



TREATY SERIES 2010
N° 10

The Food Aid Convention

Adopted at London on 13 April 1999

Ireland's Instrument of Ratification deposited
on 30 June 1999

Entered into force with respect to Ireland
on 30 June 1999

Due to terminate on 30 June 2002,
as extended pursuant to Article XXC(b) from
1 July 2002 to 30 June 2003,
1 July 2003 to 30 June 2005,
1 July 2005 to 30 June 2007,
1 July 2007 to 30 June 2008,
1 July 2008 to 30 June 2009,
1 July 2009 to 30 June 2010

Presented to Dáil Éireann by the Minister for Foreign Affairs

THE 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 tonnes of food aid annually in the form of grain suitable for human consumption, and wishing to confirm their desire to maintain international co-operation 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 co-ordination and co-operation in the field of food aid;

HAVE AGREED on the following:

PART I – OBJECTIVE AND DEFINITIONS

Article 1 *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; and,
- (d) providing a framework for co-operation, co-ordination 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 2 *Definitions*

- (a) Under this Convention, unless the context otherwise requires, any reference to:
 - (i) “c.i.f.” 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 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) “f.o.b.” 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) “Micronutrients” 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 Co-operation 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 f.o.b. 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 Organization;

(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 Organization.

PART II – CONTRIBUTIONS AND NEEDS

Article 3

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	-	A\$ 90 ⁽²⁾
Canada	420,000	-	C\$ 150 ⁽²⁾
European Community and its member States	1,320,000	€ 130 ⁽²⁾	€ 422 ⁽²⁾
Japan	300,000	-	
Norway	30,000	-	NOK 59 ⁽²⁾
Switzerland	40,000	-	
United States of America	2,500,000	-	US\$ 900-1,000 ⁽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 4

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; and,
 - (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 sub-paragraphs (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 micronutrients in conjunction with eligible products. They are encouraged to provide, when appropriate, fortified food aid products, particularly in emergency situations and targeted development projects.

Article 5
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;
 - (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 6
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 the 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 7
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) above, 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.

Article 8
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.
- (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 multi-annual basis.

Article 9
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 per cent 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 10

Transport and Delivery

- (a) The costs of transporting and delivering food aid beyond the f.o.b. 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 co-ordinated 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 11

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 inter-governmental or nongovernmental, active in the field of food aid.

- (d) Members are encouraged to co-ordinate 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 12

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 13

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; and
 - (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 co-ordination 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 14
Information and Co-ordination

- (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 channeled 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 15

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 16
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 17
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; and
 - (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 18 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 inter-governmental organisations to attend its open meetings as observers.
- (d) The seat of the Committee shall be in London.

Article 19 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 20 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 21 *Depositary*

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

Article 22 *Signature and Ratification*

- (a) 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 23 *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, upon 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 24

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 25

Duration and Withdrawal

- (i) 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.
- (ii) 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.
- (iii) 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.
- (iv) 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.
- (v) 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.

- (vi) 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.
- (vii) Any member may withdraw from this Convention at the end of any year by giving written notice of withdrawal to the depositary at least ninety 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.
- (viii) 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 26
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 27
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 Nineteen Ninety-Nine

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
- trans-shipment
- bagging
- insurance and superintendence
- port charges and storage fees in port
- temporary warehouse facilities and fees in port and on-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, Congo Dem. Rep., Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Myanmar, Nepal, Niger, Rwanda, Sao Tome and Principe, 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, Congo Rep, Côte d'Ivoire, Georgia, Ghana, Guyana, Honduras, India, Kenya, Kyrgyz Rep, Mongolia, Nicaragua, Nigeria, Pakistan, Senegal, Sri Lanka, Tajikistan, Viet Nam and 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, Korea (Democratic Republic of), 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.

Secretariat's note

In accordance with Article VII (c) of the FAC, 1999, changes made by the Development Assistance Committee (DAC) of OECD in its lists of aid recipients are to be reflected in the lists of eligible FAC recipients. The table in Annex B above applied in respect of aid provided in 1999/2000 only. Current lists of eligible recipients may be obtained from the IGC Secretariat.

RULES OF PROCEDURE*
under the
FOOD AID CONVENTION, 1999

RULE 1
Fulfilment of obligations

Article III

Each member is responsible for the fulfilment of all obligations under this Convention relating to its contributions, including those in the form of local purchases and triangular transactions and those channelled through international or non-governmental organizations.

RULE 2
Transport and operational costs

Article III

The limit, specified in paragraph (g) of Article III of this Convention, on the transport and other operational costs (other than those incurred in emergency situations) which may be counted towards a member's commitment in any year, shall apply to the aggregate of those costs incurred by that member in that year.

RULE 3
Wheat equivalent of rice

Article V

- (a) Contributions of milled white rice shall be evaluated on the basis of the prevailing ratio between the international market prices of rice and wheat, which shall be calculated as follows:
- (i) the international market price for rice shall be the indicative trading price, expressed in United States dollars per tonne at prevailing exchange rates, of Thai white rice, 100% second grade, f.o.b. Bangkok or, if that price is unavailable, an equivalent grade;
 - (ii) the international market price for wheat shall be the average export price as determined in accordance with paragraph (a) of Rule 7. It shall not, however, be subject to the adjustments provided for in paragraph (c) of Rule 7;

* As amended by the Food Aid Committee at its Ninety-second Session on 13 June 2005 (Rules 4, 9 and 10), at its Ninety-fifth Session on 5 December 2006 (Rule 7), and at its One-hundredth Session on 5 June 2009 (Rule 6).

- (iii) the international market prices of rice and wheat shall be expressed as annual averages on a calendar year basis;
 - (iv) by the end of March in each year, the Secretariat shall calculate the ratio, averaged over the latest five calendar years, between the international market prices of rice and of wheat (expressed, to one decimal place, as the price of rice divided by the price of wheat). This ratio shall be known as the “prevailing ratio”. The results of the calculation shall be immediately communicated to members of the Committee;
 - (v) the “prevailing ratio” shall be used to calculate the wheat equivalent of members’ contributions of rice in the following year (starting 1 July).
- (b) Contributions of rice other than milled white rice (and, at a member’s request, a contribution of milled white rice by that member) shall be evaluated on the basis of the real cost of acquisition, provided that the resulting wheat equivalent is not larger than it would have been if calculated according to the procedures in paragraph (a) above.
- (c) Committee shall keep the operation of this Rule under review.

RULE 4

Wheat equivalent of processed grain products

Article V

- (a) Contributions of grain products of primary and secondary processing shall be evaluated on the basis of the following schedules, unless the member specifies a different conversion rate:

<i>Product</i>	<i>Tonnes of product (minimum)</i>	<i>Tonnes of wheat equivalent</i>
(i) products of primary processing		
wheat flour	0.73	1
semolina	0.67	1
bulgur	0.87	1
rolled wheat	0.93	1
whole wheat meal	0.98	1
barley flour	0.50	1
pearl barley	0.60	1
maize (corn) flour	0.59	1
maize (corn) grits	0.52	1
maize (corn) meal (non-degermed)	0.89	1
oat flour	1	1
rolled oats or oatmeal	0.58	1
rye flour	0.80	1
rolled rye	1	1

(ii) products of secondary processing		
(1) made from durum wheat, having an ash content (by weight) referred to dry matter		
- of 0.95% or less	0.50	1
- of more than 0.95%	0.55	1
(2) made from soft wheat, an ash content (by weight) referred to dry matter		
- of 0.95% or less	0.60	1
- of more than 0.95%	0.70	1
(3) high energy biscuits (grain content)	0.75	1

- (b) Where a contribution involves a different rate of conversion than that set out in paragraph (a) above, details shall be supplied to the Executive Director and reported to the Committee.
- (c) The Committee shall determine the rate of conversion to wheat equivalent for any eligible processed grain products contributed under this Convention which are listed in paragraph (a) above.
- (d) The Committee shall keep the operation of this Rule under review.

RULE 5

Wheat equivalent of pulses and other eligible products

Article V

- (a) Contributions of pulses and eligible products referred to in paragraph (a) (iii) - (ix) inclusive of Article IV shall be evaluated in wheat equivalent on the basis of the ratio between:
- (i) the purchase price of the product as reported by the member concerned; and,
 - (ii) the average export price of wheat in the preceding calendar year as calculated by the Secretariat in accordance with paragraphs (a) and (b) of Rule 7., provided that the equivalent per tonne of the product does not exceed 5 tonnes of wheat.
- (b) The Committee shall keep the operation of this Rule under review.

RULE 6

Wheat equivalent of micro-nutrients and fortified products

Article V

- (a) Contributions of micro-nutrients under paragraph (c) of Article IV which are supplied in conjunction with eligible products referred to in paragraph (a) of

that Article, shall be evaluated in wheat equivalent on the basis of the ratio between:

- (i) the price at which the micro-nutrients were purchased, as reported by the member concerned; and,
 - (ii) the prevailing international market price of wheat as calculated annually by the Secretariat in accordance with paragraphs (a) and (b) of Rule 7.
- (b) When contributions consist of fortified food aid products under paragraph (c) of Article IV, the wheat equivalent of the fortified product shall be the sum of:
- (i) the wheat equivalent of the eligible product concerned; and,
 - (ii) the wheat equivalent of the micro-nutrients used to fortify the product, as calculated in accordance with paragraph (a).
- (c) Contributions of eligible products by a member in any year, to be fortified, as calculated in accordance with paragraphs (a) and (b) of this Rule, shall not exceed the limits applicable to the eligible products concerned included in paragraph (b) of Article IV.
- (d) Micro-nutrients referred to in paragraph (a) and (b) of this Rule shall not exceed 15% of a member's commitment excluding transport and other operational costs
- (e) The term "supplied in conjunction with" means that micronutrients are provided in emergency or other food aid situations where there is both food aid provided and there are known micronutrient deficiencies or documented malnutrition.
- (f) The Committee shall keep the operation of this Rule under review.

RULE 7

Wheat equivalent of cash contributions

Article V

Contributions of cash for the purchase of eligible products shall be evaluated on the basis of the prevailing international market price of wheat, which shall be calculated as follows provided that the equivalent per tonne of the product does not exceed 5 tonnes of wheat:

- (a) The Secretariat shall compute, on a monthly basis, the average export prices of the following wheats, expressed in United States dollars per tonne at prevailing exchange rates:

<u>Origin</u>	<u>Type</u>	<u>Basis</u>
Australia	Australian Standard White (ASW)	fob Eastern States
Canada	No. 1 Canada Western Red Spring 13.5%	fob St. Lawrence
Canada	No. 1 Canada Western Red Spring 13.5%	fob Vancouver
United States	No. 2 Hard Red Winter (Ordinary)	fob Gulf
United States	No. 2 Soft Red Winter	fob Gulf
United States	No. 2 Dark Northern Spring 14%	fob Pacific North West
United States	No. 2 Soft White	fob Pacific North West
EC (France)	Standard Grade	fob Rouen
Argentina	Trigo Pan	fob Up River

- (b) By the end of March in each year, the Secretariat shall calculate the average export price of wheat for the preceding calendar year on the basis of its monthly calculations under paragraph (a) above. This “prevailing price” shall be used to calculate the wheat equivalent of members’ cash contributions in the immediately following year (starting 1 July). The results of this calculation shall be immediately communicated to members of the Committee.
- (c) Notwithstanding the results of the calculations under paragraph (b) above, the prevailing wheat price to be applied in any year shall not be more than 20% higher, or more than 20% less, than the “prevailing price” which was applied in the previous year.
- (d) The Committee shall keep the operation of this Rule under review.

RULE 8

Information on availabilities in developing countries

Article XII

Using the information provided by members under paragraph (c) of Article XII and any other information available to it, in particular from FAO and the WFP, the Secretariat shall report to the Committee on the availabilities of eligible products in developing countries for purchase by members under paragraph (a) of Article XII.

RULE 9

Reports by members

Article XIV

- (a) Each member shall report to the Executive Director details, as listed in paragraph (c) of this Rule, of each of its food aid operations which form part of its contributions under this Convention, including operations channelled through international or non-governmental organisations.
- (b) The reports shall cover all operations completed in the year from 1 July to 30 June and shall reach the Executive Director not later than three months after the end of the year concerned.
- (c) each food aid operation the following details shall be reported:

- (i) the year of obligation against which the operation is to be counted;
 - (ii) whether the operation is to be counted against the donors' tonnage commitment or the value commitment under paragraph (e) of Article IV;
 - (iii) the recipient country;
 - (iv) in the case of aid channelled through an international or non-governmental organisation, the name of that organisation;
 - (v) the eligible commodity supplied including details, as appropriate, of blended or fortified products;
 - (vi) the amount in tonnes of the eligible commodity supplied to the recipient, and its wheat equivalent; where the wheat equivalent is not reported, the member will make available to the Secretariat all the information required to calculate this.
 - (vii) the f.o.b. value of the eligible commodity supplied;
 - (viii) the month when the eligible commodity was shipped to the recipient, or in the case of local purchases, the month when the commodity was mobilised;
 - (ix) the terms of the operation showing in particular details of any sales under paragraph (a)(iii) of Article IX;
 - (x) payments of transport and other operational costs associated with the supply of the eligible commodities;
 - (xi) in the case of contributions of eligible products referred to in paragraph (a) (iii) - (ix) inclusive of Article IV, and of micro-nutrients, the purchase price; and
 - (xii) in the case of cash contributions used for the purchase of eligible products from other countries, the name of the country where the product was purchased.
- (d) In addition to the reports referred to in paragraph (b) of this Rule, members shall provide, at the regular sessions of the Food Aid Committee, updated summaries of the amount and value of their food aid operations under this Convention during the (July - June) year in which the session takes place.
- (e) The Committee shall keep the operation of this Rule under review.

RULE 10

Review of the fulfilment of obligations

Article XIV

- (a) To assist the Committee in its review of the fulfilment of obligations under the Convention, the Executive Director shall compile and distribute to members the following reports, using information provided under Rule 9:
 - (i) as soon as possible after 15 November in each year, a report showing all food aid operations under the Convention which took place in the previous (July - June) year; and,
 - (ii) before the end of June in each year, an estimate of each member's shipments of food aid (in tonnes, wheat equivalent) under the Convention during the year then ending.

RULE 11
Other information

Article XIV

For the purposes of the operation of this Convention, the Secretariat may seek from governments, including non-member governments, and from relevant international organizations, appropriate information, in particular:

- (i) details of the food situation in developing countries required for the purposes of the evaluation of needs under Article VIII;
- (ii) the possibilities of using food surpluses in developing countries for operations under paragraph (c) of Article XII; or
- (iii) the possible effects of food aid on food production and consumption in developing countries.

RULE 12
Channelling of cash contributions

Article XIV

Members channelling contributions in the form of cash to international and nongovernmental organisations under Article XI shall report to the Executive Director on the fulfilment of their annual contributions, the amounts and value of food aid provided (in wheat equivalent), and payments of transport and other operational costs as agreed with the organisation concerned. Members shall notify the organisation through which their food aid is channelled that all contributions made under the Convention should be utilised in accordance with the provisions of the Convention.

RULE 13
Committee Decisions

Article XVI

In the context of paragraph (b) of Article XVI, “consensus” means that agreement on a matter under discussion before the Committee shall be understood to have been reached if the conclusion of the Committee is not formally opposed by any member.

RULE 14
Amendment or suspension of Rules

Article XVI

Any proposal to amend or suspend any of the Rules of Procedure with temporary effect may be decided by the Committee. A proposal to amend or suspend permanently any of the Rules of Procedure may be decided by the Committee, provided that notice has been circulated by the Executive Director not less than one month before the session at which the proposal can be considered.

RULE 15
Records of the Committee

Article XVI

- (a) The records of the Committee shall be in the English language and, whenever possible, in the French and Spanish languages.
- (b) Unless the Committee decides otherwise, the Secretariat shall restrict the circulation of Committee documents and reports to members of the Committee and representatives of non-member states and international organizations invited to attend its meetings.
- (c) Unless the Committee decides otherwise, the availability of summary records of sessions shall cease to be restricted three months after their date of issue, except in the case of closed meetings when the summary records shall cease to be restricted three years after their date of issue.

RULE 16
Publications

Article XVI

The Executive Director shall arrange for the publication of such documents and the release of such press notices as the Committee may decide.

RULE 17
Draft agenda and notification of Sessions

Article XVIII

- (a) The draft agenda for each session shall be prepared by the Executive Director and approved by the Chairman, and shall include any items submitted by members of the Committee.
- (b) The Executive Director shall send a written notification of the date of each session, accompanied by the draft agenda, to members of the Committee and organizations invited to be represented as observers at the session. Such notification shall be sent not less than 21 days and, whenever possible, 30 days in advance of a session. When a session is convened under Article XVIII other than in conjunction with statutory sessions of the International Grains Council or, in the opinion of the Chairman, there are reasons of urgency which make it necessary to begin the session before the expiry of 21 days, a shorter period of notice may be given which shall in no case be less than 10 days.
- (c) (c) After receiving notification of a session, members of the Committee shall, as soon as possible, notify the Executive Director in writing of the names of their representatives, alternates and advisers at the session

RULE 18
Proceedings at Sessions

Article XVIII

- (a) Unless the Committee decides otherwise, attendance at sessions and other Committee meetings shall be limited to representatives of member Governments and observers whose invitations have been approved by the Committee. Proceedings at Committee meetings shall be confidential.
- (b) Proceedings at sessions shall normally be conducted in the English, French and Spanish languages, and the Executive Director shall make such arrangements for interpretation as may be necessary.
- (c) During the discussion of any matter, any delegate may raise a point of order. In this case, the Chairman shall immediately state his ruling, which shall stand unless the Committee decides otherwise.

RULE 19
Accessions

Article XVIII

- (a) In considering an application from a non-member Government to accede to the Convention under paragraph (b) of Article XXIII, the Committee shall take into account all relevant factors, in particular the commitment which the non-member Government concerned is prepared to make in accordance with paragraph (i) of Article III.
- (b) The progress made by an acceding member towards the achievement of its basic commitment under paragraph (i) of Article III shall be monitored annually by the Food Aid Committee.

**EXCHANGE OF LETTERS BETWEEN THE IGC AND WTO
SECRETARIATS**

Following the completion of negotiations of the Food Aid Convention 1999, the Executive Director of the International Grains Council wrote to the Director-General of the World Trade Organization outlining the main elements of the new Convention, in particular those which reflected the recommendations that WTO Ministers had adopted at their Singapore Conference in respect of Least-Developed and Net Food-Importing Developing Countries.

The texts of this letter, and of the reply by the Director-General of WTO, are attached.