

REGULATION No 17/64/EEC OF THE COUNCIL

of 5 February 1964

on the conditions for granting aid from the European Agricultural
Guidance and Guarantee Fund

THE COUNCIL OF THE EUROPEAN ECONOMIC
COMMUNITY,

Having regard to the Treaty establishing the
European Economic Community, and in particular
Article 43 thereof;

Having regard to Council Regulation No 25 on
financing the common agricultural policy¹;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European
Parliament²;

Having regard to the Opinion of the Economic and
Social Committee;

Whereas in order to operate the European
Agricultural Guidance and Guarantee Fund the terms
and procedures for financing the common
agricultural policy should be laid down under a
Guarantee Section and a Guidance Section, because
of the diversity of the types of expenditure made
from the Fund;

Whereas, in respect of the Guarantee Section, general
rules must be laid down for the common
organisation of the agricultural markets as a whole,
including those markets to which the application of
Regulation No 25 will be extended by the Council;

Whereas the method of calculating the net quantities
exported, to be taken as a basis in establishing figures
for refunds on exports to third countries, should be
laid down, and whereas the method described as the
'basis products' method is the most suitable; whereas,
furthermore, certain kinds of trade carried on under
special systems must not be included in this
calculation;

Whereas the rate of the lowest average refund must
be corrected so as to eliminate the incidence of
exports which are not representative or of provisions
which derogate from the general rules on the
common organisation of the markets;

Whereas general conditions of eligibility for
intervention expenditure on the domestic market,
valid for the common organisation of the markets as
a whole, should be laid down;

Whereas for the proper working of the Guarantee
Section a procedure should be laid down which
would make it possible for the Member States
concerned to receive aid from the Fund, and which in
particular would provide for all the factors justifying
such aid to be put before the Commission;

Whereas the measures eligible for aid from the Fund
for the purpose of improving structures must relate
to the adaptation and improvement of conditions of
production in agriculture, the adaptation and
guidance of agricultural production, the adaptation
and improvement of marketing of agricultural
products, and the development of outlets for such
products;

Whereas general and particular criteria should be
established for the granting of aid from the Fund, so
that projects will be in accordance with Community
interests;

Whereas to make it possible to assess the value for
the Community of the different projects, these proj-
ects should be included in Community Programmes;

Whereas, however, to take into account the time
needed to draw up Community Programmes,
provision should be made for the possibility of
financing projects for a period of not more than two
years without such projects being included in a
Community Programme;

Whereas for certain kinds of action, a special effort
should be made towards the dissemination of

¹ OJ No 30, 20.4.1962, p. 991/62.

² OJ No 157, 30.10.1963, p. 2640/63.

agricultural knowledge and towards vocational training; whereas in the same way particular attention should be paid to the social conditions of persons engaged in agriculture; and whereas when aid is granted from the Fund priority should be given to projects which are part of a comprehensive system of measures to encourage regional economic development so that the best possible use may be made within the framework of the economy as a whole of all the factors affecting structures;

Whereas the returns on agriculture are often inadequate to finance the improvement of agricultural structures, and whereas farmers should be encouraged to increase productivity; whereas the Fund should therefore make capital aids available to them in the form of a lump sum or in the form of instalments;

Whereas, however, the granting of aid from the Fund must not have the effect of distorting the terms of competition to an extent incompatible with the principles set out in the Treaty;

Whereas, to ensure that the actions of the Community are harmonised with those of Member States, projects to be financed by the Fund should have the approval of the Member State concerned, and that Member State should participate in the financing of the projects;

Whereas, to ensure that beneficiaries observe the conditions laid down when aid is granted from the Fund, provision should be made for an effective supervision procedure and for the possibility of suspending, reducing or discontinuing such aid;

Whereas the method of calculating the 'net imports' part of contributions by Member States laid down in Article 7 (1) of Regulation No 25 should be defined and it should be laid down that such calculation should be made separately for each sector of the common organisation of the markets;

Whereas, to facilitate the general working of the Fund, provision should be made for close co-operation between the Member States and the Commission through a Committee for the European Agricultural Guidance and Guarantee Fund;

Whereas, with regard to aid from the Fund under the Guarantee Section, the task of delivering Opinions on the main factors in Community financing should be reserved for the Fund Committee, while that of delivering Opinions on certain provisions directly related to the working of the common organisation of markets should be left to the Management Committees for the various products;

Whereas, with regard to aid from the Fund under the Guidance Section, the Standing Committee on

Agricultural Structures, set up to promote the co-ordination of agricultural structure policies, should issue Opinions; whereas the Fund Committee should also be consulted on the financial aspects of aid from the Fund;

HAS ADOPTED THIS REGULATION:

Article 1

1. The European Agricultural Guidance and Guarantee Fund (hereinafter called the 'Fund'), set up under Article 1 of Regulation No 25 on the financing of the common agricultural policy, shall include two sections:

the Guarantee Section,
the Guidance Section.

2. The Guarantee Section shall include expenditure financed by the Fund relating to refunds on exports to third countries and to intervention on the domestic market.

3. The Guidance Section shall include expenditure financed by the Fund resulting from common measures undertaken in order to attain the objectives set out in Article 39 (1) (a) of the Treaty, including structural adjustments made necessary by the development of the common market or required for the proper working thereof.

4. Expenditure by Member States and by those benefiting from aid from the Fund relating to administrative costs and personnel shall not be borne by the Fund.

PART ONE

GUARANTEE SECTION

I. Expenditure relating to refunds on exports to third countries

Article 2

1. The net quantities exported to third countries by each Member State, which shall serve as a basis for calculating the repayment of the refunds on exports to third countries laid down in Article 3 (1) (a) of Regulation No 25, shall be calculated according to the method known as the 'basic products' method, the derived products being converted into an equivalent quantity of the basic product.

The Council, acting by qualified majority on a proposal from the Commission, shall draw up a list of basic products for each sector of the common organisation of markets.

In drawing up that list, the Council shall follow the general rule according to which a 'basic product' means a product on which the import charge is calculated according to criteria relating thereto and not in relation to the import charge on another product.

2. Derived products shall be converted into their basic product equivalent by the use of the coefficients adopted within the framework of the common organisation of markets.

3. Standard coefficients may, however, be adopted where:

- (a) provisions relating to the common organisation of markets lay down several coefficients for a derived product, because of the composition or presentation of that derived product;
- (b) a derived product is obtained from several basic products;
- (c) products with different characteristics coming under the same heading number of the Common Customs Tariff are obtained from a single basic product;
- (d) statistics do not make it possible to isolate a product from a group of products.

For the 1962/63 and 1963/64 marketing years, specific coefficients may furthermore be adopted where several derived products are obtained from a single basic product.

The list of coefficients referred to in this paragraph shall be decided according to the procedure laid down in Article 7.

4. When the net quantities exported by each Member State are calculated, no account shall be taken of:

- (a) transactions carried out under a customs system suspending import charges;
- (b) transactions carried out under a system the economic effect of which is similar to that of the system referred to under paragraph 4 (a) and which offers equivalent administrative guarantees;
- (c) transactions carried out free from import charges and without the granting of export refunds, in accordance with a derogation under the provision relating to the common organisation of markets.

Detailed rules for the application of this paragraph shall be adopted in accordance with the procedure laid down in Article 26.

The guarantees offered under the system referred to in (b) above and the economic effect thereof shall be assessed according to the procedure laid down in Article 7.

Article 3

1. To determine the rate of refund referred to in Article 3 (1) (a) of Regulation No 25, each Member State shall calculate, once every year, the amount of the average refund for each basic product for the accounting period of the Guarantee Section within the meaning of Article 4 of the Financial Regulation relating to the Fund.

2. Such calculation shall be made for each basic product by dividing the total figure for the refunds granted on that basic product and on the derived products by the figure for the gross quantities of that basic product, and of the derived products converted into equivalent quantities of the basic product, exported to third countries. The gross quantities shall be calculated in accordance with the method laid down in Article 2 (4). However, in respect of the market in beef and veal, frozen meat shall be excluded from the calculation of the lowest average refund.

Special provisions shall be established in accordance with the procedure laid down in Article 26 for exports effected under a transitional system set up under the Regulations on the common organisation of markets.

3. Each Member State shall, within the periods laid down in Article 9 (1), communicate to the Commission the rate of the average refund on each basic product, the factors involved in the calculation thereof, and the facts required to make any of the corrections provided for in Article 4 (3).

Article 4

1. On the basis of the information provided in pursuance of Article 3 (3) and after comparison of the annual average refunds granted by individual Member States, the lowest average refunds to be used for the Community as a whole shall be determined in accordance with the procedure laid down in Article 26.

In making the comparison referred to above, where appropriate:

- average refunds on non-representative quantities, within the meaning of paragraph 2, should be excluded;
- corrections should be made as indicated in paragraph 3.

2. 'Non-representative quantities' means gross quantities exported to third countries, calculated in accordance with the method laid down in Article 2 (4), which for each Member State, in respect of each basic product including the derived products converted into their equivalent quantities of the basic product, represent less than 5% of the gross quantities exported to third countries by the Community as a whole.

The non-representative quantities to be excluded may be reduced to 4% or increased to 6% according to the procedure laid down in Article 26, to take account in particular of the stability or otherwise of the flow of exports of the product in question. Such degree of stability shall be determined by examining the data on exports effected over a period of not less than the two preceding years.

3. The average refunds granted by each Member State shall be corrected according to the procedure laid down in Article 26 where such refunds are affected by the application of measures taken within the framework of the common organisation of markets and designed to:

- (a) derogate from the lower price limit fixed for the Community;
- (b) lower the levies in relation to third countries for a period of over three months;
- (c) grant production refunds;
- (d) grant for milk products production aids required in order for a target price to be reached.

The corrections to be made shall correspond to the incidence of the measures applied by the Member States, and shall be calculated in accordance with the provisions laid down within the framework of the common organisation of markets.

Where, for a net exporting Member State, the rate of the lowest average refund, corrected as above, is higher than the actual average rate thereof, the latter shall be used in calculating the refund. However, for a net exporting Member State which in accordance with subparagraph 3 (d) grants production aids within the framework of the common organisation of the market in milk and milk products, that actual average rate shall be increased by the incidence of those aids.

II. Expenditure relating to intervention on the domestic market

Article 5

1. Interventions on the domestic market the aim and function of which is, within the meaning of Article 3 (1) (b) of Regulation No 25, identical with that of refunds on exports to third countries, shall mean all actions subject to Community rules within the framework of the common organisation of markets which are designed to withdraw from the market those quantities of products which cannot be absorbed by it, provided that appropriate measures are taken to ensure that for the disposal of such products on the domestic market an outlet other than the usual outlet is found, in order to remedy the situation created by the surplus.

2. For each sector of the common organisation of the markets the Council, acting unanimously during the second stage and by a qualified majority thereafter on a proposal from the Commission, shall determine that the aim and function of such action is identical with that of refunds on exports to third countries and shall lay down detailed rules of application for aid from the Fund.

Article 6

1. Other interventions on the domestic market within the meaning of Article 3 (1) (c) of Regulation No 25 means all actions on the domestic market effected in accordance with Community rules within the framework of the common organisation of markets where the action is obligatory or is designed to avoid, wholly or partially, an obligatory action.

In the latter case, the eligible expenditure may not exceed that which would have been eligible in the case of the action which has been avoided.

2. The Council, acting unanimously during the second stage and by a qualified majority thereafter on a proposal from the Commission, shall determine for each sector of the common organisation of markets the conditions governing the eligibility of the expenditure relating thereto.

III. Procedure for the Guarantee Section

Article 7

Where reference is made to the provisions of this Article, the procedure which shall apply shall be that laid down in Article 26 of Regulation No 19 on the progressive establishment of a common organisation

of the market in cereals or, according to sector, any identical procedure laid down in the corresponding articles of other Regulations on the establishment of a common organisation of markets.

Article 8

Member States shall for every quarter and within a period of not more than three months submit to the Commission a statement containing the following information:

- (a) the quantity and value of gross exports to, and gross imports from, third countries of each basic product, including the derived products converted into their basic product equivalents in accordance with the provisions of Article 2, and the amount of refunds granted on exports to third countries of those products;
- (b) the quantities, for each category of products, which have been subject to the intervention referred to in Articles 5 and 6, and the corresponding expenditure.

Article 9

1. The Member States concerned shall, once a year and before 1 October, submit to the Commission an application for reimbursement of the expenditure incurred as a result of refunds on exports to third countries and as a result of intervention on the domestic market relating to the period from 1 July to 30 June and which is to be taken over by the Guarantee Section of the Fund. However, for the period from 30 July 1962 to 30 June 1963, Member States shall submit their applications for reimbursement three months after this Regulation enters into force.

2. The information which must be included in the applications by Member States for reimbursement, and the form in which such applications must be presented, shall be determined in accordance with the procedure laid down in Article 26.

Article 10

The Commission shall decide annually on the basis of the applications submitted in accordance with Article 9 (1), and after consultation with the Fund Committee, the aid to be granted from the Fund.

PART TWO

GUIDANCE SECTION

I. Field of application

Article 11

1. Action taken by the Guidance Section of the Fund shall relate to:

- (a) the adaptation and improvement of conditions of production in agriculture;
- (b) the adaptation and guidance of agricultural production;
- (c) the adaptation and improvement of the marketing of agricultural products;
- (d) the development of outlets for agricultural products.

2. The types of action indicated in 1 (a) and (b) may be taken in respect of agriculture; those indicated in 1 (c) and (d) may be taken in respect of agricultural products when these products are made subject to the common organisation of markets.

Article 12

1. For the purpose of Article 11 (1) 'adaptation and improvement of production conditions' means the promotion by action on the farms themselves, or within a group of farms, or externally, of an effective combination of the factors affecting agricultural production, in order to make the best possible use thereof within the framework of the economy as a whole.

2. For the purposes of Article 11 (1) 'adaptation and guidance of production' means:

- (a) the quantitative adaptation of production to outlets;
- (b) improvements in the quality of the products.

3. For the purposes of Article 11 (1) 'adaptation and improvement of the marketing of agricultural products' means the provision of facilities, on the farms themselves, or within a group of farms, or externally, in respect of the following aspects:

- (a) improvement of storage and preservation;
- (b) obtaining the best return from agricultural products;

- (c) improvement of marketing channels;
- (d) better knowledge of the data relating to price formation on the markets for agricultural products.

4. For the purposes of Article 11 (1) 'development of outlets for agricultural products' means action by the Community to increase the consumption of certain agricultural products within the framework of the common agricultural policy in accordance with Article 41 (b) of the Treaty.

II. General and particular conditions governing aid from the Fund

Article 13

1. Aid shall be granted from the Fund for projects in respect of which applications have been submitted to the Commission in accordance with the procedure laid down in Article 20.

2. For the purposes of this Regulation, 'project' means any public, semi-public or private project designed solely or in part for the improvement of the agricultural structure within the meaning of Article 11 (1).

3. Aid from the Fund shall be directed towards the part of the project relating to the improvement of the agricultural structure under the terms of Article 11 (1).

Article 14

1. In order to receive aid from the Fund, each project must simultaneously meet all the following general criteria:

- (a) it must come within the framework of a Community Programme laid down in accordance with Article 16;
- (b) it must be aimed at an adaptation or guidance of agriculture necessitated by the economic consequences of the implementation of the common agricultural policy or at meeting the requirements of that policy;
- (c) it must offer an adequate guarantee in respect of the lasting economic effect of the improvement made in the structure of agriculture.

However, for a period of two years from the entry into force of this Regulation, projects which concern a given action may receive aid from the Fund even without a Programme covering such action until such a Programme is adopted.

2. In respect of the actions referred to in Article 11 (1) (a) and (b), each project must also meet the following criteria:

- (a) it must be aimed at making or keeping farms economically viable and at increasing their competitiveness;
- (b) it must give sufficient attention to the problems of the dissemination of agricultural knowledge and vocational training in agriculture, in order to get the best return from the investments to be made;
- (c) it must contribute to the improvement of the social and economic conditions of persons engaged in agriculture.

Article 15

1. Projects which are part of a comprehensive system of measures aimed at encouraging the harmonious development of the overall economy of the region where such projects will be carried out shall be given priority for receiving aid from the Fund.

2. The priority referred to in paragraph 1 may take the form of preference over other projects which meet the criteria listed in Article 14 or of more favourable conditions for the granting of aid.

Article 16

1. The Council, acting on a proposal from the Commission, shall adopt Community Programmes in accordance with the procedure laid down in Article 43 of the Treaty.

Such programmes must take account of the measures adopted by the Council within the framework of the provisions of Article 3 of the Council Decision of 4 December 1962 on the co-ordination of agricultural structural policies.

2. Each Community Programme must specify:

- (a) the objective to be achieved and the nature of the projects to be undertaken in accordance with Article 11 (1);
- (b) the areas in which action should be concentrated;
- (c) the percentage or percentages of aid from the Fund for each category of projects;
- (d) the total cost and the estimated duration of the Community Programme.

3. Detailed rules of application for each Community Programme shall be laid down according to the procedure laid down in Article 19 (1) after the Commission has consulted the Fund Committee on the financial aspects.

4. Each Community Programme shall be published in the *Official Journal of the European Communities*.

Article 17

1. Aid from the Fund shall consist of capital subsidies paid in a lump sum or in instalments.

The Commission shall, before 30 June 1967, submit a report on the conclusions to be drawn from the experience gained in applying this Article. It shall if necessary submit proposals for varying the forms which aid from the Fund may take.

2. Intervention by the Fund must not alter the conditions of competition in such a way as to be incompatible with the principles contained in the relevant provisions of the Treaty.

3. The Commission shall ensure that the activities of the Fund are harmonised with those of the European Investment Bank and the European Social Fund.

Article 18

1. For a given project, in relation to the investment made:

- the subsidies granted by the Fund may not exceed 25%;
- the financial contribution of the party benefiting from the improvement shall not be less than 30%.

The Member State on whose territory the project is to be carried out shall contribute to the financing of the project. However, if the legislative provisions currently in force in a Member State make this impossible, the application of this provision shall be suspended in respect of such Member State during the first two years following the entry into force of this Regulation.

2. The Commission shall, before 30 June 1967, submit a report on the conclusions to be drawn from the experience gained in applying the above provisions. It shall if necessary submit proposals for amending those provisions, for adapting them to the

specific financial requirements of the different categories of action listed in Article 11 (1), and for harmonising national procedures for promoting such investments.

III. Procedure for the Guidance Section

Article 19

1. Where reference is made to the provisions of this Article, the Standing Committee on Agricultural Structures, set up under Article 1 of the Council Decision of 4 December 1962 on the co-ordination of agricultural structural policies shall issue an Opinion; the votes of the Member States shall be weighted as provided for in the first subparagraph of Article 148 (2) of the Treaty. In such cases, the procedure laid down in Article 26 shall apply.

2. Furthermore, the Standing Committee on Agricultural Structures may be consulted by its Chairman on all questions of general importance relating to the Guidance Section of the Fund.

3. In the cases provided for in this Article, each Member State shall be represented on the Standing Committee on Agricultural Structures by not more than five officials.

Article 20

1. Applications for aid from the Fund shall be submitted to the Commission each year before 1 October. The Commission shall decide on the merits of such applications before 31 December of the following year.

However, applications for aid for the year 1964 may be submitted to the Commission until 1 July 1964.

2. An application for aid from the Fund shall be submitted through the Member State concerned.

3. In order to receive aid from the Fund, a project must have been approved by the Member State on whose territory the project is to be carried out.

4. Where an application is not approved by the Member State concerned, the latter may communicate the application to the Commission, for its information.

5. The particulars which must be given in the applications, and the form in which the applications must be presented, shall be determined according to the procedure laid down in Article 19 (1).

Article 21

1. The Commission shall decide upon aid from the Fund according to the procedure laid down in Article 19 (1) of this Regulation after consulting the Fund Committee on the financial aspects and in particular on the finances available.

2. The decision of the Commission shall be communicated to the Member State concerned and to the beneficiaries.

Article 22

1. Beneficiaries of aid from the Fund shall be the natural or legal persons, or groups of natural or legal persons, who are ultimately responsible, wholly or partially, for the cost of the project.

Aid from the Fund shall be granted through the agency or agencies appointed for that purpose by the Member State concerned.

2. Throughout the period of intervention by the Fund, the authority or agency appointed for that purpose by the Member State concerned shall, at the request of the Commission, transmit to the Commission all supporting documents or any documents which give adequate proof that the financial or other conditions laid down for each project have been fulfilled. The Commission may, if necessary, verify this by inspection on the spot.

If the conditions are not fulfilled, aid from the Fund may be suspended, reduced, or discontinued, according to the procedure laid down in Article 19 (1); the decision shall be made by the Commission, after consultation with the Fund Committee on the financial aspects.

The decision of the Commission shall be communicated to the Member State concerned and to the beneficiaries.

PART THREE

GENERAL PROVISIONS

I. Contributions to the Fund

Article 23

Net imports from third countries effected by each Member State, the amount of which is used for

calculating the second part of contributions from Member States to the Fund, in pursuance of Article 7 (1) of Regulation No 25, shall be calculated:

- (a) for all the products in the markets to which Regulation No 25 applies, in accordance with Article 8 thereof;
- (b) for the period referred to in Article 3 (1) of this Regulation, excluding the transactions referred to in Article 2 (4);
- (c) by adding together the figures for the value of net imports in each sector of the common organisation of the markets.

II. Committee for the European Agricultural Guidance and Guarantee Fund

Article 24

1. A Committee for the European Agricultural Guidance and Guarantee Fund (hereinafter called the 'Fund Committee') is hereby set up.

2. The Fund Committee shall assist the Commission in administering the Fund, as laid down in Articles 25 to 28.

Article 25

1. The Fund Committee shall consist of representatives of the Member States and of the Commission. Each Member State shall be represented on the Committee by not more than five officials.

The Fund Committee shall have a representative of the Commission as Chairman.

2. Where the procedure laid down in Article 26 is applied, the votes of Member States shall be weighted as provided in Article 148 (2) of the Treaty. The Chairman shall not vote.

Article 26

1. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the Committee by the Chairman, either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be adopted. The Committee shall deliver its Opinion on those measures, within a time limit set by the Chairman according to the urgency of the matters. An Opinion shall be adopted by a majority of twelve votes.

3. The Commission shall adopt measures which shall be immediately applicable. However, if such measures are not in accordance with the Opinion of the Committee, they shall be communicated forthwith by the Commission to the Council. In that case, the Commission may defer, for not more than one month from the date of such communication, application of the measures which it has adopted.

The Council, acting by a qualified majority, may adopt a different decision within one month.

Article 27

1. The Fund Committee shall be consulted:
 - (a) in cases where provision is made for it to be consulted;
 - (b) for the assessment of credits for the Fund to be entered annually in the Commission's estimate of expenditure for the following financial year and, if necessary, in additional estimates;
 - (c) on the draft annual reports and general report drawn up in accordance with Article 3 (3) and Article 4 of Regulation No 25;
 - (d) on draft proposals by the Commission to the Council, drawn up on the basis of Regulation No 25.

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

Done at Brussels, 5 February 1964.

2. The Fund Committee may consider any other question raised by its Chairman either on his own initiative or at the request of a representative of a Member State.

It shall be informed regularly of the activities of the Fund.

Article 28

The Chairman shall convene the Fund Committee.

Secretarial services shall be provided for the Fund Committee by the Commission.

The Fund Committee shall adopt its own rules of procedure.

III. Final provisions

Article 29

Member States shall make available to the Commission all information required for the proper working of the Fund and shall take all measures likely to facilitate any inspections which the Committee may see fit to carry out before taking a decision on aid from the Fund.

For the Council

The President

H. FAYAT