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*(Acts whose publication is obligatory)*

# COUNCIL REGULATION (EEC) No 3331/82

## of 3 December 1982

## on food-aid policy and food-aid management and amending Regulation (EEC) No 2750/75

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 235 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Whereas food aid is provided on humanitarian grounds and constitutes one of the essential aspects of the Community's policy of cooperation with the developing countries;

Whereas food aid should be made into a real instrument of the Community's policy of cooperation with the developing countries, thereby enabling the Community to participate fully in multiannual development projects;

Whereas it is necessary to that end that the Community should be able to provide a steady overall flow of aid and be in a position, in appropriate cases, to undertake to supply to the developing countries minimum quantities of products under specifi multiannual programmes as well as to enter into undertakings in relation to international organizations, provided that such multiannual commitments do not amount to more than a reasonable share of the volume of aid;

Whereas, in order to ensure that food aid is managed more efficiently and in greater conformity with the interests and requirements of the recipient countries, the decision-making and implementing procedures should be improved;

Whereas, in order to facilitate the application of certain of the measures envisaged, provision should be made for close cooperation between the Member States and the Commision within a Food Aid Committee;

Whereas these procedures and the subsequent decisions take account of the division of responsibilities between the institutions as laid down in the Treaty;

Whereas it is appropriate that the Commission, after consulting the Food Aid Committee, should determine the quantities and the nature of the cereal products, availability of which is ensured by the Member States for emergency actions; whereas, to this end, Regulation (EEC) No 2750/75 [3] should be amended; whereas, for the remainder, this Regulation does not affect the general rules concerning the mobilization of agricultural products adopted under the framework of the common organizations of the market;

Whereas the specific powers of action required to adopt this Regulation have not been provided for in the Treaty,

HAS ADOPTED THIS REGULATION:

### TITLE I

### Food-aid objectives and general guidelines

*Article 1*

Under its cooperation policy with the developing countries, the Community shall carry out food-aid operations.

*Article 2*

1. The food-aid operations referred to in Article 1 shall have the following objectives in particular:

— to raise the standard of nutrition of the recipient peoples,

— to help in emergencies,

— to contribute towards the balanced economic and social development of the recipient countries.

[1] OJ No C 26, 30. 1. 1979, p. 2.
[2] OJ No C 93, 9. 4. 1979, p. 75.
[3] OJ No L 281, 1. 11. 1975, p. 89.

2. Food aid shall be allocated primarily on the basis of an objective evaluation of the real needs justifying the aid. To that end particular consideration shall be given to the following three criteria, without excluding other pertinent considerations :

— basic food needs,

— *per capita* income,

— the balance-of-payments situation.

3. The granting of food aid shall, if necessary, be conditional on the implementation of annual or multi-annual development projects, priority being given to projects which promote the production of food in the recipient countries. Where appropriate, the aid may contribute directly to the implementation of such projects. This complementarity may be ensured through the use of counterpart funds where the products supplied by the Community as aid are intended for sale.

4. The objective of food aid shall be to meet immediate food needs. Nevertheless, in order to improve food security in the developing countries and to ensure that their needs are met, food aid may be granted, on a case-by-case basis, to enable the recipients to build up stocks of cereals, provided that such aid does not represent more than a residual percentage of the Community plan and that needs for immediate consumption are given priority.

5. In order to assist in carrying out the emergency action referred to in Article 6 and so that the Community may comply with its obligations regarding the International Emergency Reserve, Member States shall hold for the Commission certain quantities of cereals.

These quantities will be made available to the Commission under the conditions laid down in Article 7 of Regulation (EEC) No 2750/75.

*Article 3*

1. The products shall be mobilized in accordance with the rules and procedures laid down under the common organizations of markets.

However, in an emergency or if the products are not available on the Community market, the products supplied as aid may be purchased in another developing country, if possible belonging to the same geographical region as the recipient country.

2. The Community may supply products of first-stage processing as food aid. At the request of the recipient countries, it may furthermore supply limited quantities of products of second-stage processing, in particular cereal-based products.

3. Supplies of products of first-stage processing shall be set off against the total quantities of basic products fixed by the Council pursuant to Article 4, on the basis of a technical coefficient. Rice and products of second-stage processing supplied as aid shall be set off according to an equivalence criterion based on the value of these products.

TITLE II

**Procedures for implementing food-aid operations**

*Article 4*

1. In the field of food aid, the Council shall :

— decide on the total quantities of each product on an annual or multiannual basis,

— apportion the cereals aid provided for under the Food Aid Convention between Community and national actions,

— apportion among the Member States the national cereals actions under the Food Aid Convention,

— determine the countries and organizations to which food aid may be supplied on an annual or multiannual basis,

— define the basic products to be supplied as aid, taking into account the available stocks of the products in question ;

— determine the derived products to be supplied as food aid,

— lay down general criteria for the transport of food aid beyond the fob stage.

2. To this end, on a proposal from the Commission and after obtaining the opinion of the European Parliament, the Council shall act by a qualified majority when exercising the powers referred to in the first, fourth, fifth, sixth and seventh indents of paragraph 1, and unanimously when exercising the powers mentioned in the second and third indents of paragraph 1.

*Article 5*

The Commission, following consultations with the Committee as provided for in Article 7 and in accordance with the procedure laid down in Article 8, shall :

— fix the apportionment among recipient countries and organizations, determined in accordance with the fourth indent of Article 4 (1), of the quantities available under the annual and multiannual programmes and, in the same context, the volume of the reserve,

— in so far as necessary, amend allocations during the implementation of the annual and multiannual programmes in the light of the capacity of recipients to absorb aid,

— define the quantities and nature of the cereals products which the Member States will make available for emergency action and international reserves.

*Article 6*

In accordance with the Council decisions referred to in Article 4 and of the decisions taken under Article 5, the Commission shall decide on :

(a) emergency action for countries facing serious difficulties as a result of sudden and unforeseeable natural disasters and shall inform the Member States thereof ;

(b) emergency action for countries facing serious difficulties as a result of exceptional circumstances comparable to natural disasters, after consulting the Member States by telex, giving them 48 hours to make any objections ;

(c) the conditions governing the supply of aid and, in particular, the general conditions applicable to recipients.

For the purpose of (a) and (b) 'emergency' shall mean an unforeseeable situation in which famine or a danger of famine poses a serious threat to the lives or health of the population in a country which is unable to meet the food deficit through its own means and resources.

The volume of aid which it shall be decided to supply in each particular case shall be limited to the quantities that the people affected require in order to cope with the situation for a period not exceeding three months.

*Article 7*

1. A Food Aid Committee, hereinafter referred to as 'the Committee', chaired by a representative of the Commission and composed of representatives of the Member States, is hereby established. The secretariat of the Committee shall be provided by the Commission.

2. The Committee shall draw up its own rules of procedure.

*Article 8*

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 45 votes. The votes of the Member States shall be weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.

3. The Commission shall take decisions which are immediately applicable. If, however, such decisions are not in accordance with the opinion deliverd by the Committee or if the Committee delivers no opinion, they shall be forthwith communicated to the Council by the Commission. In that event, the Commission shall postpone, for not more than two months 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.

*Article 9*

The Member States shall decide on their national food-aid programmes and shall inform the Commission thereof ; following a request by the chairman of the Committee or a representative of a Member State, the coordination of Community and national food-aid actions shall be examined by the Committee.

*Article 10*

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.

*Article 11*

The European Parliament shall be informed of the management of food aid by the communication of the decisions referred to in Articles 4, 5 and 6 immediately upon their adoption and by the annual presentation of progress reports on the implementation of the various actions for the relevant financial years.

The decisions referred to in Articles 5 and 6 and the reports mentioned above shall be communicated to the Council at the same time.

*Article 12*

Regulation (EEC) No 2750/75 shall be amended as follows :

1. Article 7 (5) shall be repealed ;

2. Article 7 (6) shall be replaced by the following :

'5. Detailed rules for applying this Article, and in particular the criteria according to which the Commission is to make the decisions referred to in paragraph 4, shall be adopted in accordance with the procedure laid down in Article 8 of Council Regulation (EEC) No 3331/82.'

*Article 13*

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, 3 December 1982.

*For the Council*

*The President*

Ch. CHRISTENSEN