COUNCIL REGULATION (EEC) No 442/81

of 17 February 1981

on financial and technical aid to non-associated developing countries

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 (1),

Having regard to the opinion of the European Parliament (2),

Whereas the pursuit of a Community development cooperation policy calls for *inter alia* the carrying out of certain financial and technical aid operations for the benefit of non-associated developing countries, taking account of the economic principles and priorities established by those countries and having regard to the aspirations of the developing countries towards promoting their development on the basis of their own efforts and of the resources available to them;

Whereas the implementation of such operations would be likely to contribute to the attainment of the Community's objectives;

Whereas the Council, in a resolution of 16 July 1974, confirmed the principle of Community financial and technical aid to non-associated developing countries;

Whereas the action to be taken to implement such aid, the objectives to be attained and the detailed rules of administration should be laid down;

Whereas provision should be made for a procedure involving the participation of a committee composed of representatives of the Member States;

Whereas the Treaty does not provide the specific powers of action for this purpose,

HAS ADOPTED THIS REGULATION:

Article 1

The Community shall implement measures for financial and technical aid to non-associated developing countries on the basis of the criteria provided for in this Regulation.

Article 2

The aid shall be directed as a general rule towards the poorest developing countries.

Bearing this principle in mind, a Community presence should be ensured in the major regions of the developing world while aiming at a reasonable geographical balance among these regions.

Article 3

1. The aid shall be mainly directed towards improving the living conditions of the most needy sections of the population of the countries concerned.

2. Special importance shall be attached to the development of the rural environment and to improving food production.

As a subsidiary form of action, participation in regional projects may be considered.

3. Part of the aid shall be earmarked for measures to deal with exceptional circumstances, in particular projects to promote reconstruction in the event of disasters, where such projects are not financed from other Community funds.

Any unallocated part of the reserve in question shall be released on 31 October of each year to be allocated in some other way, on a proposal from the Commission, in accordance with the procedure laid down in Article 14.

Article 4

Aid shall be granted by the Community either autonomously or, for a substantial share, by means of co-financing with Member States or with multilateral or regional bodies. Wherever possible, the Community nature of the aid shall be maintained.

Article 5

Community aid shall, as a general rule, be in the form of grants.

Article 6

1. Aid may cover expenditure on imports and local expenditure required to carry out projects and programmes.

(1) OJ No C 54, 4. 3. 1977, p. 5.
(2) OJ No C 118, 16. 5. 1977, p. 60.

Taxes, duties and charges and the purchase price of land shall be excluded from Community financing.

2. Maintenance and operating expenses for training and research programmes and for other projects may be covered following a case-by-case examination by the Committee referred to in Article 11, subject to the proviso that aid for other projects can only be given at the launching stage and in decreasing amounts.

3. In cases of co-financing, however, due account shall be taken in each case of the relevant procedures applied by the other aid donors.

Article 7

1. For those operations, for which the Community is the sole source of external aid, participation in calls for tenders, invitations to tender, and purchasing and other contracts shall be open on equal terms to all natural or legal persons of Member States and the recipient State.

Such participation may be extended to other developing countries which are recipients of aid under this Regulation during the same financial year or one of the two preceding financial years.

2. Paragraph 1 shall also apply to co-financing operations.

3. However, in cases of co-financing, the participation of third countries in calls for tenders, invitations to tender, and purchasing and other contracts may be allowed only after case-by-case examination by the Committee referred to in Article 11.

Article 8

The Commission shall administer the aid in accordance with the procedures laid down in this Regulation.

Article 9

1. The funds required for the measures provided for in this Regulation shall be fixed by the general budget of the European Communities.

Projects and programmes thus financed shall be carried out on a multiannual basis pursuant to the Financial Regulation applicable to the said budget.

2. Acting on a proposal from the Commission and after consulting the European Parliament, the Council shall determine, in good time before the end of the year, the general guidelines to be applied to aid for the following year.

Article 10

The choice of measures to be financed on the basis of this Regulation shall be made having regard to the preferences and wishes expressed by the recipient countries concerned.

Article 11

1. A Committee for aid to non-associated developing countries, hereinafter referred to as 'the Committee', shall be set up at the Commission under the chairmanship of a Commission representative and composed of representatives of the Member States.

2. The secretariat of the Committee shall be provided by the Commission.

3. Any rule of procedure for the Committee not laid down in this Regulation shall be decided on by the Council, acting unanimously on a proposal from the Commission.

Article 12

1. The Committee shall deliver an opinion on the draft financing Decisions submitted to it by the Commission.

2. The draft financing Decisions shall be accompanied by a memorandum, the main purpose of which shall be to assess their effectiveness as far as possible by means of an economic and social evaluation relating the results expected from their implementation to the resources to be invested in them.

Article 13

Within one month the Committee shall decide by a qualified majority as laid down in the first indent of Article 148 (2) of the Treaty.

Article 14

1. The draft financing Decisions accompanied by the Committee's opinion, or, in the absence of such an opinion, by the result of the vote of the Committee, shall be submitted to the Commission.

2. If the Committee's opinion is favourable, the Commission shall take decisions which shall be immediately applicable.

3. In the absence of any favourable opinion of the Committee, the Commission may refer the matter to the Council.

If the Commission refers the matter to the Council, the latter, acting by a qualified majority, shall decide at the second meeting following such referral and at the latest within a period of two months.

If the Council approves the draft financing Decision, the Commission shall take decisions which shall be immediately applicable.

If, after its discussions, the Council has not decided by a qualified majority within a period of two months, the Commission may submit a new draft financing Decision to the Committee and shall inform the European Parliament thereof.

Article 15

Once a year the Commission shall, within the framework of the annual review which will be carried out by the Council in accordance with Article 9, provide the European Parliament and the Council with information on the administration of Community financial and technical aid to non-associated developing countries.

Article 16

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities.*

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

Done at Brussels, 17 February 1981.

For the Council

The President

D. F. van der MEI