/78),
1. Approves the Commission's proposal for a regulation to amend the decision-making and implementing procedures relating to food aid;
  2. Considers that, by this means, it will be possible to improve the management and speed up the supply of Community food aid, and emphasizes the point that under Article 205 of the EEC Treaty, the Commission is responsible for the implementation of the budget;
  3. Attaches great importance to the new arrangements for managing food aid, in view of the frequent delays in the past, especially as aid from the European Communities is intended mainly for the poorest countries in the world;
  4. Considers that the basis for the Community's food aid policy should be Article 235, not Article 43, of the EEC Treaty, since agricultural policy and food aid policy are founded on entirely different concepts;
  5. Regards in principle the Committee on Food Aid provided for in Article 4 of the proposal for a regulation as important since it will facilitate, in close cooperation between the Member States and the Commission, the application of certain measures and coordinate Community and national schemes;
  6. Takes exception, however, to the provision that, if there is disagreement with the Commission, the Council may take a different decision within two months, as this would automatically transfer responsibility for the management of food aid back to the Council, and would cause unnecessary delays;

<sup>1</sup> OJ No C 168, 13.7.1978, p.3

7. Hopes that the Commission, after consulting the Committee, will have the last word in the procedures for the implementation of EEC food aid, and therefore calls upon the Commission to amend its proposal for a regulation accordingly;
8. Wishes the conciliation procedure with the Council and Commission to be initiated should the Council depart from the opinion of the European Parliament;
9. Requests information from the Commission as to whether the present structure of services dealing with food aid would be adequate to apply the new procedures;
10. Regards the reports by representatives of the Commission and of the recipient organizations and countries as essential to the planning of effective food aid, and therefore requests the Commission to inform it of the present criteria and procedures for assessment, and of any improvements which have been made to date;
11. Calls upon the Commission to initiate the decision-making procedure as soon as possible, so that food aid may be provided in good time, having regard to the budgetary provisions in force;
12. Regards the Commission's proposals, taken as a whole, as calculated to improve radically the implementation of the Community's food aid and requests the Commission to be as flexible as possible in administering the food aid programme.;
13. Approves the Commission's proposals to amend Regulation 1703/72 on the Community financing of expenditure arising from the implementation of the Food Aid Conventions and to amend Decision 72/335/EEC on the Community financing of certain special expenditure arising from the implementation of the Food Aid Convention of 1971;
14. Requests the Commission to adopt, pursuant to Article 149, second paragraph, of the EEC Treaty, the following amendments, which are aimed at preserving the budgetary powers of the European Parliament and the Commission's responsibilities for implementing the budget.

I.

Council regulation on the management of food aid

THE COUNCIL OF THE EUROPEAN  
COMMUNITIES,

Having regard to the Treaty estab-  
lishing 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 envis-  
aged 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 sub-  
sequent 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 con-  
cern 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 expen-  
diture incurred in respect of the supply  
of agricultural products as food aid<sup>2</sup>,

THE COUNCIL OF THE EUROPEAN  
COMMUNITIES,

Having regard to the Treaty estab-  
lishing the European Economic  
Community, and in particular  
Article 235 thereof,  
~~Having regard~~ to the proposal from  
the Commission,

~~Having regard~~ to the opinion of the  
European Parliament,

unchanged

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

unchanged

unchanged

<sup>1</sup> For complete text see OJ No. C 168, 13.7.1978, p.3

<sup>2</sup> OJ No. L 288, 25.10.1974, p.1

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 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:

Whereas the Treaty does not provide for the powers of action required for this purpose.

HAS ADOPTED THIS REGULATION:

Article 1

unchanged

unchanged

- decide, in the light of the budgetary decisions taken pursuant to Article 1a, on the volume of national cereal aid;
- determine before the 31 of October of each year, the general guidelines which will govern the aid for the following year and the general criteria (needs, per capita GNP, etc.) for examining requests from countries and organizations.

Article 1a

The budget shall lay down the total annual or multiannual quantities of the products defined, by the Council pursuant to Article 1, first indent.

Article 2

The Commission, with reference to the decisions and general guidelines of the Council, following consultations with the committee foreseen in Article 4, shall take decisions on:  
(9 words deleted)

- 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.

unchanged

unchanged

unchanged

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

- the conditions governing the supply of aid and, in particular, the general clauses to be applied with regard to recipients.

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

deleted

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.

Article 4

1. An Advisory 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.

2. Except in cases of emergency, the Commission shall consult the Committee before taking the decisions referred to in Article 2.

3. deleted

1. deleted

2. deleted

3. deleted

Articles 6 and 7 unchanged

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 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 and 2 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 Article 2 as well as the reports mentioned above will be sent to the Council at the same time.

Article 9 unchanged

II.

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

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,

THE COUNCIL OF THE EUROPEAN  
COMMUNITIES,

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

Having regard to the proposal from the Commission

Having regard to the opinion of the European Parliament,

Recitals and Articles 1 and 2 unchanged

III.

Proposal for a Council Decision amending Decision 72/335/EEC on the Community financing of certain special expenditure arising from the implementation of the Food Aid Convention of 1971

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

THE COUNCIL OF THE EUROPEAN  
COMMUNITIES,

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

Recitals and sole article unchanged

<sup>1</sup> For complete text see OJ No. 168, 13.7.1978, p.5

EXPLANATORY STATEMENT

1. This Commission communication to the Council relates to the procedures for the management of food aid provided by the European Communities.
2. Under the present arrangements, the Council is responsible for the whole procedure of administering food aid; it decides and fixes the quantities to be allotted to each recipient, and whether the aid is to be delivered fob or cif. It is frequently also involved in negotiations with recipients on the nature of the products to be supplied. Even after decisions have been taken, it may reconsider the desirability of specific schemes, and is directly involved in emergency operations. For example, on 27 June 1978 in Luxembourg, under the EEC food aid programme, the Council of Ministers approved a further 8,200 tonnes of butteroil and 25,000 tonnes of skimmed milk powder as part of Operation Flood II for India.
3. This means that, under the present procedure, even detailed administrative questions in relation to food aid have to be decided by the Council. This frequently leads to protracted delays in the provision of aid. The Commission points out as an example, that 82% of 1976 aid was not supplied until 1977, while 60% of the 1977 programme had to wait until 1978. It is regrettable and, in view of the food shortages in many parts of the world, indefensible that, under the present arrangements, the time-lag between submission of Commission proposals, consultation of Parliament and decision by the Council is normally between two and seven months, depending on the aid programme in question. The cereals programme proposed by the Commission in October 1976 was not adopted until February 1977; there are even longer delays in the milk products programme.

Thus we find the Commission submitting its 1977 skimmed milk powder and butteroil programme at the end of May 1977. The Committee on Development and Cooperation lost no time in considering this aid programme at its meeting of 20 June 1977, and Parliament adopted a resolution on the subject at its July part-session<sup>1</sup>. However, there was a substantial delay before the Council reached a decision on the programme. The Commission was therefore unable to commit itself to expenditure on the food aid programme to third countries until the financial year was two-thirds over. Large quantities of the milk products

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<sup>1</sup>BROEKSZ Report, Doc. 191/77, 6 July 1977, resolution adopted 8 July 1977, OJ No. C 183 of 1.8.1977, p.69 ff

in the 1977 programme could not be supplied in that year and therefore had to be added to the 1978 aid programme.

4. The delays in the provision of food aid caused by present administrative procedures have been repeatedly criticized by both the Committee on Development and Cooperation and the Committee on Budgets<sup>1</sup>. There has been criticism from donor countries and from various recipient countries themselves; the Community's substantial food aid has been hampered by continual delays as a result of the Council's slowness in reaching administrative decisions, which has meant that international commitments entered into under the food aid programme could not be met on time. This has frustrated the recipient countries in their planning, with inevitable adverse effects. It makes no sense for the Community to give urgently needed food, but to deliver it only after the situation has changed. Parliament has therefore repeatedly expressed the view that the Community's food aid should be handled as flexibly and unbureaucratically as possible if it is to be an effective contribution to the relief of food shortages in the world<sup>2</sup>. The Commission has admittedly made efforts in recent years to improve the Community's food aid programme from year to year, especially by submitting its proposals earlier. The Council, by contrast, shows no sign of improving, or at least speeding up, its procedures.

5. The Council itself seems to be perfectly well aware of the adverse effects of delay, for it stated at a meeting of 22 March 1977 in Brussels that ways should be sought to speed up the procedures for the preparation of the annual aid programmes. At the same meeting the Council agreed on a shorter procedure for decisions on emergency measures in the event of disasters caused by human agency (this agreement supplements the procedure which already applies to natural disasters).

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<sup>1</sup>See the opinion of the Committee on Budgets on the Aigner Report on the 1978 programmes for food aid in cereals, skimmed milk powder and butteroil and the nutritional and developmental perspectives for dairy products in the Third World, Doc. 492/77, 19 January 1978

<sup>2</sup>See resolution of 8.7.1977 (BROEKSZ Report, Doc. 191/77), OJ No. C 183, 1.8.1977, p. 70 and resolution of 20.1.1978 (Aigner Report, Doc. 492/77) OJ No. C 36, 13.2.1978, p. 55, etc.

6. Parliament agrees with the Commission that the present procedure must be amended; not only to avoid delay in reaching decisions, but also on legal grounds. Article 205 of the EEC Treaty provides that the Commission shall implement the budget on its own responsibility. As the Council has reserved for itself all decisions on the administration of food aid, Parliament has repeatedly criticized this as high-handed. When the Community is completely financed from its own resources, the Commission's budgetary responsibilities will be substantially increased, which will make the present division of responsibility between Council and Commission even more of an anomaly.

7. With a view to improving administration and speeding up the Food Aid Programme, as well as on these legal grounds, Parliament approves the Commission proposal to amend the decision-making and implementing procedures for the Community's food aid. It regrets only that these proposals were not submitted earlier, as the Council of Development Ministers referred to the unsatisfactory procedures as long ago as 22 March 1977, and, at the Council meeting of 28 November 1977, the Commission announced proposals to amend existing procedures as, as it admits in its proposals, current procedures were leading to a wastage of time and energy<sup>1</sup>.

8. Parliament freely acknowledges that the Commission has already taken steps to reduce delays. It is vital to start the decision-making procedure as early as possible, if there is to be a realistic chance of implementing the annual food aid programmes in full, and the budgetary regulations are not to be bypassed. Parliament therefore welcomed the fact that not merely did the Commission for the first time group the three food aid programmes in a single communication, but that they did so before the end of 1977, that is to say eight months earlier than was the case in 1977. But a radical change in the procedure for implementing food aid can only be achieved by acceptance and application of the new Commission proposals. This is all the more important as most food aid goes to the poorest countries and is intended to alleviate food shortages. Any delay therefore reduces its effectiveness.

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<sup>1</sup>Commission communication to the Council on the procedures for the management of food aid (COM(78) 204 final, 14 June 1978, p.1)

9. If the Commission is to be given complete responsibility for implementing food aid, it must do its best to ensure that food aid is not only supplied rapidly, but actually reaches those who need it most<sup>1</sup>. In particular, it must make sure that the reports of its representatives and of the recipient organizations are thoroughly evaluated and systematically exploited. The problem has always been with the reports from the poorest countries, with the weakest administrative infrastructure. The Commission should devote some thought here to ways of improving reporting so that aid can be made more effective. It should therefore submit a detailed report to Parliament at an early date describing methods of assessment and any improvements made as a result of the reports. It should also give organizational details of its departments dealing with food aid, for if Community food aid is to be a success, there must be enough staff to prepare and implement the programme.

10. Regarding the division of responsibilities between the Commission and the Council, Parliament agrees that, on a proposal from the Commission and following an opinion from the European Parliament, the Council should:

- define the basic products (cereals, milk products, sugar etc.) to be supplied as aid;
- decide on the total quantities of each product on an annual or multiannual basis and allocate cereals aid between Community and national schemes;
- determine in good time, before the end of October of each year, the general guidelines to govern aid for the following year - Parliament considers this point to be especially important - and the criteria for assessing requests for aid.

11. Parliament agrees that the Commission should be responsible for the decisions on:

- the annual or multiannual allocation of the quantities available among countries and organizations, and the size of the reserve;
- the derived products to be supplied as food aid;
- all matters relating to the transport of the products.

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<sup>1</sup>See Mr BROEKSZ's Written Question to the Commission, OJ No. C 233/2 of 29.9.1977

12. Article 4 of the Commission's proposal for a regulation provides for the setting up of a Committee on Food Aid - a kind of advisory committee - to help the Commission discharge its responsibilities. This committee, chaired by a representative of the Commission, would be composed of representatives of the Member States, and would have to be consulted on the matters listed in point 11.

Parliament has no objection in principle to this committee, but it does take exception to the provision that, where there is disagreement with the Commission, the Council may take a different decision within two months.

13. The problem here is the same as with Article 14 of the Council guidelines on the Commission proposal to the Council for a regulation on financial and technical aid to the non-associated developing countries. Parliament takes the view that, after consulting the committee, the Commission must have the last word, for if the proposal were adopted as it stood, every time there was disagreement between the committee and the Commission the Council would once again be taking the administrative decisions. This would resurrect all the problems which the regulation had set out to remedy. Parliament therefore cannot endorse Article 5(3) of the proposal for a regulation, and calls upon the Commission to amend it accordingly.

14. On the other hand, Parliament welcomes Article 6 of the proposed regulation, under which the committee is to examine the coordination of Community and national food aid schemes.

This could well prove a major step towards a Community development policy. Article 8 also meets the wishes of Parliament. It lays down that Parliament will be informed of the management of food aid by notification, immediately on 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.

15. In its communication the Commission also mentions the question of the legal basis for food aid. It considers that Article 43 of the EEC Treaty, on which the European agricultural policy is founded, provides a sufficient legal basis for food aid but no justification is given for this view. Parliament's opinion on this matter is that Article 43 could lead to difficulties, since the objectives of agricultural policy and of food aid policy are based on entirely different concepts and mechanisms. It therefore feels that the legal basis for Community food aid should be Article 235 of the EEC Treaty, on which technical and financial aid to non-associated countries is also based. Food aid should form part of development aid and not be dependent on the imponderables of agricultural policy.

16. To sum up, Parliament considers that the Commission's proposals are sensible and believes that amending the decision-making and implementation procedure will improve the administration of food aid. In particular, it hopes that the new regulation will enable the Community's substantial food

aid to be provided more rapidly and efficiently, especially as it is intended mainly for the poorest regions of the world. To facilitate the application of certain measures, Parliament favours close cooperation between the Member States and the Commission within the planned Committee on Food Aid, but only if the Commission amends Article 5(3) in line with the comments made above. It supports the Commission's view that the new procedure is in accordance with the EEC Treaty, especially Article 205, and therefore calls upon the Council to adopt the new procedures for implementing food aid.

OPINION OF THE COMMITTEE ON BUDGETS

Draftsman: Mr SCOTT-HOPKINS

On 20 September 1978 the Committee on Budgets appointed Mr SCOTT-HOPKINS draftsman.

At its meeting of 21 September the committee considered the draft opinion and adopted it unanimously.

Present: Mr Lange, chairman; Mr Aigner, vice-chairman; Mr Scott-Hopkins, draftsman; Mr Alber, Mr Dalyell, Mr Nielsen (deputizing for Mr Caillavet), Mr Notenboom, Mr Schreiber, Mr Shaw and Mr Spinelli.

## INTRODUCTION

1. The main aim of the Commission proposal is to simplify the decision-making process in the food aid sector. Having noted that the present procedures, which have been criticized by Parliament on several occasions are not working well, the Commission is basically proposing to perform the task of aid management itself (e.g. decisions on the country-by-country allocation of products, their method of transport and the terms on which aid is supplied); these functions have hitherto been performed by the Council, causing long delays in the implementation of the annual food aid programmes.

2. The Commission is also proposing to specify the legal basis for the food aid policy, i.e. to base it on a specific article of the Treaty.

3. Thus while this proposal does not at first sight carry budgetary or financial implications, its legal aspects could seriously affect Parliament's budgetary powers, and for this reason the Committee on Budgets needs carefully to consider the content of this proposal, drawing attention to the problems raised by:

- the legal basis of food aid, and
- the decision-making process for such aid

### I. LEGAL BASIS OF FOOD AID

4. The Commission states that Community food aid has never formally been based on any article of the Treaty. Up to now, the Institutions have come to terms with this situation, but the Commission feels that the time has come to establish this policy on a sound, permanent legal basis.

5. The Commission proposes Article 43 of the EEC Treaty, on which the common agricultural policy is founded, as the legal basis, but it does not give the reason for its choice, nor does it suggest an alternative legal basis.

### Comments

6. It may well be desirable formally to base the food aid policy on a Treaty article, first, so as to comply with the requirements of Community law and second, so as to give the policy a sounder and more durable foundation.

7. However, the choice of Article 43 runs the risk of confusing the two concepts of agricultural policy and food aid, although the concepts and mechanisms on which these activities are based are quite different<sup>1</sup>.

8. In particular, reference to the common agricultural policy implies, where budgetary law is concerned, that financing would be automatic to some extent, and hence would lead to the classification of corresponding expenditure as compulsory expenditure whereas, as will be shown below, such classification would be unjustified.

9. The best legal basis for food aid would probably be Article 235, which is already used as the basis for the policy for aid to the non-associated developing countries. The effect of reference to Article 235 would be to strengthen the voluntary aspect of that policy and the non-automatic nature of its financing.

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## II. THE DECISION-MAKING PROCESS FOR FOOD AID

10. The Commission proposal raises three problems of concern to the Committee on Budgets. The first relates to the compulsory or non-compulsory nature of food aid expenditure; this is not directly covered in the Commission proposal, but the Committee on Budgets needs to raise the matter on this occasion. The two other problems concern the powers delegated to the Commission, and the role of the 'Committee on Food Aid'.

### 1. Decisions on the volume of food aid (compulsory/non-compulsory nature of expenditure)

11. In the past, the Council and Commission have always regarded food aid as compulsory expenditure; Parliament has never formally disputed this classification although, each year, its proposed modifications, aiming to increase appropriations in this sector, have been rejected by the Council. A brief look at the two decision-making contexts for food aid suggests, however, that classification as compulsory expenditure is unjustified; indeed, as will be shown, the two main arguments used by the Council and Commission are debatable.

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<sup>1</sup> In strictly legal terms, it would be interesting to know how the Commission's Legal Service justifies the choice of Article 43, when several elements of food aid have no connection with CAP mechanisms (e.g. transport of foodstuffs to the recipient countries).

(a) Are the quantities of food aid (and the corresponding appropriations) predetermined by international agreements, as the Council claims?

12. This assertion does not stand up in the case of any of the products supplied as food aid:

- in the case of dairy products: there is no international commitment predetermining the annual aid programme; at the most the recipient countries are informed of the Community's decision after this programme has been determined;
- in the case of cereals: an international convention in 1971 - which is still in force and is currently being renegotiated - provides for the supply of 1.3 million tonnes of cereals per annum by the Community and the Member States, but this convention does not lay down the way in which the figure should be divided between the Member States and the Community. The volume of actual Community aid (in tonnes and appropriations) is thus in no way predetermined by the 1971 Convention. Furthermore, it should be remembered that this figure of 1.3 million tonnes only constitutes a minimum commitment on the part of the Nine, which can - and indeed should - be exceeded;
- sugar: an international agreement signed between the Community and the UNRWA does exist, for an annual transfer of 6,000 tons of sugar: but here again this tonnage is only a minimum commitment, and the Commission has for several years been calling for it to be increased.

(b) Are the quantities of food aid laid down by regulation, or should they be?

13. If this were the case, the Budgetary Authority would have to content itself with translating the volume of aid decided on by the Council into units of account.

In practice, the annual aid programmes are adopted by the Council after the vote on the budget; it is therefore improper, to say the least, to propose binding the Budgetary Authority by a subsequent decision of the administrative authorities<sup>1</sup>.

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<sup>1</sup> The Commission's proposals for annual programmes are generally drawn up three or four months before the beginning of the financial year concerned, but the Council's decisions are not taken until the financial year is under way, several months after the appropriations have been established in the annual budget. For example, in the case of the 1978 programme: Commission proposals in October 1977, vote on the budget in December 1977, programme adopted by the Council in April 1978.

14. Supposing, however, that the administrative decision is taken before the budgetary decision, is it legitimate for the first to be imposed upon the second? Could not the view be taken that food aid is largely a political decision and a financial contribution by the Communities to assist the poorest countries - and that the assessment of such aid in tonnage terms is no more than a quantitative interpretation of this contribution. It does seem that the financial factor is much more decisive than the material volume of the food products involved. If this is the case, we are dealing here with an autonomous budgetary decision and hence with an example of non-compulsory expenditure. An analogy could also be made with the financing of aid for non-associated developing countries, the non-compulsory nature of which is contested by none of the Institutions.

### Conclusion

15. In its proposed regulation, the Commission seems to be reserving to the Council the power to decide the annual global quantities of food aid, which implies the classification of expenditure as compulsory; the Committee on Budgets should therefore table an amendment to this proposal, restoring to the Budgetary Authority the powers to which it is entitled.

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## 2. Division of responsibilities

16. In the interests of efficiency, the Commission proposes a redistribution of responsibilities between the Council and itself. The various areas which are affected by this redistribution are considered separately below.

### (a) Powers reserved to the Council

17. The Commission proposes that the Council should:

- define the basic products to be supplied as aid; these are standard powers of an administrative kind which do not concern the Budgetary Authority; the statutory consultation of Parliament takes place within the context of its legislative powers;
- decide on the total annual quantities of food aid; as has been shown above, the Budgetary Authority should have the freedom to decide on the scope of the Community's financial contribution and in consequence on the quantities involved; the Committee on Budgets should therefore call for the deletion of this provision and should propose a new indent stipulating that the amount of expenditure on food aid shall be laid down in the budget;

- determine each year the general guidelines which will govern the aid and the criteria for examining requests; it is in fact the Council's responsibility to prepare the framework of the food aid policy, provided that such a framework is not too constricting and does not predetermine the management decisions for which the Commission is responsible.

18. Similarly, it is only natural that the Council should adopt the general criteria for examining requests to enable the Commission to manage the policy in keeping with the actual and fluctuating needs of the recipient countries.

(b) Responsibilities delegated to the Commission

19. The Committee on Budgets can only approve the proposed delegation of responsibilities, which will enable the Commission to implement the policy decided upon by the Council and the corresponding appropriations adopted by the Budgetary Authority. This delegation will not only make management more effective but will also restore to the Commission the responsibilities for implementation of the budget which are formally conferred upon it by Article 205 of the EEC Treaty.

However, the Committee on Budgets feels that Parliament should be kept informed of the management measures taken by the Commission.

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3. The Committee on Food Aid

20. The Commission proposes creating a Committee on Food Aid; this Committee would be consulted on all decisions for which responsibility is delegated to the Commission; it would have the right to impose a postponement of such decisions, the Council being required to take a definitive decision in the event of disagreement between the Commission and the Committee.

21. The attitude of the Committee on Budgets and of Parliament to this type of committee is well known: outside the strictly agricultural sphere, committees composed of representatives of the Member States should have no more than an advisory role, and should not be able to oppose the Commission's freedom to implement the budget. Parliament has systematically amended all Commission proposals designed to give such committees more than an advisory role<sup>1</sup>.

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<sup>1</sup> See in particular the Opinion of Parliament on the committee responsible for aid to the non-associated developing countries.

22. Quite recently, the Commission took the same position as Parliament on this point<sup>1</sup>, and it is therefore rather surprising to find it now adopting a contradictory position.

23. The Committee on Budgets proposes that the Commission's text should be amended along the lines of Parliament's previous opinions on the subject.

24. The rapporteur notes that the transformation of management committees into advisory bodies could well make participation by senior officials truly representative of their government difficult; it is more likely that these advisory committees would be composed of national experts.

### III. PROPOSED AMENDMENTS TO THE TWO REGULATIONS ON THE FINANCING OF FOOD AID

25. The proposal for a regulation on the management of food aid is accompanied by two proposals amending a previous regulation and decision; the main purpose of the amendments is to formalize the special powers allocated to the Commission for the management of food aid, in particular as regards:

- the transport and distribution of the goods and methods of payment,
- the financing and transport of emergency aid.

26. Your rapporteur has no objection and no special comment as regards the Commission's two supplementary proposals, other than the need to replace in both texts, Article 43 by Article 235 as the legal basis for food aid.

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### CONCLUSIONS

27. Anxious as it is to preserve Parliament's budgetary powers and the balance of powers between the Institutions, the Committee on Budgets finds itself compelled to propose basic amendments to the regulation proposed by the Commission.

28. These amendments are set out systematically in the table annexed to this opinion.

29. The Committee on Budgets therefore requests the committee responsible:

- to take account of the amendments proposed, and
- in view of the importance of the proposal under consideration, to provide for recourse to the conciliation procedure.

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<sup>1</sup> See the Commission's reply to the 1978 Interinstitutional Dialogue (PE 54.627): 'Consequently, the Commission reaffirms the principle that, in future, pursuant to Article 205 of the EEC Treaty, the objective to be pursued in all cases in which it is to be assisted by committees for implementing the various policies is to make them purely advisory.'

## Council regulation on the management of food aid

I Text proposed by the Commission	II Amendments proposed by the Committee on Budgets	III Justification of the amendments proposed by the Committee on Budgets
Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,	Having regard to the Treaty establishing the European Economic Community, and in particular Article <u>235</u> thereof,	This policy should be based on the Community's implicit responsibilities and not on the common agricultural policy.
Having regard to the proposal from the Commission,	Having regard to the proposal from the Commission,	
Having regard to the opinion of the European Parliament,	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 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, 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 an <u>advisory</u> committee on food aid;	The Committee should have a purely advisory role.
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 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 aid <sup>1</sup> ,	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 aid <sup>1</sup> ,	
<sup>1</sup> OJ No L 288, 25.10.1974, p.1	<sup>1</sup> OJ No L 288, 25.10.1974, p.1	

I Text proposed by the Commission	II Amendments proposed by the Committee on Budgets	III Justification of the amendments proposed by the Committee on Budgets
<p>HAS ADOPTED THIS REGULATION:</p> <p><u>Article 1</u></p> <p>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</p> <ul style="list-style-type: none"> <li>- define the basic products to be supplied as aid;</li> <li>- decide on the total quantities of each product on an annual or multiannual basis and distribute cereals aid between Community and national operations;</li> <li>- 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, <u>per capita</u>, GNP, etc.) for examining requests from countries and organizations.</li> </ul> <p><u>Article 2</u></p> <p>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:</p>	<p><u>New recital</u></p> <p><u>Whereas the Treaty does not provide for the powers of action required for this purpose,</u></p> <p>HAS ADOPTED THIS REGULATION:</p> <p><u>Article 1</u></p> <p>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</p> <ul style="list-style-type: none"> <li>- define the basic products to be supplied as aid;</li> <li>- decide, <u>in the light of the budgetary decisions taken pursuant to Article 2, on the distribution of cereal aid between Community and national operations;</u></li> <li>- determine before the 31 of October of each year, the general guidelines for aid for the following year and the <u>general</u> criteria (needs, per capita GNP, etc.) for examining requests from countries and organizations.</li> </ul> <p><u>Article 2</u> (new)</p> <p><u>The budget shall lay down the total annual or multiannual quantities of the products defined by the Council pursuant to Article 1, first indent.</u></p>	<p>As this policy is based on Article 235, this recital should be inserted.</p> <p>The quantities - and hence the corresponding appropriations - are laid down in the budget (see Article 2 in column II) but it is up to the Council alone to determine the volume of <u>national</u> cereal operations in the light of the budget decision on <u>Community</u> operations.</p> <p>The criteria laid down by the Council should leave the Commission some margin for manoeuvre to ensure flexibility in the day-to-day management of the policy.</p> <p>The quantities are laid down in the budget; the budget decision must of course be in compliance with the list of products defined, which is the sole responsibility of the Council.</p>
<p><u>Article 2</u></p> <p>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:</p>	<p><u>Article 3</u></p> <p>The Commission, <u>with reference to the decisions and general guidelines of the Council</u>, following consultations with the Committee foreseen in Article 4, shall take decisions on:</p>	<p>All the management activities of the Commission should be covered by a single Article. All such activities should be conducted with reference to the decisions/guidelines of the Council and following consultation of the Committee.</p>

I Text proposed by the Commission	II Amendments proposed by the Committee on Budgets	III Justification of the amendments proposed by the Committee on Budgets
<ul style="list-style-type: none"> <li>- the annual or multi-annual distribution of the quantities available among countries and organizations, and the volume of the reserve;</li> <li>- the derived products to be supplied as food aid;</li> <li>- matters relating to the transport of the products.</li> </ul>	<ul style="list-style-type: none"> <li>- the annual or multi-annual distribution of the quantities available among countries and organizations, and the volume of the reserve;</li> <li>- the derived products to be supplied as food aid;</li> <li>- matters relating to the transport of the products;</li> <li>- <u>emergency action for countries facing serious difficulties as a result of natural disasters or comparable abnormal circumstances;</u></li> <li>- <u>the conditions governing the supply of aid and, in particular, the general conditions in exchanges of letters with recipients.</u></li> </ul>	<p>These two paragraphs are taken from Article 3 in column I, which is integrated into Article 2 in column II.</p>
<p style="text-align: center;"><u>Article 3</u></p> <p>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,</p> <ul style="list-style-type: none"> <li>- shall decide on emergency action for countries facing serious difficulties as a result of natural disasters or comparable abnormal circumstances;</li> <li>- shall decide on the conditions governing the supply of aid and, in particular, on the general conditions in exchanges of letters with recipients.</li> </ul>	<p>(Deleted)</p>	<p>Articles 2 and 3 of column I are combined in a single article.</p>

I Text proposed by the Commission	II Amendments proposed by the Committee on Budgets	III Justification of the amendments proposed by the Committee on Budgets
<p style="text-align: center;"><u>Article 4</u></p> <p>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.</p> <p>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.</p> <p>3. The Committee shall draw up its rules of procedure.</p>	<p style="text-align: center;"><u>Article 4</u></p> <p>1. An <u>Advisory</u> 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.</p> <p>2. <u>Except in cases of emergency, the Commission shall consult the Committee before taking the decisions referred to in Article 3.</u></p> <p>3. <u>(Deleted)</u></p>	<p>The advisory nature of this Committee should be stressed.</p> <p>Consultation of the Committee is obligatory except in emergencies, e.g. food aid to disaster areas (see Article 3, column II, fifth indent).</p>
<p style="text-align: center;"><u>Article 5</u></p> <p>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.</p> <p>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.</p> <p>3. The Commission shall take decisions which are immediately applicable. If, however, such decisions are not in accordance</p>	<p>1. <u>(Deleted)</u></p> <p>2. <u>(Deleted)</u></p> <p>3. <u>(Deleted)</u></p>	<p>Since the Committee is advisory in character, the decision-making process proposed is unjustified.</p>

I Text proposed by the Commission	II Amendments proposed by the Committee on Budgets	III Justification of the amendments proposed by the Committee on Budgets
<p>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 the 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.</p> <p><u>Article 6</u></p> <p>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.</p> <p><u>Article 7</u></p> <p>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.</p>	<p><u>Article 5</u></p> <p>(Unchanged )</p> <p><u>Article 6</u></p> <p>(Unchanged )</p>	

I Text proposed by the Commission	II Amendments proposed by the Committee on Budgets	III Justification of the amendments proposed by the Committee on Budgets
<p style="text-align: center;"><u>Article 8</u></p> <p>The European Parliament shall 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 shall be sent to the Council at the same time.</p>	<p style="text-align: center;"><u>Article 7</u></p> <p>The European Parliament shall be informed of the management of food aid by the communication from their adoption of the decisions referred to in <u>Article 3</u> 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 <u>Article 3</u> as well as the reports mentioned above shall be sent to the Council at the same time.</p>	<p>The decisions taken by the Council under <u>Article 1</u> will have to be published in the Official Journal.</p> <p>Articles 2 and 3 have been combined in the text in column II.</p>
<p style="text-align: center;"><u>Article 9</u></p> <p>This Regulation shall enter into force on the third day following its publication in the Official Journal of the European Communities.</p> <p>This Regulation shall be binding in its entirety and directly applicable in all Member States.</p>	<p style="text-align: center;"><u>Article 8</u></p> <p>(Unchanged)</p>	

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 conventions

THE COUNCIL OF THE EUROPEAN COMMUNITIES

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 Treaty estab-  
lishing the European Economic  
Community, and in particular  
Article 235 thereof,

Having regard to the proposal from the  
Commission,

Having regard to the proposal  
from the Commission,

Having regard to the opinion of the  
European Parliament,

Having regard to the opinion of  
the European Parliament,

Recitals and Articles 1 and 2 unchanged

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

THE COUNCIL OF THE EUROPEAN COMMUNITIES

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty estab-  
lishing the European Economic  
Community, and in particular  
Articles 43 and 209 thereof,

Having regard to the Treaty estab-  
lishing the European Economic  
Community, and in particular  
Articles 235 and 209 thereof,

Having regard to the proposal from  
the Commission,

Having regard to the proposal  
from the Commission,

Having regard to the opinion of  
the European Parliament,

Having regard to the opinion of  
the European Parliament,

Having regard to the opinion of  
the Court of Auditors,

Having regard to the opinion of  
the Court of Auditors,

Recitals and Article 1 unchanged