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Report

drawn up on behalf of the Committee on Development and Cooperation

on a proposal from the Commission of the European Communities to the Council
(Doc. 11/77) for a regulation on financial and technical aid to non-associated
developing countries

Rapporteur: Mr T. NOLAN

PE 48.234/fin.

1.2.2

English Edition

By letter of 17 March 1977 the President of the Council of the European Communities requested the European Parliament to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a regulation on financial and technical aid to non-associated developing countries.

On 18 March 1977 the President of the European Parliament referred this proposal to the Committee on Development and Cooperation as the committee responsible and to the Committee on Budgets for its opinion.

On 17 March 1977 the Committee on Development and Cooperation appointed Mr Laudrin rapporteur. On 29 March 1977 the Committee on Development and Cooperation appointed Mr Nolan rapporteur to replace Mr Laudrin following the latter's death.

It considered the report at its meeting of 29 March 1977 and at the same meeting adopted it unanimously with three abstentions.

Present: Miss Flesch, chairman; Mrs Walz, Mr Lagorce and Mr Sandri, vice-chairmen; Mr Nolan, rapporteur; Lord Castle, Mr Flämig, Mrs Iotti, Mr Krall, Mr Lezzi, Lord Reay, Lord St. Oswald, Mr Schuijt, Mr Vernaschi and Mr Würtz.

The opinion of the Committee on Budgets is attached.

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A

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 a proposal from the Commission of the European Communities to the Council on financial and technical aid to non-associated developing countries

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹,
 - having been consulted by the Council pursuant to Article 235 of the EEC Treaty (Doc. 11/77),
 - having regard to the report by the Committee on Development and Cooperation and the opinion of the Committee on Budgets (Doc. 34/77),
1. Approves the proposal for a regulation on financial and technical aid to non-associated developing countries insofar as priority is given, when this aid is allocated, to meeting the food requirements, in the broad sense of the term, of non-associated developing countries;
 2. Draws attention to the views put forward by the European Parliament on 19 June 1975 during the discussion of its resolution on Community financial and technical aid to non-associated developing countries for the years 1976 to 1980;
 3. Agrees with the Commission that the aid should be concentrated on the poorest countries and in view of the limited resources available, calls for the establishment of flexible allocation criteria designed to guarantee optimal and immediate results for the poorest sections of the population in the developing countries concerned;
 4. Entirely agrees that projects should be implemented in the agriculture and stockfarming sector and in the fisheries sector, and that consideration should also be given to schemes for promoting regional cooperation;
 5. Considers it necessary for the implementation of a Community policy, both from the budgetary point of view and having regard to the nature of the decision making and implementation machinery laid down in the Treaty of Rome, that the Commission of the European Communities should have the final say on the choice of development projects to be carried out;

¹ OJ No. C 54, 4 March 1977, p.5

6. Requests the Commission of the European Communities to make the following amendments to its proposal pursuant to Article 149, second paragraph of the EEC Treaty;

7. Requests that, should the Council depart from Parliament's opinion, consultation should be held with the Council and the Commission of the European Communities;

8. Instructs its President to forward this resolution, and the report of its committee, to the Council and Commission of the European Communities and, for information, to the missions of the non-associated developing countries accredited to the European Economic Community.

Proposal for a Council Regulation on
financial and technical aid to
non-associated developing countries

Articles 1 to 13 inclusive unchanged

Article 14

The draft decisions, together
with the opinion of the Committee,
shall be submitted to the Commission.

The Commission's decisions shall
be applicable immediately. If its
decisions are not in accordance with
the opinion delivered by the
Committee, however, the Commission
shall communicate them immediately to
the Council. In that event the
Commission shall defer application
of the decisions it has taken by up
to 2 months from the date of so
communicating them.

The Council, acting by a
qualified majority, may take a
different decision within the 2 month
period.

Article 14

The draft decisions, together
with the opinion of the Committee,
shall be submitted to the Commission,
which shall then take a decision.

(remainder deleted)

¹ For full text see OJ No. C 54, 4 March 1977, p.5

EXPLANATORY STATEMENT

1. At its meeting of 16 July 1974¹, the Council of Ministers adopted a resolution on financial and technical aid to non-associated developing countries.

This resolution defines the principle of such aid which has now been accepted by all the Member States.

At the instigation of the European Parliament, an amount of 20m u.a. for financial and technical aid to non-associated developing countries was entered for the first time in the 1976 budget. These appropriations were utilized on the basis of principles laid down by the Commission in its communication (Doc. COM(76) 89 final of 3 March 1976).

At the first reading, the Council agreed to 30m u.a. being entered in the 1977 budget for financial and technical cooperation with non-associated developing countries. These appropriations were increased, at the suggestion of the European Parliament, to 45m u.a. at the second reading.

The appropriations of 20m u.a. were utilized without a basic regulation having been drawn up beforehand to guide the choice of schemes to be carried out, objectives to be attained and methods of management. However, the Commission had informed the Council and Parliament of the guidelines for the schemes it proposed in this field in 1976 (Doc. COM(76)89).

2. The purpose of this proposal is to define - in a basic regulation - the methods and conditions which will in future govern Community policy on financial and technical aid to non-associated developing countries.

On 19 June 1975 the European Parliament adopted a resolution embodying its opinion on the communication from the Commission of the European Communities to the Council on technical and financial aid to non-associated developing countries for the period 1976-1980. In its resolution, Parliament unreservedly approved the principle of granting such aid and considered in

¹ See Bulletin of the European Communities 7/8-1974

particular that the amount of 100m u.a. provided for this purpose by the Commission for the first year of operation must, in view of the great need in certain countries, be regarded as too modest.

3. Parliament had also expressed its agreement with the broad lines of the policy set down in the Commission's communication, considering, in particular, that priority should be given to satisfying the developing countries' food needs and that Community aid should be concentrated on the poorest countries. This type of aid should include schemes in the agricultural, stockfarming and fisheries sector.

Parliament's resolution fully reflects the principles of Community action proposed by the Commission in Articles 2 and 3 of the proposal for a regulation submitted to Parliament.

In the circumstances, then, it seems logical for decisions in this field to be based on the resolution and the explanatory statement in the report submitted to the European Parliament by Mr Härzschel on 19 June 1975 and it also seems logical for your rapporteur to propose that the European Parliament approve unreservedly the objectives of this aid as proposed by the Commission in its draft regulation.

4. However, considerable importance is attached in this draft proposal to the question of the management of this aid. It is proposed to set up a committee chaired by a representative of the Commission and comprising representatives of the Member States. The operating procedures for this committee will be decided on by the committee itself acting unanimously.

The Commission, after an exchange of views with the committee, shall adopt the guidelines for implementation of Community aid and notify the Council and the European Parliament thereof.

The committee shall deliver an opinion on draft decisions presented to it by the Commission. It shall act by a qualified majority in accordance with the first indent of Article 148 (2) of the Treaty.

The Commission shall take decisions which are immediately applicable. If its decisions are not in accordance with the opinion delivered by the committee, however, the Commission shall communicate them immediately to the Council. In that event the Commission shall defer application of the decisions it has taken by up to two months from the date of so communicating them. The Council may take a different decision within the 2-month period.

5. The Commission's proposals might be felt to place too much power in the hands of the Council and the representatives of the Member States.

This does not seem consistent with the institutional balance as defined in the treaties, where, generally speaking, the Commission is responsible for implementation once the Council has laid down the guidelines. Overall, it is clear that a positive and 'Community-oriented' interpretation of the treaties requires the Commission to be given all the means necessary for implementing the basic regulations. The Council, which is a legislative body, should confine itself to adopting basic regulations laying down the principles and objectives of a policy whose implementation (adoption of specific projects) is the task of the executive, i.e. the Commission.

From a budgetary point of view, if the Council is allowed to accept each of the specific projects implementing a common policy, this amounts to allowing it to implement - to authorize payment under - the budget, which provides the financial means earmarked for each of the common policies. Thus, the Council recovers at one level the budgetary powers it recently lost at another (at the time the budget is voted) to the European Parliament. A spectacle such as the one we witnessed last year of a Council of Ministers discussing for several meetings the utilization of 20m u.a. earmarked for non-associated countries is unworthy of the European Community. Nor is it practical - if the Council took as much trouble over the utilization of the fourth EDF (3,150m u.a.), it would have to meet non-stop and would have no time left to do anything else.

6. By acting in this way, the Council also gives the impression that the choice of the recipient countries is largely determined by the political mileage each Member State can make out of it instead of by the genuine needs of the countries concerned.

For this reason, it also seems less felicitous for the Commission to state that 'account should be taken of the need to ensure Community presence in the major regions of the developing world'.¹ Furthermore, 20 or 40m u.a. do not seem enough to ensure such a presence.

The Committee on Development and Cooperation also wonders how the Commission of the European Communities could monitor use of the funds, since, unlike the situation under the Lomé Convention, it does not send delegates to the non-associated countries.

¹ Doc. COM(77) 30 final, p. 3

In its document, the Commission points out that it will 'see to it that every financing agreement signed with the beneficiaries contains provision for the Community to monitor the use of the funds appropriately'.¹

Your rapporteur would like more details on this subject and wishes in particular to know whether the Commission's experience in the field of food aid has been positive in this respect.

7. There is no provision for consultation between the committee set up by Article 10 and the recipient countries. Your rapporteur wonders if a procedure should not be set up for obtaining information through the recipient countries' ambassadors to the Commission. Within the framework of the Lomé Convention, the EEC partners are regularly consulted and may initiate projects which are then submitted to the EDF Committee. Since Community aid to non-associated developing countries should also reflect this principle of partnership which has long been admitted in all development cooperation circles, such a procedure does not seem superfluous. Your rapporteur therefore proposes to ask the ambassadors of the non-associated countries to set up a Committee of Ambassadors. This committee - comprising only representatives of potential recipient countries - should be consulted by the Commission each time it feels it would be useful to do so or whenever the committee itself asks to be consulted. Thus, it will be possible to associate the recipient countries more closely with the choice and preparation of projects.

8. In conclusion, your rapporteur expresses his complete agreement with the objectives and areas of intervention proposed by the Commission, particularly in Article 2. He would ask those wishing for more detailed information to consult the explanatory statement and the resolution contained in Mr HARZSCHEL's report, adopted by the European Parliament on 19 June 1975.

As regards the setting up of a consultative committee, with a form of suspensory veto, your rapporteur considers that the Commission should have the last say on projects implementing a common policy for aid to non-associated developing countries. This seems essential, both from the general point of view of Community machinery and from the budgetary angle. Your rapporteur therefore proposes that the proposal for a regulation be suitably amended.

¹ Doc. COM(77) 30 final

OPINION OF THE COMMITTEE ON BUDGETS

Draftsman: Mr H. SCHREIBER

On 16/17 March 1977 the Committee on Budgets appointed Mr SCHREIBER draftsman.

It considered the draft opinion at its meeting of 30/31 March 1977 and adopted it with 15 votes in favour and 1 abstention.

Present: Mr AIGNER, vice-chairman; Mr SCHREIBER, draftsman;
Lord BESSBOROUGH, Lord BRUCE of DONINGTON, Mr CAILLAVET, Mr CARO,
Mr DALYELL, Mr KLINKER (deputizing for Mr FRUH), Mr MAIGAARD, Mr MASCAGNI,
Mr van der MEI (deputizing for Mr MARTENS), Mr NOTENBOOM, Mr RIPAMONTI,
Mr VITALE and Mr WURTZ.

I. INTRODUCTION

1. An appropriation of 45 m u.a. for financial cooperation with non-associated developing countries has been entered under Article 930 in the 1977 budget. At the first reading, the Council had entered only 30 m u.a., but this was raised to 45 m u.a. on the second reading.
2. The present proposal for a regulation is designed to provide a legal basis for the utilization of these appropriations. This has become essential since the Council made the implementation of the budget dependent on its prior adoption of a proposal from the Commission for a regulation on the utilization of these appropriations. This regulation can only be based on Article 235 of the Treaty. Consequently, the Council must take a unanimous decision after consulting Parliament.
3. The objective of the proposal may be defined as 'meeting food requirements in the widest sense of the term'. This embraces action in the agricultural, stock-farming and fishery sectors. The measures can aim at improvements in production and the infrastructure, in marketing and storage and in applied research and technical training. Aid to promote regional cooperation is not excluded.
4. In geographical terms, the aid is to benefit the least-developed and poorest countries.
5. Community aid is to be granted either in isolation or combined with other financial aid and is to be coordinated with bilateral aid to the country in question. Most of it will be in the form of direct financing; however, part of the aid could be channelled to the final recipients through intermediary organizations. In view of the situation in the recipient countries, the aid will only be in the form of non-refundable grants.

II. UTILIZATION OF THE 20 m u.a. FROM THE 1976 BUDGET

6. The 20 m u.a. from the 1976 budget, which formed part of the European Parliament's margin for manoeuvre, were utilized in a way which seriously affected the European Parliament's budgetary powers. It will be recalled that, contrary to the demands made by the European Parliament¹ and the Commission², the Council would not agree to the Commission immediately using the appropriations set aside under this heading (without the Council's approval).

¹Resolution on the implementation of the budget of the European Communities for the financial year 1976 (OJ No. C 159, 12.7.1976, p.25)

²See the statement made by the Commissioner responsible for budgets, Mr CHEYSSON, to the Committee on Budgets on 28.4.1976

7. Instead, on 8 December 1976 the Council adopted a formal decision on the utilization of the 20 m u.a. for the benefit of the non-associated developing countries. According to this decision, the appropriations available were allocated as follows:

Bangladesh	2.5 m u.a.
Bolivia	2 m u.a.
India	6 m u.a.
Indonesia	1 m u.a.
Pakistan	3 m u.a.
Sri Lanka	2 m u.a.
Asian Development Bank	1.5 m u.a.
Regional research programme	2 m u.a.

8. This allocation did not form part of any overall plan. It represented an ad hoc decision taken according to individual cases. However, pursuant to the unequivocal provisions of Article 205 of the EEC Treaty, the Council has no executive powers at all in respect of the implementation of the budget¹.

III. THE COMMISSION'S PROCEDURAL PROPOSALS FOR THE UTILIZATION OF THE 45 m u.a. ENTERED IN THE 1977 BUDGET

9. Article 14 of the proposal for a regulation lays down that:

'The draft decisions, together with the opinion of the Committee, shall be submitted to the Commission.

The Commission's decision shall be applicable immediately. If its decisions are not in accordance with the opinion delivered by the Committee, however, the Commission shall communicate them immediately to the Council. In that event the Commission shall defer application of the decisions it has taken by up to two months from the date of communicating them.

The Council, acting by a qualified majority, may take a different decision within the two-month period'.

¹ See Mr AIGNER's draft opinion on the compatibility of the management committees procedure with Article 205 of the EEC Treaty

10. This proposal means that the procedure already applied in the case of the European Development Fund for the utilization of extra-budgetary appropriations would also be applied to the budgetary appropriations entered under Article 930.

11. This involves the conventional management committee procedure, according to which the management committee has consultative powers vis-à-vis the Commission. If, however, there is in the committee no qualified majority in accordance with Article 148(2) of the EEC Treaty (Article 13 of the proposal for a regulation), then the Council has the authority to override the executive, in other words the Commission, and take a decision.

12. The Committee on Budgets feels that to give the Council the right to take the final decision is incompatible with Article 205 of the EEC Treaty, pursuant to which the Commission has exclusive power to implement the budget. Defending the Commission's rights in this connection gives practical expression to and guarantees the European Parliament's extended budgetary powers. These powers would be totally ineffectual if, after the budget had been adopted, the Council were able to decide in individual cases the amount of the appropriations in the budget which were to be allocated, who was to receive them and how they were to be allocated. Consequently, the Committee on Budgets feels that the present proposal for a regulation is incompatible with Article 205 of the EEC Treaty.

13. Under Article 206, the European Parliament gives a discharge to the Commission in respect of the implementation of the budget. If the Council were increasingly able to implement the budget in individual cases - such as this one - then this right to grant a discharge would be meaningless. A discharge in respect of the implementation of the budget would have to be given to the Council. But there is no provision for this in the Treaty.

Powers relating to the implementation of the budget by means of Council decisions in individual cases would thus seriously threaten the Community's institutional structure.

14. This position has already been stated in the Committee on Budgets' draft opinion for the Legal Affairs Committee on the compatibility of the management committees procedure with Article 205 of the EEC Treaty¹. It adopted the same stance in its opinion for the Committee on Regional Policy

¹ See Mr AIGNER's opinion (PE 47.932) on the compatibility of the management committee procedures with Article 205 of the EEC Treaty

on the report on certain aspects of the Community regional policy to be developed in the future¹ and in its opinion for the Committee on Regional Policy on the Commission's proposals in the field of transport infrastructure².

15. The European Parliament must avoid having to choose between two alternatives:

- (a) agreeing with the management proposal which includes the provision, contrary to the Treaty, that the Council may take the final decision. This would be tantamount to granting the Council overriding powers by enshrining in one institution legislative powers (the adoption of the regulation), budgetary powers (in conjunction with the European Parliament) and executive powers (final decision in individual cases).
- (b) blocking the 45 m u.a. which have been duly voted and thus preventing their urgent utilization. This would necessarily follow if no legal basis could be found.

16. The Committee on Budgets is not only concerned with an attack on its budgetary powers. What is also at issue here is an attempt by the Council to continue the Community's haphazard development policy. It is regrettable that the Commission is evidently prepared to give way in this decisive area, thereby endangering both its own executive powers and the European Parliament's budgetary powers.

IV. CONCLUSIONS

17. Article 14 of the Commission's proposal for a regulation on financial and technical aid to non-associated developing countries contains a decision-making procedure which is incompatible with Articles 205 and 206 of the EEC Treaty.

The Committee on Budgets therefore rejects the proposal for a regulation in its entirety and asks the committee responsible to deliver an unfavourable opinion for the same reasons.

The Committee on Budgets requests the initiation of the conciliation procedure with the Commission and the Council in order to enable the management procedures to be reviewed in a political discussion and to establish an institutional balance which is in line with the EEC Treaty and not totally incompatible with it.

¹ See Mr MASCAGNI's opinion (PE 48.149) on certain aspects of the Community's regional policy to be developed in the future

² See Mr MEINTZ' opinion (PE 47.371) on a proposal on the institution of a consultation procedure and the creation of a Committee in the field of transport infrastructure

18. The opinions mentioned earlier by Mr AIGNER, Mr MASCAGNI and Mr MEINTZ contain the same premise:

- The European Parliament can no longer accept proposals whereby the management committees procedure gives the Council executive powers to take decisions in individual cases. Such decisions are incompatible with Articles 205 and 206 of the EEC Treaty and curtail the European Parliament's budgetary powers in crucial areas.
- The European Parliament should initiate a conciliation procedure with the Council and Commission to draw attention to the legal position and draw up a compromise formula. This might lay down that for a limited period the existing management committees procedure, although contrary to the Treaty, could remain in force, but that Parliament must be consulted should a dispute arise between the Commission and the Council concerning the decisions to be taken.
- After the transitional phase, the management committees should play a purely consultative role; the Council ought not to be given overriding authority. For politically sensitive individual cases, the budgetary institution should be able to decide on the financial measures to be taken (following the 'transport infrastructure' procedure).