

COUNCIL DECISION**of 29 June 1999****on the signing and notification of the provisional application of the Food Aid Convention 1999
on behalf of the European Community**

(1999/576/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community, and in particular Article 181, in conjunction with the first sentence of the first subparagraph of Article 300(2),

Sole Article

Having regard to the proposal from the Commission,

- (1) Whereas the Community is a member of the International Grains Agreement 1995 comprising two distinct legal instruments, i.e. the Grains Trade Convention and the Food Aid Convention; whereas these Agreements were extended until 30 June 1999;
- (2) Whereas the Grains Trade Convention 1995 will be extended until 30 June 2001;
- (3) Whereas the Food Aid Convention 1999 has been negotiated;
- (4) Whereas this Agreement should be signed;
- (5) Whereas the new Food Aid Convention will be open for signature at the headquarters of the United Nations in New York from 1 May to 30 June 1999 inclusive; whereas during that period signatories shall deposit their instruments of ratification, acceptance or approval; whereas given that the necessary procedures will not be accomplished within this time-frame it should be decided to apply the new Food Aid Convention provisionally,

1. The President of the Council is hereby authorised to designate the person empowered to sign the Food Aid Convention 1999 on behalf of the European Community.

The text of the Agreement is annexed to this Decision.

2. The European Community shall apply the Food Aid Convention 1999 provisionally from the time of its entry into force.

3. The President of the Council shall deposit a declaration of provisional application as provided for in Article XXII(c) of the Food Aid Convention 1999 with the Secretary-General of the United Nations on behalf of the European Community.

Done at Brussels, 29 June 1999.

For the Council
The President
J. FISCHER

Declaration of provisional application

It will not be possible for the European Community to complete before 30 June 1999 its institutional procedures for approval as required by Article XXII(b) of the Food Aid Convention.

In accordance with Article XXII(c) of the said Convention, the Community therefore makes this declaration of provisional application which shall take effect when the Convention enters into force. By depositing such a declaration, the Community regards itself to be provisionally a party to the Convention concerned, with all the rights and obligations which result therefrom, until such time as it has taken a final decision on the matter.

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FOOD AID CONVENTION 1999

Preamble

THE PARTIES TO THIS CONVENTION,

Having reviewed the Food Aid Convention 1995 and its objective of securing at least 10 million t of food aid annually in the form of grain suitable for human consumption, and wishing to confirm their desire to maintain international cooperation on food aid matters among member governments;

Recalling the Declaration on World Food Security and the World Food Summit plan of action adopted in Rome in 1996, in particular the commitment to achieve food security for all and to an ongoing effort to eradicate hunger;

Desiring to enhance the capacity of the international community to respond to food emergency situations and to improve world food security, through the assurance of supplies of food aid irrespective of world food price and supply fluctuations;

Recalling that, in their 1994 Marrakesh decision on measures concerning least-developed countries and net food-importing developing countries, ministers of WTO member countries agreed to review the level of food aid established under the Food Aid Convention as further elaborated at the 1996 Singapore Ministerial Conference;

Recognising that the recipients and members have their own policies on food aid and related matters, and that the ultimate objective of food aid is the elimination of the need for food aid itself;

Desiring to improve the effectiveness and quality of food aid as a tool in support of food security in developing countries, particularly to alleviate poverty and hunger of the most vulnerable groups, and to improve member coordination and cooperation in the field of food aid,

HAVE AGREED ON THE FOLLOWING:

PART I

OBJECTIVES AND DEFINITIONS

Article I

Objectives

The objectives of this Convention are to contribute to world food security and to improve the ability of the international community to respond to emergency food situations and other food needs of developing countries by:

- (a) making appropriate levels of food aid available on a predictable basis, as determined by the provisions of this Convention;
- (b) encouraging members to ensure that the food aid provided is aimed particularly at the alleviation of poverty and hunger of the most vulnerable groups, and is consistent with agricultural development in those countries;

(c) including principles for maximising the impact, the effectiveness and quality of the food aid provided as a tool in support of food security;

(d) providing a framework for cooperation, coordination and information-sharing among members on food aid related matters to achieve greater efficiency in all aspects of food aid operations and better coherence between food aid and other policy instruments.

Article II

Definitions

(a) Under this Convention, unless the context otherwise requires, any reference to:

(i) 'cif' means cost, insurance and freight;

(ii) 'commitment' means the minimum amount of food aid to be provided annually by a member under Article III(e);

- (iii) 'Committee' means the Food Aid Committee referred to in Article XV;
- (iv) 'contribution' means the amount of food aid provided and reported to the Committee by a member annually in accordance with the provisions of this Convention;
- (v) 'Convention' means the Food Aid Convention 1999;
- (vi) 'DAC' means the Development Assistance Committee of the OECD;
- (vii) 'developing country' means any country or territory eligible to receive food aid under Article VII;
- (viii) 'eligible product' means a product, referred to in Article IV, which may be provided as food aid by a member as its contribution under this Convention;
- (ix) 'Executive Director' means the Executive Director of the International Grains Council;
- (x) 'fob' means free on board;
- (xi) 'food' or 'food aid' includes, as appropriate, a reference to seed for food crops;
- (xii) 'member' means a party to this Convention;
- (xiii) 'micro-nutrients' means vitamins and minerals used to fortify or complement food aid products which are eligible, under Article IV (c), to be counted as a member's contribution;
- (xiv) 'OECD' means the Organisation for Economic Cooperation and Development;
- (xv) 'products of primary processing' include:
- cereal flours,
 - cereal groats and cereal meal,
 - other worked cereal grains (e.g. rolled, flaked, polished, pearled and kibbled, but not further prepared) except husked, glazed, polished or broken rice,
 - germ of cereals, whole, rolled, flaked or ground,
 - bulgur, and
 - any other similar grain product which the Committee may decide;
- (xvi) 'products of secondary processing' include:
- macaroni, spaghetti and similar products, and
 - any other product, whose manufacture involves the use of a product of primary processing, which the Committee may decide;
- (xvii) 'rice' includes husked, glazed, polished or broken rice;
- (xviii) 'Secretariat' means the Secretariat of the International Grains Council;
- (xix) 'tonne' means a metric ton of 1 000 kilograms;
- (xx) 'transport and other operational costs', as listed in Annex A, mean costs beyond the fob stage or, in the case of local purchases, beyond the point of purchase, associated with a food aid operation, which may be counted in whole or in part towards a member's contribution;
- (xxi) 'value' means the commitment of a member in a convertible currency;
- (xxii) 'wheat equivalent' means the amount of a member's commitment or contribution as evaluated in accordance with Article V;
- (xxiii) 'WTO' means the World Trade Organisation;
- (xxiv) 'year' means the period from 1 July to the following 30 June, unless otherwise stated.
- (b) Any reference in this Convention to a 'government' or 'governments' or 'member' shall be construed as including a reference to the European Community (hereinafter referred to as the EC). Accordingly, any reference in this Convention to 'signature' or to the 'deposit of instruments of ratification, acceptance, or approval' or 'an instrument of accession' or 'a declaration of provisional application' by a government shall, in the case of the EC, be construed as including signature or declaration of provisional application on behalf of the EC by its competent authority and the deposit of the instrument required by the institutional procedures of the EC to be deposited for the conclusion of an international agreement.
- (c) Any reference in this Convention to a 'government', or 'governments', or 'member', shall be understood, where appropriate, to include a reference to any separate customs territory within the meaning of the General Agreement on Tariffs and Trade or of the Agreement Establishing The World Trade Organisation.

PART II

CONTRIBUTIONS AND NEEDS

Article III

Quantities and quality

- (a) Members agree to provide food aid to developing countries or the cash equivalent thereof in the minimum annual

- amounts specified in paragraph (e) below (hereinafter referred to as 'the commitment').
- (b) The commitment of each member shall be expressed in either tonnes of wheat equivalent or in value or in a combination of tonnage and value. Members expressing their commitment in value terms shall also specify a guaranteed annual tonnage.
- (c) In the case of members expressing their commitment in value terms or in a combination of tonnage and value, the value may include the transport and other operational costs associated with the food aid operations.
- (d) Whether its commitment is expressed in tonnage, in value, or in a combination of tonnage and value, a member may also include an indicative value representing its total estimated cost, including the transport and other operational costs associated with the food aid operations.
- (e) Subject to the provisions of Article VI, the commitment of each member shall be:

Member	Tonnage ⁽¹⁾ (wheat equivalent)	Value ⁽¹⁾ (millions)	Total indicative value (millions)
Argentina	35 000	—	
Australia	250 000	—	AUD 90 ⁽²⁾
Canada	420 000	—	CAD 150 ⁽²⁾
European Community and its Member States	1 320 000	EUR 130 ⁽²⁾	EUR 422 ⁽²⁾
Japan	300 000	—	
Norway	30 000	—	NOK 59 ⁽²⁾
Switzerland	40 000	—	
United States of America	2 500 000	—	USD 900 to 1 000 ⁽²⁾

⁽¹⁾ Members shall report their food aid operations in line with the relevant Rules of Procedure.

⁽²⁾ Includes transport and other operational costs.

- (f) Transport and other operational costs, when counted towards a member's commitment, must be incurred as part of a food aid operation which is also eligible to be counted towards a member's commitment.
- (g) In respect of transport and other operational costs, a member cannot count more than the acquisition cost of eligible products towards its commitment, except in the case of internationally recognised emergency situations.
- (h) Any member which has acceded to this Convention under paragraph (b) of Article XXIII shall be deemed to be listed in paragraph (e) of this Article, together with its commitment.
- (i) The commitment of an acceding member referred to in paragraph (h) of this Article shall not be less than 20 000 tonnes or an appropriate value as the Committee may approve. This will normally apply in full starting in the first year during which the country is deemed by the Committee to have acceded to the Convention. However, to facilitate the accession of governments other than those referred to in paragraph (e) of this Article, the Committee may agree that an acceding member's commitment should be phased in over a period of not more than three years, provided that the commitment is at least 10 000 tonnes or an appropriate value in the first year, and increases by at least 5 000 tonnes a year or an appropriate value in each succeeding year.
- (j) All products provided as food aid shall meet international quality standards, be consistent with the dietary habits and nutritional needs of recipients and, with the exception of seeds, shall be suitable for human consumption.

Article IV

Products

- (a) The following products are eligible to be supplied under this Convention, subject to the specifications set out in the relevant Rules of Procedure:
- (i) grains (wheat, barley, maize, millet, oats, rye, sorghum or triticale), or rice;
 - (ii) grain and rice products of primary or secondary processing;
 - (iii) pulses;
 - (iv) edible oil;
 - (v) root crops (cassava, round potatoes, sweet potatoes, yams, or taro), where these are supplied in triangular transactions or in local purchases;
 - (vi) skimmed-milk powder;

- (vii) sugar;
 - (viii) seed for eligible products;
 - (ix) within the limits of paragraph (b) below, products which are a component of the traditional diet of vulnerable groups, or a component of supplementary feeding programmes, and which meet the requirements set out in Article III (j) of this Convention.
- (b) The amount of food aid provided by a member in any year in fulfilling its commitment in the form of:
- (i) all products included in paragraph (a)(vi) to (viii) of this Article shall not together exceed 15%, and no product category may individually exceed 7%, of its commitment excluding transport and other operational costs;
 - (ii) all products included in paragraph (a)(ix) of this Article shall not together exceed 5%, and no product may individually exceed 3%, of its commitment excluding transport and other operational costs;
 - (iii) in the case of commitments expressed as a combination of tonnage and value, the percentages in subparagraphs (i) and (ii) above shall be calculated separately for tonnage and value, excluding transport and other operational costs.
- (c) For the purposes of fulfilment of their commitments, members may provide micro-nutrients in conjunction with eligible products. They are encouraged to provide, when appropriate, fortified food aid products, particularly in emergency situations and targeted development projects.
- (iv) pulses, seed of grain, rice or other food crops, and all other eligible products, shall be based on the costs of acquisition in accordance with the methods set out in the Rules of Procedure.
 - (b) In the case of contributions in the form of blends or mixtures of products, only the proportion of the blend or mixture which is made from eligible products shall be counted towards a member's contribution.
 - (c) The Committee shall establish a Rule of Procedure to determine the wheat equivalent of fortified products and micro-nutrients.
 - (d) Contributions of cash for the purchase of eligible products supplied as food aid shall be evaluated either in accordance with the wheat equivalent of these products, or at prevailing international market prices of wheat, in accordance with the methods laid down in the Rules of Procedure.

Article VI

Carryover and carryforward

- (a) Each member shall ensure that operations in respect of its commitment for one year are made to the maximum extent possible within that year.
- (b) If a member is unable to provide that amount specified in paragraph (e) of Article III in a particular year, it shall report the circumstances to the Committee as soon as possible and, in any case, no later than the first session held after the end of that year. Unless the Committee decides otherwise, the unfulfilled amount shall be added to the member's commitment for the following year.
- (c) If a member's contribution exceeds its commitment for any year, up to 5% of its overall commitment, or the amount of the excess, whichever is the smaller, may be counted as part of the member's commitment for the following year.

Article V

Equivalence

- (a) Contributions shall be counted in terms of their wheat equivalent, as follows:
 - (i) grain for human consumption shall be equal to wheat;
 - (ii) rice shall be determined by the international export price relationship between rice and wheat, in accordance with the methods set out in the Rules of Procedure;
 - (iii) products of primary or secondary processing of grains or of rice shall be determined by their respective grain or rice content, in accordance with the specifications set out in the Rules of Procedure;

Article VII

Eligible recipients

- (a) Food aid under this Convention may be provided to the developing countries and territories which are listed in Annex B, namely:
 - (i) least-developed countries;
 - (ii) low-income countries;

- (iii) lower middle-income countries, and other countries included in the WTO list of net food-importing developing countries at the time of negotiation of this Convention, when experiencing food emergencies or internationally recognised financial crises leading to food shortage emergencies, or when food aid operations are targeted on vulnerable groups.
- (b) For purposes of paragraph (a), any changes made to the DAC list of developing countries and territories in Annex B(a) to (c) shall also apply to the list of eligible recipients under this Convention.
- (c) When allocating their food aid, members shall give priority to least-developed countries and low-income countries.
- (g) At the time of the identification of food aid needs, members or their partners shall endeavour to consult with each other at the regional and recipient country level, with a view to developing a common approach to needs analysis.
- (h) Members agree, where appropriate, to identify priority countries and regions under their food aid programmes. Members will ensure transparency as to their priorities, policies and programmes, by providing information for other donors.
- (i) Members will consult with each other, directly or through their relevant partners, on the possibilities for the establishment of common action plans for priority countries, if possible on a multiannual basis.

Article VIII

Needs

- (a) Food aid should only be provided when it is the most effective and appropriate means of assistance.
- (b) Food aid should be based on an evaluation of needs by the recipient and the members, within their own respective policies, and should be aimed at enhancing food security in recipient countries. In responding to those needs, members shall pay attention to meeting the particular nutritional needs of women and children.
- (c) Food aid for free distribution should be targeted on vulnerable groups.
- (d) The provision of food aid in emergency situations should take particular account of longer-term rehabilitation and development objectives in the recipient countries and should respect basic humanitarian principles. Members shall aim to ensure that the food aid provided reaches the intended recipients in a timely manner.
- (e) To the maximum extent possible, non-emergency food aid shall be provided by members on a forward planning basis, so that recipient countries may be able to take account, in their development programmes, of the likely flow of food aid they will receive during each year of this Convention.
- (f) If it appears that, because of a substantial production shortfall or other circumstances, a particular country, region or regions is faced with exceptional food needs, the matter shall be considered by the Committee. The Committee may recommend that members should respond to the situation by increasing the amount of food aid provided.

Article IX

Forms and terms of aid

- (a) Food aid under this Convention may be supplied as:
 - (i) grants of food or of cash to be used to purchase food for or by the recipient country;
 - (ii) sales of food for the currency of the recipient country, which is not transferable and is not convertible into currency or goods and services for use by the donor members;
 - (iii) sales of food on credit, with payment to be made in reasonable annual amounts over periods of 20 years or more and with interest at rates which are below commercial rates prevailing in world markets.
- (b) With respect only to food aid counted against a member's commitment, all food aid provided to least-developed countries shall be made in the form of grants.
- (c) Food aid under this Convention provided in the form of grants shall represent not less than 80% of a member's contribution and, to the extent possible, members will seek progressively to exceed this percentage.
- (d) Members shall undertake to conduct all food aid transactions under this Convention in such a way as to avoid harmful interference with normal patterns of production and international commercial trade.
- (e) Members shall ensure that:
 - (i) the provision of food aid is not tied directly or indirectly, formally or informally, explicitly or

implicitly, to commercial exports of agricultural products or other goods and services to recipient countries;

- (ii) food aid transactions, including bilateral food aid which is monetised, are carried out in a manner consistent with the FAO 'Principles of surplus disposal and consultative obligations'.

Article X

Transport and delivery

- (a) The costs of transporting and delivering food aid beyond the fob stage shall, to the extent possible, be borne by the donors, particularly in the case of emergency food aid or food aid provided to priority recipient countries.
- (b) In planning food aid operations, due account shall be taken of potential difficulties which may affect transport, processing or storage of food aid, and the effects that the delivery of the aid may have on marketing of local harvests in the recipient country.
- (c) In order to make optimum use of available logistical capacity, members shall establish, as far as possible, with other food aid donors, recipient countries, and any other parties involved in the delivery of the food aid, a coordinated timetable for the delivery of their aid.
- (d) Due reference to the payment of transport and other operational costs shall be made in any review of the performance of members under this Convention.
- (e) Transport and other operational costs must be incurred as part of a food aid operation which is also eligible to be reported as part of a member's contribution.

Article XI

Channelling

- (a) Members may provide their food aid bilaterally, through intergovernmental or other international organisations, or non-governmental organisations.
- (b) Members shall give full consideration to the advantages of directing food aid through multilateral channels, in particular the World Food Programme.
- (c) In developing and implementing their food aid operations, members shall make use, whenever possible, of information and competencies available within the relevant

international organisations, whether intergovernmental or non-governmental, active in the field of food aid.

- (d) Members are encouraged to coordinate their food aid policies and activities in relation to international organisations active in the field of food aid, with a view to strengthening the coherence of food aid operations.

Article XII

Local purchases and triangular transactions

- (a) In order to promote local agricultural development, strengthen regional and local markets and enhance the longer-term food security of recipient countries, members shall give consideration to using or directing their cash contributions for the purchase of food:
 - (i) for supply to the recipient country from other developing countries (triangular transactions); or
 - (ii) in one part of a developing country for supply to a deficit area in that country (local purchases).
- (b) Cash contributions shall not normally be made to purchase food which is of the same type that the country which is the source of supply has received as bilateral or multilateral food aid in the same year as the purchase, or in a previous year if the food aid then received is still being used.
- (c) To facilitate the purchase of food from developing countries, members shall, to the extent possible, provide to the Secretariat such information as is available to them on food surpluses that may exist, or are anticipated, in developing countries.
- (d) Members shall pay particular attention to avoiding harmful effects on low-income consumers due to price changes resulting from local purchases.

Article XIII

Effectiveness and impact

- (a) In all food aid transactions, members shall pay particular attention to:
 - (i) avoiding harmful effects on local harvests, production and marketing structures, by appropriately timing the distribution of food aid;
 - (ii) respecting local food habits and nutritional needs of the beneficiaries and minimising any possible negative effects on their eating habits;

- (iii) facilitating the participation of women in the decision-making process and in the implementation of food aid operations, thus strengthening food security at the household level.
- (b) Members shall endeavour to support the efforts of governments in recipient countries to develop and implement food aid programmes in a manner consistent with this Convention.
- (c) Members should support and, where appropriate, contribute to strengthening the capacity and competence of recipient governments and the respective civil societies to develop and implement food security strategies to enhance the impact of food aid programmes.
- (d) When food aid is sold within a recipient country, the sale shall be carried out, as far as possible, through the private sector and be based on market analysis. In targeting proceeds from such sales, priority shall be given to projects aiming to improve the food security of beneficiaries.
- (e) Consideration should be given to reinforcing food aid by other means (financial aid, technical assistance, etc.) in order to strengthen its capacity to enhance food security and to increase the capacity of governments and civil society to develop food security strategies at all levels.
- (f) Members shall endeavour to ensure coherence between food aid policies and policies in other sectors such as development, agriculture and trade.
- (g) Members agree to consult to the extent possible with all partners concerned at the level of each recipient country to ensure monitoring of the coordination of food aid programmes and operations.
- (h) Members shall endeavour to carry out joint evaluations of their food aid programmes and operations. Such evaluation should be based on agreed international principles.
- (i) When carrying out evaluations of their food aid programmes and operations, members shall take into consideration the provisions of this Convention relating to the effectiveness and impact of those food aid programmes and operations.
- (j) Members are encouraged to assess the impact of their food aid programmes, channelled bilaterally or multilaterally or through non-governmental organisations, using appropriate indicators such as the nutritional status of the beneficiaries and other indicators related to world food security.

Article XIV

Information and coordination

- (a) Members shall provide regular and timely reports to the Committee on the amount, content, channelling, costs including transport and other operational costs, forms and terms of their contributions in accordance with the Rules of Procedure.
- (b) Members undertake to supply such statistical and other information that may be required for the operation of this Convention, in particular regarding their:
 - (i) aid deliveries, including the purchase of products made as the result of cash contributions, local purchases or triangular operations, and those channelled through international organisations;
 - (ii) arrangements entered into for the future supply of food aid;
 - (iii) policies affecting the provision and distribution of food aid. To the extent possible, these reports shall be submitted in writing to the executive director before each regular session of the Committee.
- (c) Members who make contributions in the form of multilateral cash contributions to international organisations shall report the fulfilment of their obligations in accordance with the Rules of Procedure.
- (d) Members shall exchange information on their food aid policies and programmes and the results of their evaluations of these policies and programmes, and shall endeavour to ensure the coherence of their food aid programmes with food security strategies at national, regional, local and household levels.
- (e) Members shall indicate to the Committee, in advance, the amount of their commitment which is not made in the form of grants and the terms of any such aid.

PART III

ADMINISTRATION

Article XV

Food Aid Committee

- (a) The Food Aid Committee, established by the Food Aid Convention of the International Grains Arrangement 1967, shall continue in being for the purpose of administering

this Convention, with the powers and functions provided in this Convention.

- (b) The membership of the Committee shall consist of all parties to this Convention.
- (c) Each member shall designate a representative resident at the seat of the Committee to whom the Secretariat's notices and other communications related to the work of the Committee shall normally be addressed. Other arrangements may be adopted by any member in agreement with the executive director.

Article XVI

Powers and functions

- (a) The Committee shall take such decisions and perform such functions as are required to carry out the provisions of this Convention. It shall establish such Rules of Procedure as are necessary for this purpose.
- (b) The decisions of the Committee shall be reached by consensus.
- (c) The Committee shall keep the requirements for food aid in developing countries and the ability of members to respond to those requirements under review.
- (d) The Committee shall keep under review the progress made in attaining the objectives set out in Article I of this Convention, and the fulfilment of the provisions of this Convention.
- (e) The Committee may receive information from recipient countries and consult with them.

Article XVII

Chairman and vice-chairman

- (a) At the last statutory session held in each year, the Committee shall appoint a chairman and a vice-chairman for the following year.
- (b) The duties of the chairman shall be:
 - (i) to approve the draft agenda for each session;
 - (ii) to preside at sessions;
 - (iii) to declare the opening and closing of each meeting and of each session;
 - (iv) to submit the draft agenda to the Committee for adoption at the beginning of each session;
 - (v) to direct the discussions and to ensure observance of the Rules of Procedure;

- (vi) to accord the right to speak and to decide all questions of order in accordance with the relevant Rules of Procedure;

- (vii) to put questions and announce decisions;

- (viii) to rule on points of order that delegates may raise.

- (c) If the chairman is absent from a session or any part thereof, or is temporarily unable to fill the office of chairman, the vice-chairman shall act as chairman. In the absence of the chairman and the vice-chairman, the Committee shall appoint a temporary chairman.

- (d) If, for any reason, the chairman is unable to continue to fill the office of chairman, the vice-chairman shall act as chairman pending the appointment of a new chairman by the Committee.

- (e) The vice-chairman, when acting as chairman, or the temporary chairman, shall have the same powers and duties as the chairman.

Article XVIII

Sessions

- (a) The Committee shall meet at least twice a year in conjunction with the statutory sessions of the International Grains Council. The Committee shall meet also at such other times either as the chairman shall decide, at the request of three members, or as otherwise required by this Convention.
- (b) The presence of delegates representing two thirds of the membership of the Committee shall be necessary to constitute a quorum at any session of the Committee.
- (c) The Committee may, when appropriate, invite any non-member government and representatives from other international intergovernmental organisations to attend its open meetings as observers.
- (d) The seat of the Committee shall be in London.

Article XIX

Secretariat

- (a) The Committee shall use the services of the Secretariat of the International Grains Council for the performance of such administrative duties as the Committee may request, including the processing and distribution of documentation and reports.

- (b) The executive director shall carry out the directions of the Committee and shall perform such duties as are laid down in the Convention and the Rules of Procedure.

Article XX

Defaults and disputes

- (a) In the case of a dispute concerning the interpretation or application of this Convention, or of a default in obligations under this Convention, the Committee shall meet and take appropriate action.
- (b) Members shall take account of the recommendations and conclusions reached by consensus by the Committee in cases of disagreement as to the application of the provisions of this Convention.

PART IV

FINAL PROVISIONS

Article XXI

Depositary

The Secretary-General of the United Nations is hereby designated as the depositary of this Convention.

Article XXII

Signature and ratification

- (a) This Convention shall be open for signature from 1 May 1999 until and including 30 June 1999 by the governments referred to in paragraph (e) of Article III.
- (b) This Convention shall be subject to ratification, acceptance or approval by each signatory government in accordance with its constitutional procedures. Instruments of ratification, acceptance or approval shall be deposited with the depositary not later than 30 June 1999, except that the Committee may grant one or more extensions of time to any signatory government that has not deposited its instrument of ratification, acceptance or approval by that date.
- (c) Any signatory government may deposit with the depositary a declaration of provisional application of this Convention. Any such government shall provisionally apply this Convention in accordance with its laws and regulations and be provisionally regarded as a party thereto.
- (d) The depositary shall notify all signatory and acceding governments of each signature, ratification, acceptance, approval, provisional application of, and accession to, this Convention.

Article XXIII

Accession

- (a) This Convention shall be open for accession by any government referred to in paragraph (e) of Article III that has not signed this Convention. Instruments of accession shall be deposited with the depositary not later than 30 June 1999, except that the Committee may grant one or more extensions of time to any government that has not deposited its instrument of accession by that date.
- (b) Once this Convention has entered into force in accordance with Article XXIV it shall be open for accession by any government other than those referred to in paragraph (e) of Article III on such conditions as the Committee considers appropriate. Instruments of accession shall be deposited with the depositary.
- (c) Any government acceding to this Convention under paragraph (a) of this Article, or whose accession has been agreed by the Committee under paragraph (b) of this Article, may deposit with the depositary a declaration of provisional application of this Convention pending the deposit of its instrument of accession. Any such government shall provisionally apply this Convention in accordance with its laws and regulations and be provisionally regarded as a party thereto.

Article XXIV

Entry into force

- (a) This Convention shall enter into force on 1 July 1999 if by 30 June 1999 the governments, whose combined commitments, as listed in paragraph (e) of Article III, equal at least 75% of the total commitments of all governments listed in that paragraph, have deposited instruments of ratification, acceptance, approval or accession, or declarations of provisional application, and provided that the Grains Trade Convention 1995 is in force.
- (b) If this Convention does not enter into force in accordance with paragraph (a) of this Article, the governments which have deposited instruments of ratification, acceptance, approval or accession, or declarations of provisional application, may decide by unanimous consent that it shall enter into force among themselves provided that the Grains Trade Convention 1995 is in force.

Article XXV

Duration and withdrawal

- (a) This Convention shall remain in force until and including 30 June 2002, unless extended under paragraph (b) of this Article or terminated earlier under paragraph (f) of this Article, provided that the Grains Trade Convention 1995, or a new Grains Trade Convention replacing it, remains in force until and including that date.

- (b) The Committee may extend this Convention beyond 30 June 2002 for successive periods not exceeding two years on each occasion, provided that the Grains Trade Convention 1995, or a new Grains Trade Convention replacing it, remains in force during the period of the extension.
- (c) If this Convention is extended under paragraph (b) of this Article, the commitments of members under paragraph (e) of Article III may be subject to review by members before the entry into force of each extension. Their respective commitments, as reviewed, shall remain unchanged for the duration of each extension.
- (d) The operation of this Convention shall be kept under review, in particular with reference to the results of any multilateral negotiations bearing on the provision of food aid, including especially on concessional credit terms, and the need to apply the results thereof.
- (e) The situation with respect to all food aid operations and, in particular, those under concessional credit terms, shall be reviewed before deciding on any extension of this Convention or any new convention.
- (f) In the event of this Convention being terminated, the Committee shall continue in being for such time as may be required to carry out its liquidation, and shall have such powers, and exercise such functions, as may be necessary for that purpose.
- (g) Any member may withdraw from this Convention at the end of any year by giving written notice of withdrawal to the depositary at least 90 days prior to the end of that year. That member shall not thereby be released from any obligations incurred under this Convention which have not been discharged by the end of that year. The member shall simultaneously inform the Committee of the action it has taken.
- (h) Any member which withdraws from this Convention may thereafter rejoin by giving written notice to the Committee and to the depositary. It shall be a condition of rejoining the Convention that the member shall be responsible for fulfilling its commitment with effect from the year in which it rejoins.

Article XXVI

International Grains Agreement

This Convention shall replace the Food Aid Convention 1995, as extended, and shall be one of the constituent instruments of the International Grains Agreement 1995.

Article XXVII

Authentic texts

The texts of this Convention in the English, French, Russian and Spanish languages shall all be equally authentic.

Done at London, 13 April 1999.

ANNEX A

TRANSPORT AND OTHER OPERATIONAL COSTS

The following transport and other operational costs associated with food aid contributions are included under Articles II(a)(vii), III, X and XIV of this Convention:

(a) transport costs:

freight, including loading and discharge,
demurrage and dispatch,
transshipment,
bagging,
insurance and superintendance,
port charges and storage fees in port,
temporary warehouse facilities and fees in port and en-route,
in-country transport, vehicle hire, tolls and escort, convoy and border fees,
equipment hire,
aircraft, airlifts;

(b) other operational costs:

non-food items (NFIs) utilised by beneficiaries (tools, utensils, agricultural inputs)
NFIs provided to implementing partners (vehicles, storage facilities)
costs of counterpart training,
implementing partners' operational costs, not otherwise covered as transport costs,
milling and other special costs,
in-country NGO costs,
technical support services and logistics management,
project preparation, appraisal, monitoring and evaluation,
beneficiary registration,
in-country technical services.

ANNEX B

ELIGIBLE RECIPIENTS

Eligible food aid recipients under Article VII of this Convention refer to developing countries and territories listed as aid recipients by the Development Assistance Committee (DAC) of the OECD, effective as of 1 January 1997, and to countries included in the WTO list of net food-importing developing countries, effective as of 1 March 1999.

(a) Least-developed countries

Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Myanmar, Nepal, Niger, Rwanda, São Tomé and Príncipe, Sierra Leone, Solomon Islands, Somalia, Sudan, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Western Samoa, Yemen, Zambia.

(b) Low-income countries

Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Cameroon, China, Republic of the Congo, Côte d'Ivoire, Georgia, Ghana, Guyana, Honduras, India, Kenya, Kyrgyz Republic, Mongolia, Nicaragua, Nigeria, Pakistan, Senegal, Sri Lanka, Tajikistan, Vietnam Zimbabwe.

(c) Lower middle-income countries

Algeria, Belize, Bolivia, Botswana, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Fiji, Grenada, Guatemala, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Democratic People's Republic of Korea, Lebanon, Macedonia (former Yugoslav Republic), Marshall Islands, Micronesia Federated States, Moldova, Morocco, Namibia, Niue, Palau Islands, Palestinian Administered Areas, Panama, Papua New Guinea, Paraguay, Peru, Philippines, St Vincent & Grenadines, Suriname, Swaziland, Syria, Thailand, Timor, Tokelau, Tonga, Tunisia, Turkey, Turkmenistan, Uzbekistan, Venezuela, Wallis and Futuna, and Yugoslavia Federal Republic.

(d) WTO net food-importing developing countries (not included above)

Barbados, Mauritius, St Lucia, Trinidad & Tobago.
