Basic information

2008/0183(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Food distribution to the most deprived persons in the Community Amending Regulation (EC) No 1290/2005 2004/0164(CNS) Amending Regulation (EC) No 1234/2007 2006/0269(CNS) **Subject** 3.10 Agricultural policy and economies 3.10.10 Foodstuffs, foodstuffs legislation 3.10.15 Agricultural production, farm surpluses, shortages and quotas, non-marketing premiums	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
AGRI Agriculture and Rural Development	SIEKIERSKI Czesław Adam (PPE-DE)	06/10/2008
	Shadow rapporteur NICHOLSON James (PPE-DE)	

Former committee responsible	Former rapporteur	Appointed
AGRI Agriculture and Rural Development		
AGRI Agriculture and Rural Development		
AGRI Agriculture and Rural Development	SIEKIERSKI Czesław Adam (PPE-DE)	06/10/2008

Former committee for opinion	Former rapporteur for opinion	Appointed
REGI Regional Development		
REGI Regional Development	The committee decided not to give an opinion.	
BUDG Budgets		

		The committee decided not to give an opinion.	
	CONT Budgetary Control	The committee decided not to give an opinion.	
	REGI Regional Development	LUQUE AGUILAR Florencio (PPE-DE)	02/12/2008

Council of the European Union

Council configuration	Meetings	Date
Employment, Social Policy, Health and Consumer Affairs	3114	2011-10-03
Agriculture and Fisheries	3123	2011-11-14
Agriculture and Fisheries	2892	2008-09-29
Agriculture and Fisheries	3110	2011-09-20
Agriculture and Fisheries	3137	2011-12-15
Agriculture and Fisheries	3042	2010-10-26
Agriculture and Fisheries	3104	2011-06-28
Agriculture and Fisheries	2909	2008-11-28
Agriculture and Fisheries	3033	2010-09-27
Agriculture and Fisheries	3120	2011-10-20

European Commission

Commission DG	Commissioner
Agriculture and Rural Development	CIOLOŞ Dacian

Key events

Date	Event	Reference	Summary
17/09/2008	Legislative proposal published	COM(2008)0563	Summary
29/09/2008	Debate in Council		
21/10/2008	Committee referral announced in Parliament, 1st reading		
28/11/2008	Debate in Council		Summary
17/02/2009	Vote in committee, 1st reading		Summary
24/02/2009	Committee report tabled for plenary, 1st reading	A6-0091/2009	
26/03/2009	Decision by Parliament, 1st reading	T6-0188/2009	Summary
26/03/2009	Results of vote in Parliament		
26/03/2009	Debate in Parliament		

02/12/2009	Additional information		Summary
17/09/2010	Modified legislative proposal published	COM(2010)0486	Summary
27/09/2010	Debate in Council		Summary
26/10/2010	Debate in Council		
28/06/2011	Debate in Council		Summary
20/09/2011	Debate in Council		Summary
03/10/2011	Debate in Council		
03/10/2011	Modified legislative proposal published	COM(2011)0634	Summary
20/10/2011	Debate in Council		Summary
14/11/2011	Debate in Council		Summary
23/01/2012	Council position published	18733/1/2011	Summary
02/02/2012	Committee referral announced in Parliament, 2nd reading		
06/02/2012	Vote in committee, 2nd reading		
08/02/2012	Committee recommendation tabled for plenary, 2nd reading	A7-0032/2012	
14/02/2012	Debate in Parliament		
15/02/2012	Decision by Parliament, 2nd reading	T7-0042/2012	Summary
15/02/2012	Final act signed		
15/02/2012	End of procedure in Parliament		
16/02/2012	Final act published in Official Journal		

Technical information

Procedure reference	2008/0183(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 1290/2005 2004/0164(CNS) Amending Regulation (EC) No 1234/2007 2006/0269(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 043-p2
Stage reached in procedure	Procedure completed
Committee dossier	AGRI/7/07995

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE414.330	19/12/2008	

Amendments tabled in committee		PE418.390	29/01/2009	
Committee opinion	REGI	PE418.094	12/02/2009	
Committee report tabled for plenary, 1st reading/single reading		A6-0091/2009	24/02/2009	
Text adopted by Parliament, 1st reading/single reading		T6-0188/2009	26/03/2009	Summary
Committee draft report		PE480.559	31/01/2012	
Committee recommendation tabled for plenary, 2nd reading		A7-0032/2012	08/02/2012	
Text adopted by Parliament, 2nd reading		T7-0042/2012	15/02/2012	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	05222/2012	12/01/2012	
Council position	18733/1/2011	23/01/2012	Summary
Draft final act	00004/2012/LEX	15/02/2012	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2008)0563	17/09/2008	Summary
Document attached to the procedure	SEC(2008)2436	17/09/2008	
Document attached to the procedure	SEC(2008)2437	17/09/2008	
Commission response to text adopted in plenary	SP(2009)3060	04/06/2009	
Modified legislative proposal	COM(2010)0486	17/09/2010	Summary
Modified legislative proposal	COM(2011)0634	03/10/2011	Summary
Commission communication on Council's position	COM(2012)0034	31/01/2012	Summary

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2010)0486	09/11/2010	
Contribution	FR_SENATE	COM(2010)0486	15/11/2010	
Contribution	IT_SENATE	COM(2010)0486	08/12/2010	
Contribution	NL_CHAMBER	COM(2010)0486	08/12/2010	

Contribution	NL_SENATE	COM(2010)0486	08/12/2010	
Contribution	PT_PARLIAMENT	COM(2011)0634	08/12/2011	
Contribution	IT_SENATE	COM(2011)0634	23/01/2012	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0070/2011	19/01/2011	
CofR	Committee of the Regions: opinion	CDR0340/2010	27/01/2011	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2012/0121
OJ L 044 16.02.2012, p. 0001 Summary

Food distribution to the most deprived persons in the Community

2008/0183(COD) - 28/06/2011

Ministers were briefed by the Presidency and the Italian delegation on the future for a regulation concerning distribution of food products to the most deprived persons in the Union.

Considering the importance of this support scheme, (i.e. in 2008, more than 13 million people living in 18 member states benefited from this programme), the Presidency and the Italian delegation asked the Commission to submit, as soon as possible, proposals to amend the current system to ensure its future continuity. This request has the support of the Belgian, Bulgarian, Estonian, Spanish, French, Latvian, Lithuanian, Hungarian, Maltese, Polish, Portuguese, Romanian, Slovene and Slovak delegations and some others.

The original rules provide that the EU can supply food from agricultural intervention stocks to those most in need. However, the phase-out of intervention stocks under the reform of the CAP has made this framework obsolete: the current scheme's reliance on market purchases for the provision of food has significantly increased, although it was originally supposed to be confined to situations of temporary unavailability of intervention stocks. Consequently, on April 2011, the European Court of Justice ruled that the current legal framework of this programme provided that amounts used for the scheme should come from intervention stocks and only marginal amounts should come from the open market.

The Commission presented an amended proposal on this subject to the Council in September 2010 but some delegations expressed reservations on this text, as was the case for the first proposal presented by the Commission in 2008, as regards the legal basis, which in their view should be drawn from social policy rather than agricultural policy. The Commission indicated its willingness to discuss on the basis of its revised proposal tabled in 2010 as soon as possible in order to limit the impact of the judicial decision on this programme.

Food distribution to the most deprived persons in the Community

2008/0183(COD) - 20/10/2011

The Council held a policy debate on a proposal for a regulation of 3 October 2010 amending regulation 1290/2005 and regulation 1234/2007 as regards distribution of food products to the most deprived persons in the Union.

A qualified majority in favour of guaranteeing the effective functioning of the programme until the end of 2013 could not be reached. The Presidency took note of the positions of the delegations and undertook to reflect the way forward.

The initial proposal on this matter was presented to the Council in 2008. In 2010, the Commission submitted an amended proposal on the same subject which was discussed twice in September 2010 and September 2011. On all these three occasions, a blocking minority emerged against the proposal.

Compared with the initial proposals made in 2008 and 2010, the Commission now proposes a **dual legal basis** in the light of the contribution of food distribution programmes to the fulfilment of the objectives of the CAP (articles 42 and 43(2) of the Treaty on the Functioning of the European Union (TFEU)) and to strengthening the EU's social cohesion (article 175(3) of the TFEU).

This new amended proposal retains for the future the current rate of 100% EU funding for the scheme, maintaining an annual ceiling of €500 million for the EU's financial contribution.

Food distribution to the most deprived persons in the Community

2008/0183(COD) - 20/09/2011

The Council held a policy debate on a proposal for a regulation concerning the distribution of food products to the most deprived persons in the Union.

A qualified majority in favour of guaranteeing the effective functioning of the programme until the end of 2013 could not be reached. The Presidency took note of the positions of the delegations and undertook to reflect on how to take the work forward on this file.

The initial proposal on this matter was presented to the Council in 2008 (*please refer to the summary dated 17/09/2008*). In 2010, the Commission submitted an amended proposal on the same subject (*please refer to the summary dated 17/09/2010*). In both cases, a blocking minority emerged against the proposal.

It should be noted that **on 23 December 2008, Germany brought an action against the Commission before the Court of First Instance** seeking partial annulment of the Commission regulation on implementing the programme in 2009. On 13 April 2011, the ruling of the General Court annulled those provisions of the Commission regulation allowing market purchases. Such purchases accounted for 90% of the resources allocated for the 2009 programme.

On 10 June 2011, the Commission adopted a Regulation on implementing the programme in 2012. That Regulation provides for a cut of over €360 million from the 2012 programme - from €480 million to €113.5 million - to take account of the ruling. The 2012 scheme will thus be based exclusively on existing intervention stocks (just over 162 000 tonnes of cereals and less than 54 000 tonnes of skimmed milk powder), with Member States getting less than a quarter of what they received in earlier years. Furthermore, given the market prospects, it is unlikely that there will be any intervention stocks in the market year 2011- 2012. Therefore, the programme could not be run in 2013.

For the new multiannual financial framework, the Commission has proposed a transfer of the funding of the food aid programme from Heading 2 Sustainable Growth: Natural resources to Heading 1 "**Smart & Inclusive Growth**", where the Commission considers it fits more appropriately with the poverty reduction target of the Europe 2020 strategy. A new legislative proposal for the period starting in 2014 will be submitted by the Commission in due course.

However, the Presidency firmly believes that at the current time of high unemployment and widespread exclusion in Europe, it is essential to show solidarity with those in greatest need and to secure the effective continuation of the programme in 2012 and 2013. The Presidency therefore invites Ministers to hold a policy debate on this issue.

Food distribution to the most deprived persons in the Community

2008/0183(COD) - 14/11/2011

At the request of the French delegation, the Presidency indicated that a qualified majority within the Council could be confirmed, at a later stage, in favour of the temporary continuation of the programme for the distribution of food to the most deprived persons. This should guarantee the effective functioning of the programme in 2012 and 2013 under specific conditions.

The Presidency will include this item on the agenda for one of the next Council meetings with a view to reaching an agreement on the basis of a Presidency compromise.

Food distribution to the most deprived persons in the Community

2008/0183(COD) - 17/09/2008 - Legislative proposal

PURPOSE: to amend Regulation (EC) No 1290/2005 on the financing of the common agricultural policy and Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) to improve food distribution to the most deprived persons in the Community.

PROPOSED ACT: Council Regulation.

BACKGROUND: Council Regulation (EEC) No 3730/87 laying down the general rules for the supply of food from intervention stocks to designated organisations for distribution to the most deprived persons in the Community, subsequently repealed and integrated into Council Regulation (EC) No 1234/2007, has provided a reliable source of food for distribution to the most deprived persons of the Community for more than two decades.

The need for food distribution has grown following the successive enlargements that have substantially increased the Community's needy population. In 2006 more than 13 million people benefited from this aid scheme. Moreover, rising food prices are adversely affecting the food security of the most deprived persons as well as increasing the costs of providing food aid. In recent years, the CAP has been substantially reframed, with a switch of emphasis from the primary objective of increasing productivity to enhancing the long-term sustainability of agriculture. In this context, intervention as a regulatory tool has been removed completely for some products such as olive oil, sugar and maize and, for the rest, is being returned to its original role as a safety net.

In its declaration of 4 April 2006 on supplying approved charities working to implement the European food aid programme for the most deprived, the European Parliament expressed its concern about the future of the European food aid programme for the most deprived and, in acknowledgement of the need to meet their food requirements, called on the Commission and the Council to put the European food aid programme on a permanent footing. More recently, on 22 May 2008, the European Parliament adopted a resolution on rising food prices in the EU and the developing countries, in which it stresses the fundamental nature of the right to food and the need to improve access for all people at all times to enough food for an active, healthy life.

CONTENT: the proposed rules are designated to implement the new provisions for the food distribution scheme for the most deprived persons in the Community. In this context the Commission proposes a revision of the food distribution programme based on the following elements:

- **Two sources of supply:** food may be sourced either from intervention stocks or from the market. The latter would no longer be limited to situations of temporary unavailability of intervention stocks. However, priority will be given to the use of suitable intervention stocks where these are available;
- **Wider variety of foods to be distributed:** in order to improve the nutritional balance of the food provided by the programme, the products distributed would no longer be limited to those for which intervention applies. The food would be chosen by Member State authorities on the basis of nutritional criteria and distributed in cooperation with civil society partners;
- **Long-term perspective:** food distribution activities require long-term planning and careful preparation by the national authorities and civil society partners concerned. In order to enhance its efficiency, the Community food distribution plan would be established for three years. The amounts of aid for the second and third years would only be indicative and would have to be subsequently confirmed by the budgetary authority;
- **Clearer priorities:** Member States would base their aid requests on national food distribution programmes, setting out their objectives and priorities for food distribution to the most deprived;
- **Co-financing:** the introduction of co-financing would underpin the cohesion dimension of the scheme, ensure proper planning and reinforce synergies. To help make for a smooth introduction and a continued high take-up of the Community funding made available, Community co-financing rates would be 75% and 85% in Cohesion Member States for the 2010/12 plan. Subsequently, as of the 2013/15 plan, the Community co-financing rates would be, respectively 50% and 75%;
- **Reinforcing monitoring and reporting:** reporting obligations at various levels would be increased and include a report from the Commission to the European Parliament and the Council by 31 December 2012, at the latest.

To conclude, the new scheme will be co-financed by the Community; hence the amendment of Article 3(1) of Regulation (EC) No 1290/2005 is necessary. These rules by themselves will have no impact on the budget. The budget impact will start with the 2010 food distribution programme and will be determined at the time that this programme is drawn up.

Food distribution to the most deprived persons in the Community

2008/0183(COD) - 17/09/2010 - Modified legislative proposal

The Commission presents an amended proposal for a Regulation amending Council Regulations (EC) No 1290/2005 and (EC) No 1234/2007, as regards distribution of food products to the most deprived persons in the Union.

Background: In this context, in 2008 the Commission proposed a revision of the food distribution programme (*refer to the summary dated 17 September 2008*) based on the following elements:

- two sources of supply: food would be sourced either from intervention stocks or from the market;
- wider variety of foods to be distributed and clearer priorities;
- long-term perspective: the Union food distribution scheme would be established for three years;
- co-financing: Community co-financing rates would be 75% and 85% in Cohesion Member States for the 2010/12 plan. Subsequently, as of the 2013/15 plan, the Community co-financing rates would be, respectively 50% and 75%;
- reinforcing monitoring and reporting.

Opinion of the Commission on the amendments by the European Parliament: in its session of 26 March 2009 in the European Parliament approved its legislative resolution with 425 votes in favour, 71 against and 62 abstentions the report of Mr. Siekierski containing 20 amendments.

The Commission has considered it appropriate to accept a number of wording amendments approved by the European Parliament since they would contribute to complete the description of multitude of aspects embraced by this scheme although, in a certain number of cases, the Commission has opted for a different formulation.

Other amendments introduced in the amended proposal aim to:

- introduce the notion of the Union origin of the foods that in the present amended proposal is retained as a priority that may be decided by Member States when choosing the types of foods to be distributed;
- provide for the obligation for distribution points to clearly display the participation of the Union in the plan, which has been retained by the Commission in this amended proposal with detailed rules to be subsequently adopted;
- state that purchase of food products should be made on the basis of competitive procedures as it is now explicitly indicated in the proposal;
- lay down the reimbursement of storage costs incurred by charitable organisations.

On the other hand, certain amendments could not be accepted because they would have modified the substance of the Commission proposal in a manner not compatible with the objectives presented above. The most important rejection concern the request by the European Parliament to maintain the scheme entirely financed by the Union budget. The Commission is convinced that the introduction of co-financing would reinforce the cohesive dimension of the scheme while ensuring improved planning and management and therefore maintains co-financing in this amended proposal. Nevertheless, following the concerns voiced by the Parliament on this issue, the Commission has substantially reduced in this amended proposal the rates of national co-financing down to 10% for Cohesion Member States and 25% for other Member States and, unlikely in the original proposal, these rates would remain stable over time.

The alignment of the scheme of food distribution for the most deprived persons to the new rules of the Treaty on the Functioning of the European Union (TFEU) consists of a qualifying exercise where the implementing rules adopted by the Commission to secure the smooth execution of the measure are now classified as implementing (Article 291 of the TFEU) or delegated acts (Article 290 of the TFEU).

This amended proposal contains all the essential elements, general principles and programming rules of the scheme that are thus determined by the Legislator.

Delegated acts: this amended proposal provides that the Commission adopts by means of delegated acts the method for calculating the overall allocation of resources including the distribution of intervention stocks and financial means, the definition of the accounting value of products released from intervention stocks as well as the method for the reallocations of resources following possible revisions of the plan. The Commission should adopt provisions requiring the use of tendering procedures for all operations relating to the execution of the plans, provisions on securities to be lodged by applicants and rules on sanctions and reductions to be applied by the Member States in case of non respect of time-limits and other shortcomings.

Implementing acts: in this amended proposal the Legislator confers to the Commission implementing powers for: (i) adopting detailed rules and procedures, adopting and where necessary revise the plans, (ii) the definition of the additional elements to be included in the three-year plans, (iii) the procedures and time limits applicable to withdrawals, (iv) the format of annual implementation reports and national food distribution programmes, (v) the rules for the reimbursement of costs including time limits and financial ceilings the conditions pertaining to the invitation to tender and the conditions applicable to food products and their supply, (vi) the minimal requirements of control programmes, (vii) uniform conditions concerning payment procedures including the tasks to be fulfilled by national intervention agencies and, (viii) the detailed rules on the obligation to display the participation of the Union in this scheme both in the packing and the distribution points.

Budgetary implication: the proposal includes an annual financial ceiling of € 500 millions of the Union's co-finance of the scheme.

Food distribution to the most deprived persons in the Community

2008/0183(COD) - 26/03/2009 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 425 votes to 71, with 62 abstentions, a legislative resolution amending, under the consultation procedure, the proposal for a for a Council regulation amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy and Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) as regards food distribution to the most deprived persons in the Community.

The main amendments were as follows:

Product of Community origin only: Parliament wants the scheme to apply to food of Community origin. The text states that products in intervention stocks shall be made available or food products of Community origin shall be purchased on the market, with preference given to locally-produced fresh food products.

Cofinancing: Members deleted the provisions regarding co-financing by Member States of the food distribution programme. They propose that full EU financing be maintained.

Review plan: in exceptional circumstances and where the numbers of those in need have increased beyond what was forecast, Member States may ask the Commission to revise the plans.

Marking products: it is proposed that designated organisations shall display an information panel at distribution points, or attach a sticker to mobile distribution units, indicating that they are recipients of the Community food aid programme. This shall be the means of informing beneficiaries that they are receiving Community support.

Costs: a new clause states that Member States shall set a ceiling, corresponding to the percentage of products purchased or bartered, for all transport, storage and administrative costs (including communication costs), taking account of local conditions where necessary. The financial provision shall be divided by the Member States between these three items of expenditure. All appropriations not used under this provision may be reallocated to the purchase of food.

Report: the Commission must report by 31 December 2011 (rather than 2012), at the latest, on the application of the scheme for food distribution to the most deprived persons in the Community, together with a proposal for a decision on continuation of the scheme after the current financing period and any other appropriate proposals necessary.

Food distribution to the most deprived persons in the Community

2008/0183(COD) - 27/09/2010

Ministers were briefed by the Commission on the proposal for a regulation concerning distribution of food products to the most deprived persons in the Union.

Some delegations expressed a reservation regarding the **legal basis** for this text, as was the case for the first proposal presented by the Commission in 2008. In their view, the legal base should be drawn from social policy rather than agricultural policy. Other delegations were also concerned with the co-financing of the measure.

The Special Committee for Agriculture (SCA) will work on this proposal.

The **first proposal on this issue** presented to the Council in 2008 (*please refer to the summary dated 17 September 2008*) did not secure a majority. The Commission originally proposed to amend the current rules under which the EU can supply food from intervention stocks to the most deprived persons. In that proposal, food would be sourced either from intervention stocks or from the market but the latter source would no longer be limited to situations of temporary unavailability of intervention stocks, as is currently the case.

Moreover, the fade-out of intervention stocks, due to the reframing of the common agricultural policy (CAP) has already increased the current scheme's reliance on market purchases for the provision of food. In addition, to optimise the nutritional balance, the choice of distributed foods would be extended to those for which intervention doest not apply. The proposal also introduces co-financing of the scheme and a ceiling for the financial contribution of the Union.

In this new version, the Commission has introduced a reshaping of the text to bring it into line with the provisions of the Lisbon Treaty and to take into account amendments from the European Parliament. The rules for co-financing have also been changed, increasing the Union’s contribution. Financing sources in Member States can be either public-sector or private.

The current regulation as regards distribution of food to the most deprived persons was laid down by Council Regulation (EEC) No 3730/87 and finally incorporated into the Single Common Market Organisation regulation in 2007.

Food distribution to the most deprived persons in the Community

2008/0183(COD) - 28/11/2008

The Council held a **public policy debate** on a proposal for a Regulation to optimise the current system of food distribution to the most deprived. The Council instructed the Special Committee on Agriculture to continue its discussions pending receipt of the European Parliament's opinion, which is expected in March 2009.

This first discussion centred on the question of the **legal basis**.

Several delegations thought that Article 37 TEC – which the Commission had chosen when drawing up its proposal – was appropriate since the proposal did indeed seek to "stabilise the agricultural markets" by using intervention stocks and to "ensure reasonable prices in supplies to consumers".

Conversely, a number of delegations, without questioning the high solidarity value of food distribution to the most deprived, considered that the programme as amended by the Commission proposal no longer came within agricultural policy but rather social policy, or even the national sphere of responsibility of the Member States.

These comments were made without prejudice to the positions that would be expressed at a later stage concerning the key points of the proposal, namely:

- intervention stocks to be the priority supply sources, but market purchasing to be allowed;
- wider range of foodstuffs: allowing Member States to choose foodstuffs most in line with the objectives of nutritional balance, in consultation with the competent organisations;
- three-year plan: as from 2010 food distribution plans would be drawn up for three-year periods so as to improve long-term planning and ensure better preparation by national administrations and civil-society partners;
- co-financing: the Member States would have to co-finance the distribution programme and the highest Community participation would be in the "cohesion" countries (new Member States, Greece and Portugal).

Participation in the programme is optional; 19 Member States took part in 2008.

In 2009 the programme will continue under the existing legal framework, with a budget of EUR 500 million.

Food distribution to the most deprived persons in the Community

2008/0183(COD) - 03/10/2011 - Modified legislative proposal

In 2008 the Commission proposed a revision of the food distribution programmebased on the following elements:

- **two sources of supply**: food would be sourced either from intervention stocks or from the market;
- **wider variety of foods to be distributed and clearer priorities**;
- **long-term perspective**: the Union food distribution scheme would be established for three years;
- **co-financing**: Community co-financing rates would be 75% and 85% in Cohesion Member States for the 2010/2012 plan. Subsequently, from the 2013/2015 plan, the Community co-financing rates would be, respectively 50% and 75%;
- **reinforcing monitoring and reporting**.

In its opinion, the **European Parliament strongly advocated the maintenance of the full Union's funding** for this scheme. National authorities of participating Member States and very numerous representatives from the civil society have recently expressed their wish for the scheme to remain fully funded out of the EU budget. Furthermore, the Commission is well aware of the increasing number of European citizens requiring food assistance.

Against this background, the Commission has decided to replace amended proposal by this new amended proposal.

The amended proposal:

- **keeps its a double legal base** (Articles 42 and 43(2) together with 175(3))), in the light of the contribution of food distribution programmes to the objectives of the Common Agriculture Policy as well as the strengthening of the Union's social cohesion;
- **retains for the future the current rate of 100% EU funding** for the scheme but, in order to ensure its budgetary stability, the annual ceiling of EUR 500 million for the Union's financial contribution is maintained;
- **incorporates certain amendments made by Parliament**, although the wording may have been changed by the Commission : (i) introduces the notion of the Union origin of the foods that in the present amended proposal is retained as a priority that may be decided by Member States when choosing the types of foods to be distributed; (ii) obliges distribution points to clearly display the participation of the Union in the plan; (iii) purchase of food products should be made on the basis of competitive procedures as it is now explicitly indicated in the proposal; (iv) reimbursement of storage costs incurred by charitable organisations;
- **retains annual plans**: the Commission will soon adopt legal proposals pertaining to the new multi-annual financial framework including one on food distribution for the needy to be funded out of Heading 1. Against this background, the three-year plans envisaged in the previous proposal would no longer fit into this new temporary frame. Consequently, this new amended proposal retains the current system of annual plans;
- **keeps other elements included in the initial proposal**, namely the two sources of supply, a wider variety of foods combined with a reinforced focus on nutritional aspects, together with clearer priorities and more robust monitoring and reporting mechanisms;
- **provides that the Commission adopts by means of delegated acts** the method for calculating the overall allocation of resources including the distribution of intervention stocks and financial means, the definition of the accounting value of products released from intervention stocks as well as the method for the reallocations of resources following possible revisions of the plan.

BUDGETARY IMPLICATIONS: the new scheme will remain entirely financed by the Union. This amended proposal maintains an annual financial ceiling of EU 500 millions for the EU financing of the scheme.

Food distribution to the most deprived persons in the Community

2008/0183(COD) - 23/01/2012 - Council position

The Council's position confirms most of the amendments introduced by the Commission in the amended proposal and, therefore, takes into account all the European Parliament's substantive first-reading amendments.

In particular, the Council accepts the European Parliament's view as regards

- full Union funding for the programme,
- the possibility of giving preference to food products of Union origin, and
- the notion that the transport, storage and administrative costs directly linked with the implementation of the scheme can be eligible.

The Council's position also introduces some changes to the amended proposal not covered by the European Parliament's first-reading opinion, which referred to the first proposal from 2008:

- it removes the additional legal basis proposed by the Commission on social cohesion (Article 175(3) of the TFEU) ;
- it phases out the programme within the CAP by 31 December 2013;
- it exceptionally removes the alignment provisions; and
- it provides for retroactivity as from 1 January 2012.

Food distribution to the most deprived persons in the Community

2008/0183(COD) - 31/01/2012 - Commission communication on Council's position

The Commission supports the results of the inter-institutional negotiations and can therefore accept the Council's position at first reading in order to secure the continuation of the scheme up to 2013.

The Council's position is the result of intensive intergovernmental and inter-institutional negotiations which followed the adoption by the European Parliament of its position at first reading on 26 March 2009.

On the trilogue discussions on 6 December 2011, the European Parliament expressed its strong support in favour of the continuation of the programme. On 15 December 2011, the Council reached a political agreement for the continuation of the scheme up to 2013. The Council position at first reading is scheduled for adoption on 23 January 2012.

The main provisions of the revised programme are the following:

- market purchases are made a regular source of supply for the programme to complement intervention stocks. However, priority would be given to the use of suitable intervention stocks where these are available;
- the scheme remains **fully funded out of the EU budget with a ceiling of €500 million per budget year**;
- Member States choose the food products on the basis of objective criteria including nutritional values and suitability for distribution;
- Member States may give preference to food products of Union origin;
- the storage costs born by the charities become eligible for reimbursement.

The main points of the compromise, which were negotiated and agreed upon by the three institutions, are the following:

- the current scheme ends following a phasing-out period, which would terminate with the **completion of the 2013 annual plan**;
- the **legal basis** of the Most Deprived Programme of the EU remains unchanged (Articles 42 and 43(2)) for the duration of the phasing-out period;
- retroactive applicability as from 1 January 2012;
- in order to facilitate the agreement, the provisions relating to the Lisbon alignment are exceptionally not included, so the current implementing rules would continue to apply.

The Commission has made a declaration which takes note of a **joint declaration from France and Germany** in which these two countries state that:

- that they agree to continue the program for a transition period ending definitely on 31 December 2013 in order to allow charity organizations in Member States using the current program to take into account the new situation;
- that they consider that the conditions are not met for a proposal of a new program for a period post 2013 to be presented by the Commission and adopted by the Council;
- that they cannot agree with legal and financial proposals by the Commission of such a program in the future.

Food distribution to the most deprived persons in the Community

2008/0183(COD) - 15/02/2012 - Text adopted by Parliament, 2nd reading

The European Parliament adopted, at second reading under the ordinary legislative procedure, a legislative resolution on the Council position at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council amending Council Regulations (EC) No 1290/2005 and (EC) No 1234/2007 as regards distribution of food products to the most deprived persons in the Union.

Food distribution to the most deprived persons in the Community

2008/0183(COD) - 15/02/2012 - Final act

PURPOSE: to maintain the food distribution scheme to the most deprived persons in the Union in 2012 and 2013.

LEGISLATIVE ACT: Regulation (EU) No 121/2012 of the European Parliament and of the Council amending Council Regulations (EC) No 1290/2005 and (EC) No 1234/2007 as regards distribution of food products to the most deprived persons in the Union.

CONTENT: at the December 2001 Agriculture Council last year, a political agreement within the Council guaranteed the continuation of the programme for the distribution of food to the most deprived persons in 2012 and 2013. The Council’s position at first reading was adopted on the basis of this political agreement. This position was pre-negotiated with the European Parliament with the aim of reaching an early second-reading agreement in order to allow the entry into force of the new rules as soon as possible. This regulation provides for retroactivity as from 1 January 2012 since it was impossible to adopt it before the end of year 2011.

The current programme under which the European Union can supply food from intervention stocks to the most deprived persons was created in 1987. It was incorporated into the "single common market organisation" regulation in 2007. Current rules also allow products to be purchased by way of exception on the open market for the purposes of the scheme where there is a temporary shortfall in the availability of that product in intervention stocks, or where transfer would be required in small quantities from the intervention stocks of a Member State other than the one in which the product is to be distributed. However, for 2012 and 2013 the market purchases would no longer be limited to situations of temporary unavailability of intervention stocks. This is linked to the fade-out of intervention stocks due to the reframing of the CAP and high prices of agricultural commodities. The new rules stipulate that for optimising the nutritional balance, the choice of foods distributed has been extended to those to which intervention does not apply.

The **main amendments** compared to the current scheme are as follows:

Products: the new provisions of the programme **enlarge the scope of products** - now market purchases are made a regular source of supply for the scheme to complement intervention stocks which previously constituted the core of the programme. Member States shall choose the food products on

the basis of objective criteria including nutritional values and suitability for distribution. For that purpose, Member States may **give preference to food products of Union origin**.

Distribution schemes: Member States wishing to participate in the food distribution scheme shall submit, to the Commission, food distribution programmes containing the following: (i) details of the main characteristics and objectives of such programmes; (ii) the organisations designated; (iii) the requests for quantities of food products to be distributed each year and other relevant information. The Commission shall adopt **annual plans** setting out annual financial allocations by the Union per Member State.

Financing: the Union shall finance the eligible costs under the scheme. This financing shall not exceed **EUR 500 million per budget year**.

The eligible costs under the scheme shall be: (i) the cost of food products released from intervention stocks; (ii) the cost of food products purchased on the market; and (iii) the costs of transporting food products in intervention stocks between Member States.

ENTRY INTO FORCE: 23.02.2012.

APPLICATION: from 01.01.2012 until the completion of the 2013 annual plan.