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Conformément au règlement (CEE, Euratom) n° 354/83 du Conseil du 1er février 1983 concernant l'ouverture au public des archives historiques de la Communauté économique européenne et de la Communauté européenne de l'énergie atomique (JO L 43 du 15.2.1983, p. 1), tel que modifié par le règlement (CE, Euratom) n° 1700/2003 du 22 septembre 2003 (JO L 243 du 27.9.2003, p. 1), ce dossier est ouvert au public. Le cas échéant, les documents classifiés présents dans ce dossier ont été déclassifiés conformément à l'article 5 dudit règlement.

In accordance with Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community (OJ L 43, 15.2.1983, p. 1), as amended by Regulation (EC, Euratom) No 1700/2003 of 22 September 2003 (OJ L 243, 27.9.2003, p. 1), this file is open to the public. Where necessary, classified documents in this file have been declassified in conformity with Article 5 of the aforementioned regulation.

In Übereinstimmung mit der Verordnung (EWG, Euratom) Nr. 354/83 des Rates vom 1. Februar 1983 über die Freigabe der historischen Archive der Europäischen Wirtschaftsgemeinschaft und der Europäischen Atomgemeinschaft (ABl. L 43 vom 15.2.1983, S. 1), geändert durch die Verordnung (EG, Euratom) Nr. 1700/2003 vom 22. September 2003 (ABl. L 243 vom 27.9.2003, S. 1), ist diese Datei der Öffentlichkeit zugänglich. Soweit erforderlich, wurden die Verschlussachen in dieser Datei in Übereinstimmung mit Artikel 5 der genannten Verordnung freigegeben.

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(76) 25 final

Brussels, 30 January 1976

COUNCIL REGULATION (EEC)

on the crediting of securities, deposits and guarantees
furnished under the common agricultural policy and
subsequently forfeited

(submitted to the Council by the Commission)

EXPLANATORY MEMORANDUM

Within the common agricultural policy, a significant number of securities are provided for under the various Community regulations.

To give some examples, such securities are required upon the issue of export or import licences with or without advance-fixing; as part of tendering procedures, in cases of payment of advances on subsidies where the event giving rise to entitlement to the subsidy has not yet occurred; in connection with private storage contracts, in cases of the advance fixing of aid, for sales of goods which come from intervention stocks and must be used for specific purposes; in connection with denaturing operations, and so on.

In general the regulations only lay down the procedure for furnishing the security, its amount, and the conditions for its release, leaving open the question of where to credit the security which is forfeited. In the absence of specific provisions concerning the crediting of such security, the Member States have hitherto entered them, on a final or provisional basis, in their national budgets. Experience has, however, shown that the retention of the security by the Member States is unsatisfactory. In fact, a security is forfeited when the operator fails to meet his commitments. The latter are, however, the corollary of the financial benefits he has received from the funds of the EAGGF. As a result, in this case the EAGGF is financially disadvantaged, and this should be made good by crediting to the EAGGF the security which was designed to hold the operator to his commitments. In this way, the principle according to which the security goes to the party which bears the risk of the operation - in particular the disadvantages which may result if the conditions for granting a benefit are not fulfilled - is safeguarded. Consequently, the security which is forfeited should therefore be credited, in general, to the EAGGF by deducting it from expenditure, either from refunds if the proposed or completed operation constitutes trade with non-member countries, or from intervention expenditure in all other cases.

It should be laid down, however, that these provisions do not apply to two kinds of security, namely security furnished upon the issue of export or import licences without advance fixing of the rate of refund, levy or compensatory amount, and security furnished in connection with tendering procedures with the sole purpose of ensuring that the tenders submitted are genuine. In both cases, the detriment to the EAGGF does not seem sufficiently substantial for the security forfeited to be credited to it, although it cannot be denied that, even in those cases,

the EAGGF might have to bear a certain degree of prejudice owing to the indirect effects of the failure of the operator to meet his commitments. These indirect effects may appear, in particular, at the market management level, or in the form of charges relating to the storage of intervention products.

Moreover, since food aid is financed under a special chapter of the Community Budget, a security forfeited under food aid operations should be deducted from the expenditure arising from such operations.

COUNCIL REGULATION (EEC)

on the crediting of securities, deposits and guarantees furnished under the common agricultural policy and subsequently forfeited

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,

Whereas under Community regulations numerous securities are required in connection with operations relating to agricultural products; whereas provision must be made for the crediting of such securities in cases where they are forfeited;

Whereas in most cases where securities are forfeited, the European Guidance and Guarantee Fund (EAGGF) suffers a financial disadvantage either because it has financed a measure and the operator has failed to meet his obligations or because such failure by the operator subsequently involves the EAGGF in additional expenditure because of the mechanisms of the agricultural markets; whereas this disadvantage should consequently be remedied by setting against EAGGF expenditure any security which is forfeited;

Whereas, however, those securities which are unlikely to cause a sufficiently substantial financial disadvantage to the EAGGF should be retained by the Member States;

Whereas any security forfeited in food aid operations should be deducted from expenditure in the "food aid expenditure" chapter of the Budget;

Whereas it is also right that any security forfeited as part of a specific operation should be deducted from the expenditure relating to that type of operation;

Whereas similar rules already exist in one particular sector, and are therefore superceded by the present Regulation,

HAS ADOPTED THIS REGULATION :

Article 1

- 1) Subject to paragraph 2 hereof, this Regulation shall apply to any security, deposit or guarantee furnished pursuant to provisions adopted under the common agricultural policy, (hereinafter referred to as "security"), and to fractions thereof.
- 2) However this Regulation shall not apply to any security furnished
 - a) in connection with the issue of licences without advance fixing of the rate of refund, levy or accession compensatory amount; or
 - b) under a tendering procedure for the sole purpose of ensuring the submission by tenderers of genuine tenders.

Article 2

- 1) Any security referred to in Article 1(1) which is forfeited shall be applied in reduction of EAGGF expenditure.
- 2) However, any security which is forfeited in respect of food aid operations shall be applied in reduction of the expenditure under the appropriate item of the "food aid expenditure" chapter of the Budget.

Article 3

- 1) Any security referred to in Article 1 (2) shall be deducted:
 - a) if the completed or proposed operation in respect of which the security was furnished concerns trade with non-member countries, from refunds under the appropriate budgetary item,

- b) in all other cases, from intervention expenditure under the appropriate budgetary item.
- 2) If the expenditure chargeable to the EAGGF is supported by accounts, such accounts shall be credited with any security referred to in Article 2 (1).

Article 4

Article 14 of Council Regulation (EEC) No 2306/70 of 10 November 1970 on the financing of intervention expenditure in respect of the domestic market in milk and milk products⁽¹⁾ is hereby repealed.

Article 5

Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70⁽²⁾.

Article 6

This Regulation shall apply to any security forfeited with effect from 1 January 1976.

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

Done at Brussels,

For the Council

The President

(1) OJ No L 249, 17.11.1970, s. 4.
(2) OJ No L 94, 28. 4.1970, s. 13.

FINANCIAL STATEMENT

Annex to Doc.

Date 1.12.1975

1. Line of the Budget concerned : Items 6, 7 and 9 of the Budget

2. Title of the action : Proposed regulation of the Council concerning the appropriation of securities, sureties or guarantees, undertaken for the purposes of the common agricultural policy and remaining forfeit.

3. Legal basis : Articles 43 and 209 of the Treaty.

4. Objectives of the action : Appropriation of securities forfeited in the case of non-compliance with community regulations concerning FEOGA, by reduction of the expenditure to which they are related.

5.0 Reduction in budgeted expenditure	during the campaign	current exercise ()	following exercise ()
	5 - 8 M. ua.	-	5 - 8 M. ua.

5.1 Estimated costs Year ..1977 Year 1978. Year 1979.
 5 - 8M. ua. 5 - 8 M. ua. 5 - 8 M. ua.

5.2 Method of calculation

By projection from the data from certain Member States.

~~6.1 Possible financing by credits written into the relative chapter of the current Budget~~

~~Yes No~~

~~6.2 Possible financing by transfers between chapters of the current Budget~~

~~Yes No~~

6.3 Necessity for a supplementary Budget ~~Yes~~ No

6.4 Credits to be written into future budgets No

Comments : The reduction affects articles and budgetary items involving refund and agricultural intervention, and also food aid expenditure.