



EUROPEAN COMMISSION

Brussels, 31.1.2012
COM(2012) 34 final

2008/0183 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to Article 294(6) of the Treaty on the Functioning of the European Union

concerning the

**position of the Council on the adoption of a Regulation of the European Parliament and
of the Council amending Council Regulation (EC) No 1290/2005 and Council Regulation
(EC) No 1234/2007 as regards distribution of food products to the most deprived
persons in the Union**

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1. BACKGROUND

Date of transmission of the proposal to the European Parliament and to the Council (document COM(2008) 563 final – 2008/183 COD):	25 September 2008.
Date of the opinion of the European Economic and Social Committee:	20 January 2011.
Date of the position of the European Parliament, first reading:	26 March 2009.
Date of transmission of the amended proposals:	17 September 2010 3 October 2011.
Date of adoption of the position of the Council:	23 January 2012 (foreseen).

2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION

The Most Deprived Scheme of the EU was originally established in 1987, allowing Member States to release public intervention stocks as food aid. As the role of market intervention significantly changed since then, the objective of the Commission's proposal is to adapt the scheme to the new realities of the CAP with declining intervention stocks, with the introduction of the two sources of supply (intervention and market purchases with priority to the former). The proposal also aims to improve the nutritional balance of the food provided through the scheme, (wider variety of foods available for distribution; inclusion of nutritional aspects).

In its opinion, the European Parliament has strongly advocated the maintenance of the full Union's funding for this scheme. The opinion of the European Economic and Social Committee contained a similar request. Therefore, the last amended proposal of the Commission provides 100% EU funding with an annual ceiling of €500 million. The notion of the Union origin of the foods, just like the eligibility of the storage costs directly linked with the implementation of the scheme were also introduced based upon the recommendation of the European Parliament.

In the light of the contribution of food distribution programmes to the fulfilment of both the objectives of the Common Agriculture Policy as well as the strengthening of the Union's social cohesion, the Commission proposed a double legal base (Articles 42 and 43(2) together with 175(3)).

In addition, the proposal also provided for an alignment of the proposed measures with the Lisbon Treaty provisions on delegated and implementing acts.

3. COMMENTS ON THE POSITION OF THE COUNCIL

3.1 General comments on the Council position at first reading

The Commission can accept the Council position which is the outcome of constructive negotiations between the three institutions. It is in line with the essential objectives and the underlying approach of the Commission's amended proposal.

3.2 Agreement at the stage of the Council's position

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. Informal and technical meetings have resulted in a compromise on a number of outstanding issues, namely the legal basis and the phasing-out of the scheme after 2013. Based on this compromise, on 28 November and 5 December 2011, the Polish Presidency presented to the Special Committee of Agriculture a compromise document largely based upon the second amended proposal of the Commission (COM (2011) 634 final). In parallel, the Commission issued a declaration, taking note of the joint declaration from Germany and France as regards the future of the scheme for the post 2013 period.

On the trilogue discussions on 6 December 2011, the European Parliament expressed its strong support in favour of the continuation of the programme. This position was formally approved by the COMAGRI on 12 December 2011, also recommending to the European Parliament to accept the proposed compromise in second reading. 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.

4. DECLARATIONS BY THE COMMISSION AND MEMBER STATES

The Commission has made a declaration which takes note of a joint declaration from France and Germany. These declarations can be found in attachment.

5. CONCLUSION

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.

ANNEX

Declaration by the Commission

With regard to Commission's proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1290/2005 and Council Regulation (EC) 1234/2007 as regards distribution of food products to the most deprived persons in the Union the Commission takes note of the repeated discussions in the Council, where a blocking minority of six member states opposed the proposal.

The Commission also takes note of the joint declaration from France and Germany, where both countries declared,

- 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.

The Commission takes note of the opinion of a significant group of Member States not to pursue the program beyond 2013 and to amend the EU Regulation on the Single CMO and the future Multi-Annual Financial Framework 2014 – 2020 accordingly.

Without prejudice to its right of initiative under the Treaty, the Commission will take account of this strong opposition to any legal and financial proposal of such a program in the future.

Joint Declaration by France and Germany

The EU regulation regarding the distribution of food products to the most deprived persons relies on the distribution of products from Union intervention stocks supplemented, on a temporary basis, by purchases on the market. Successive reforms of the CAP and market evolutions have resulted in a progressive reduction in intervention stocks, as well as the range of products available.

Recognizing the importance of the work of charity organizations in Member States using the current program, France and Germany agree to continue the program for a transition period ending definitely on 31 December 2013 in order to allow these organizations to take into account this new situation. In this context, France and Germany welcome the ongoing exchange of views between their charity organizations.

However, given the discussion in the Council, France and Germany 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. This is why both countries can't agree with legal and financial proposals by the Commission of such a program in the future.