



EUROPEAN COMMISSION

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Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the European Union, of the Food Assistance Convention

EXPLANATORY MEMORANDUM

1) Background

The Food Aid Convention (FAC 1999) is a multilateral agreement which came originally into effect in the 1960s as an instrument for a coordinated and acceptable disposal of agricultural surpluses from developed countries to developing countries in need. The FAC 1999 was initially to remain in force until 30 June 2002 and has been extended five times, with the latest extension running until 30 June 2012.

On 14 December 2010, the Parties to the FAC 1999 - the USA, Canada, Japan, Switzerland, Australia and the EU - agreed to negotiate a new convention that would aim at providing appropriate and effective food assistance to vulnerable populations, based on identified needs.

On the basis of the recommendation submitted by the Commission to the Council, the Council authorised the Commission to open negotiations for a new Food Assistance Convention.

On 25 April 2012 the negotiations were successfully completed.

The Commission presented on xxx a proposal for a Council Decision on the signing, on behalf of the European Union, of the Food Assistance Convention, subject to its conclusion at a later date.

2) Nature of the Food Assistance Convention (FAC 2012)

The FAC 2012 reflects a modernised approach to food assistance. It aims at responding to food and nutrition needs of vulnerable populations in an effective and efficient manner, going beyond the mere provision of food aid, in keeping with the EU's Humanitarian Food Assistance Policy). Other key elements are improved access to and consumption of adequate, safe and nutritious food on the basis of proper needs analysis, an approach based on (humanitarian) principles and full respect for WTO obligations. The Convention will be implemented by means of annual commitments in kind or in cash to be made by Parties.

The FAC 2012 will enter into force on 1 January 2013 if, by 30 November 2012, five Signatories have ratified the Convention. The Convention will be open for signature until 31 December 2012; it will also be open for signature and ratification by individual EU Member States, making commitments stemming directly from their respective budgets.

There is likely to be a time gap between the expiry date of the current FAC 1999 (30 June 2012) and the likely date of entry into force of the Food Assistance Convention (1 January 2013). The question of a possible further extension of the FAC 1999 will be formally addressed by the Food Aid Committee at its meeting in June 2012. A proposal from the Commission to the Council authorising the Commission, on behalf of the EU, not to support a further extension of the FAC 1999 is pending before the Council.

3) Procedure

The Commission requests therefore the Council to approve the conclusion of the Food Assistance Convention, on behalf of the European Union.

Proposal for a

COUNCIL DECISION

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 214(4) in conjunction with Article 218(6)(a), thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

Whereas:

- (1) The Union is a party to the Food Aid Convention 1999 ("FAC 1999"), which should no longer be in force as from 1 July 2012.
- (2) In accordance with Council Decision XXX of [...] ², the Food Assistance Convention was signed on [...], subject to its conclusion at a later date.
- (3) It is in the interest of the Union to be a Party to the Convention as the latter would help to achieve humanitarian aid objectives referred to in Article 214(1) of the Treaty on the Functioning of the European Union.
- (4) The agreement should be approved on behalf of the European Union,

HAS ADOPTED THIS DECISION:

Article 1

The Food Assistance Convention is hereby approved on behalf of the Union.

The text of the Convention is attached to this Decision.

Article 2

The Commission shall decide on the annual commitment to be made on behalf of the Union in accordance with Article 5 of the Convention and communicate this commitment to the Secretariat of the Committee.

¹ OJ C , , p. .

² OJ L , , p. .

Article 3

The Commission shall provide annual reports and participate in information sharing on behalf of the Union in accordance with Article 6 of the Convention.

Article 4

The President of the Council shall designate the person empowered to proceed, on behalf of the European Union, to the deposit of the instrument of approval provided for in Article 12 of the Convention, in order to express the consent of the European Union to be bound by the Convention.

Article 5

This Decision shall enter into force on the day of its adoption³.

Done at Brussels,

*For the Council
The President*

³ The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

ANNEX

FOOD ASSISTANCE CONVENTION

PREAMBLE

The Parties to this Convention,

Confirming their continued commitment to the still valid objectives of the *Food Aid Convention, 1999*, 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;

Seeking to improve the effectiveness, efficiency, and quality of food assistance in preserving the lives and alleviating the suffering of the most vulnerable populations, especially in emergency situations, by strengthening international cooperation and coordination, in particular among the Parties and stakeholders;

Recognising that vulnerable populations have particular food and nutritional needs;

Affirming that States have the primary responsibility for their own national food security, and therefore for the progressive realisation of the right to adequate food as set out in the Food and Agriculture Organization (FAO) *Voluntary Guidelines to support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security* adopted by the FAO Council in November 2004;

Encouraging governments of food insecure countries to develop and implement country-owned strategies that address the root causes of food insecurity through long-term measures, and that ensure proper linkages between relief, recovery and development activities;

Referring to international humanitarian law and the fundamental humanitarian principles of humanity, impartiality, neutrality and independence;

Referring to the Principles and Good Practice of Humanitarian Donorship, endorsed in Stockholm on 17 June 2003;

Recognising that the Parties have their own policies related to providing food assistance in emergency and non-emergency situations;

Considering the *World Food Summit Plan of Action* adopted in Rome in 1996, as well as the Five Rome Principles for Sustainable Global Food Security identified in the *Declaration of the World Summit on Food Security* of 2009, in particular the commitment to achieve food security in all countries and the ongoing effort to reduce poverty and eradicate hunger that was reaffirmed by the United Nations General Assembly in the *United Nations Millennium Declaration*;

Considering the commitments made by donor and recipient countries to improve development aid effectiveness by applying the principles of the Organisation for Economic Cooperation and Development's (OECD) *Paris Declaration on Aid Effectiveness* adopted in 2005;

Determined to act in accordance with their World Trade Organization (WTO) obligations, in particular any WTO disciplines on food aid;

Have agreed as follows:

Article 1

Objectives

The objectives of this Convention are to save lives, reduce hunger, improve food security, and improve the nutritional status of the most vulnerable populations by:

- (a) addressing the food and nutritional needs of the most vulnerable populations through commitments made by the Parties to provide food assistance that improves access to, and consumption of, adequate, safe and nutritious food;
- (b) ensuring that food assistance provided to the most vulnerable populations is appropriate, timely, effective, efficient, and based on needs and shared principles; and
- (c) facilitating information-sharing, cooperation, and coordination, and providing a forum for discussion in order to improve the effective, efficient, and coherent use of the Parties' resources to respond to needs.

Article 2

Principles of Food Assistance

The Parties, in providing and delivering food assistance to the most vulnerable populations, should always adhere to the following principles:

- (a) General principles of food assistance:
 - (i) provide food assistance only when it is the most effective and appropriate means of addressing the food or nutrition needs of the most vulnerable populations;
 - (ii) provide food assistance, taking into account the long-term rehabilitation and development objectives of the recipient countries, while supporting the broader goal of achieving food security, whenever appropriate;
 - (iii) provide food assistance in a manner that protects livelihoods and strengthens the self-reliance and resilience of vulnerable populations, and local communities, and that prevents, prepares for, mitigates and responds to food security crises;
 - (iv) provide food assistance in such a way as to avoid dependency and minimise direct and indirect negative impacts on beneficiaries and others;
 - (v) provide food assistance in a way that does not adversely affect local production, market conditions, marketing structures and commercial trade or the price of essential goods for vulnerable populations;
 - (vi) provide food aid in fully grant form, whenever possible;
- (b) Principles of food assistance effectiveness:
 - (i) in order to increase the amount available to spend on food assistance for vulnerable populations and to promote efficiency, minimise associated costs as much as possible;

- (ii) actively seek to cooperate, coordinate and share information to improve the effectiveness and efficiency of food assistance programs, and the coherence between food assistance and related policy areas and instruments;
 - (iii) purchase food and other components of food assistance locally or regionally, whenever possible and appropriate;
 - (iv) increasingly provide untied cash-based food assistance, whenever possible and based on needs;
 - (v) only monetise food aid where there is an identified need to do so, and to improve the food security of vulnerable populations; base monetisation on transparent and objective market analysis and avoid commercial displacement;
 - (vi) ensure food assistance is not used to promote the market development objectives of the Parties;
 - (vii) avoid re-exportation of food aid to the maximum extent possible except to prevent or respond to an emergency situation; only re-export food aid in a manner that avoids commercial displacement;
 - (viii) acknowledge, where appropriate, that relevant authorities or relevant stakeholders have the primary role and responsibility for the organisation, coordination and implementation of food assistance operations;
- (c) Principles on the provision of food assistance:
- (i) target food assistance according to the food and nutrition needs of the most vulnerable populations;
 - (ii) involve beneficiaries in the assessment of their needs and in the design, implementation, monitoring and evaluation of food assistance, as well as other relevant stakeholders, where appropriate;

- (iii) provide food assistance that meets applicable safety and quality standards, and that respects cultural and local dietary habits and the nutritional needs of the beneficiaries;
- (iv) uphold the dignity of beneficiaries of food assistance;
- (d) Principles of food assistance accountability:
 - (i) take specific and appropriate measures to strengthen the accountability and transparency of food assistance policies, programs, and operations;
 - (ii) monitor, evaluate, and communicate, on a regular and transparent basis, the outcomes and the impact of food assistance activities in order to further develop best practices and maximise their effectiveness.

Article 3

Relationship with WTO Agreements

Nothing in this Convention shall derogate from any existing or future WTO obligations applicable between Parties. In case of conflict between such obligations and this Convention, the former shall prevail. Nothing in this Convention will prejudice the positions that a Party may adopt in any negotiations in the WTO.

Article 4

Eligible Country, Eligible Vulnerable Populations, Eligible Products, Eligible Activities, and Associated Costs

1. “Eligible Country” means any country on the OECD’s Development Assistance Committee (DAC) list of Official Development Assistance Recipients, or any other country identified in the Rules of Procedure and Implementation.
2. “Eligible Vulnerable Populations” means vulnerable populations in any Eligible Country.

3. “Eligible Products” means products for human consumption that comply with relevant national policies and legislation of the country of operation, including, as appropriate, applicable international food safety and quality standards as well as products that contribute to meeting food needs and protecting livelihoods in emergency and early recovery situations. The list of Eligible Products is provided in the Rules of Procedure and Implementation.
4. Eligible Activities for the fulfilment of a Party’s minimum annual commitment in accordance with Article 5 shall be consistent with Article 1, and shall include at least the following activities:
 - (a) the provision and distribution of Eligible Products;
 - (b) the provision of cash and vouchers; and
 - (c) nutritional interventions.

These Eligible Activities are further elaborated in the Rules of Procedure and Implementation.

5. Associated Costs eligible for the fulfilment of a Party’s minimum annual commitment according to Article 5 shall be consistent with Article 1, and shall be limited to costs directly linked to the provision of Eligible Activities, as further elaborated in the Rules of Procedure and Implementation.

Article 5

Commitment

1. To meet the objectives of this Convention, each Party agrees to make an annual commitment of food assistance, set in accordance with its laws and regulations. Each Party’s commitment is referred to as its “minimum annual commitment”.
2. The minimum annual commitment shall be expressed in terms of value or quantity as further elaborated in the Rules of Procedure and Implementation. A Party may choose to express either a minimum value or a minimum quantity, or a combination of both for its commitment.

3. Minimum annual commitments in terms of value can be expressed in the currency chosen by the Party. Minimum annual commitments in terms of quantity can be expressed in tonnes of grain equivalent or other units of measure provided under the Rules of Procedure and Implementation.
4. Each Party shall notify the Secretariat of its initial minimum annual commitment as soon as possible and no later than six months following the entry into force of this Convention, or within three months of its accession to this Convention.
5. Each Party shall notify the Secretariat of any change to its minimum annual commitment for subsequent years no later than the fifteenth day of December of the year preceding the change.
6. The Secretariat shall communicate the updated minimum annual commitments to all of the Parties as soon as possible and no later than the first day of January of each year.
7. Contributions made to meet minimum annual commitments should be made in fully grant form whenever possible. With respect to food assistance counted towards a Party's commitment, not less than 80 per cent provided to Eligible Countries and Eligible Vulnerable Populations, as further elaborated in the Rules of Procedure and Implementation, shall be in fully grant form. To the extent possible, the Parties shall seek progressively to exceed this percentage. Contributions that are not made in fully grant form should be accounted for in each Party's annual report.
8. The Parties shall undertake to conduct all food assistance transactions under this Convention in such a way as to avoid harmful interference with normal patterns of production and international commercial trade.
9. The Parties shall ensure that the provision of food assistance 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.
10. To meet its minimum annual commitment, whether expressed in value or quantity, a Party shall make contributions that are consistent with this Convention and that consist of funding for Eligible Products and Activities, and Associated Costs, as set forth in Article 4, and as further elaborated in the Rules of Procedure and Implementation.

11. Contributions provided to meet the minimum annual commitment under this Convention may only be directed at Eligible Countries or Eligible Vulnerable Populations, as set forth in Article 4 and as further elaborated in the Rules of Procedure and Implementation.
12. The Parties' contributions may be provided bilaterally, through intergovernmental or other international organisations, or through other food assistance partners, but not through other Parties.
13. Each Party shall make every effort to meet its minimum annual commitment. If a Party is unable to meet its minimum annual commitment for a particular year, it shall describe the circumstances of its failure to do so in its annual report for that year. The unfulfilled amount shall be added to the Party's minimum annual commitment for the following year unless the Committee established under Article 7 decides otherwise, or unless extraordinary circumstances justify not doing so.
14. If a Party's contribution exceeds its minimum annual commitment, the amount of the excess, but not more than five per cent of its minimum annual commitment, may be counted as part of the Party's contribution for the following year.

Article 6

Annual Reporting and Information Sharing

1. Within ninety days after the end of the calendar year, each Party shall provide an annual report, in accordance with the Rules of Procedure and Implementation, to the Secretariat, detailing how it met its minimum annual commitment under this Convention.
2. This annual report shall contain a narrative component that may include information on how the Party's food assistance policies, programs and operations contribute to the objectives and principles of this Convention.
3. The Parties should, on an ongoing basis, exchange information on their food assistance policies and programs and the results of their evaluations of these policies and programs.

Article 7

Food Assistance Committee

1. A Food Assistance Committee (the “Committee”), consisting of all of the Parties to this Convention, is hereby established.
2. The Committee shall make the decisions at its formal sessions and perform the functions that are required to carry out the provisions of this Convention in accordance with the principles and objectives of the Convention.
3. The Committee shall adopt rules governing its proceedings; it may also adopt rules elaborating further the provisions of this Convention to ensure that they are properly implemented. Document FAC(11/12)1 – 25 April 2012 of the Food Aid Committee of the *Food Aid Convention, 1999* shall serve as the initial Rules of Procedure and Implementation for this Convention. The Committee may subsequently decide to modify those Rules of Procedure and Implementation.
4. The Committee shall make decisions by consensus, meaning that no Party formally opposes the proposed decision of the Committee on a matter under discussion at a formal session. Formal opposition may occur either at the formal session or within thirty days after the circulation of the minutes of a formal session recording the proposed decisions concerned.
5. For each year, the Secretariat shall prepare a summary report for the Committee, to be drafted, adopted and published, in accordance with the Rules of Procedure and Implementation.
6. The Committee should provide a forum for discussion among the Parties with respect to food assistance matters, such as the need to mobilise appropriate and timely resource commitments to address the food and nutritional needs, especially in specific emergency and crisis situations. It should facilitate information-sharing with and dissemination to other stakeholders, and should consult with and receive information from them to support its discussions.
7. Each Party shall designate a representative to receive notices and other communications from the Secretariat.

Article 8

Chairperson and Vice-Chairperson of the Committee

1. At the last formal session held in each year, the Committee shall decide on a Chairperson and a Vice-Chairperson for the following year.
2. The Chairperson shall have the following duties:
 - (a) to approve the draft agenda for each formal session or informal meeting;
 - (b) to preside at formal sessions or informal meetings;
 - (c) to open and close each formal session or informal meeting;
 - (d) to submit the draft agenda to the Committee for adoption at the beginning of each formal session or informal meeting;
 - (e) to direct discussions and ensure that the procedures specified in the Rules of Procedure and Implementation are observed;
 - (f) to invite the Parties to speak;
 - (g) to rule on points of order in accordance with the relevant Rules of Procedure and Implementation; and
 - (h) to ask questions and announce decisions.
3. If the Chairperson is absent from all or part of a formal session or an informal meeting, or is temporarily unable to fill the office of Chairperson, the Vice-Chairperson shall act as Chairperson. In the absence of the Chairperson and the Vice-Chairperson, the Committee shall appoint a temporary Chairperson.
4. If, for any reason, the Chairperson is unable to continue to fill the office of Chairperson, the Vice-Chairperson shall become Chairperson until the end of the year.

Article 9

Formal Sessions and Informal Meetings

1. The Committee shall hold formal sessions and informal meetings according to the Rules of Procedure and Implementation.
2. The Committee shall hold at least one formal session a year.
3. The Committee shall hold additional formal sessions and informal meetings at the request of the Chairperson or at the request of at least three of the Parties.
4. The Committee may invite observers and relevant stakeholders who wish to discuss particular food assistance related matters to attend its formal sessions or informal meetings in accordance with the Rules of Procedure and Implementation.
5. The Committee shall meet at a location determined in accordance with the Rules of Procedure and Implementation.
6. The agenda for formal sessions and informal meetings shall be developed in accordance with the Rules of Procedure and Implementation.
7. The minutes of a formal session, which shall include any proposed decisions of the Committee, shall be circulated within thirty days after the formal session.

Article 10

Secretariat

1. The Committee shall designate a Secretariat and request its services, in accordance with the Rules of Procedure and Implementation. The Committee shall request of the International Grains Council (IGC) that its Secretariat act as the initial Secretariat of the Committee.
2. The Secretariat shall perform the duties that are set out in this Convention and the Rules of Procedure and Implementation, perform any administrative duties, including the processing and distribution of documents and reports, and carry out other functions identified by the Committee.

Article 11

Resolution of Disputes

The Committee shall seek to resolve any dispute among the Parties concerning the interpretation or implementation of this Convention or the Rules of Procedure and Implementation, including any claim of failure to perform the obligations set out in this Convention.

Article 12

Signature and Ratification, Acceptance, or Approval

This Convention shall be open for signature by Argentina, Australia, the Republic of Austria, the Kingdom of Belgium, the Republic of Bulgaria, Canada, the Republic of Croatia, the Republic of Cyprus, the Czech Republic, the Kingdom of Denmark, the European Union, the Republic of Estonia, the Republic of Finland, the French Republic, the Federal Republic of Germany, the Hellenic Republic, Hungary, Ireland, the Italian Republic, Japan, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Malta, the Kingdom of the Netherlands, the Kingdom of Norway, the Republic of Poland, the Portuguese Republic, Romania, the Slovak Republic, the Republic of Slovenia, the Kingdom of Spain, the Kingdom of Sweden, the Swiss Confederation, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, at United Nations Headquarters in New York from 11 June 2012 until 31 December 2012. This Convention shall be subject to ratification, acceptance or approval by each Signatory. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

Article 13

Accession

1. Any State listed in Article 12 that has not signed this Convention by the end of the signature period, or the European Union if it has not signed by that time, may accede to it at any time after that period. Instruments of accession shall be deposited with the Depositary.
2. Once this Convention has entered into force in accordance with Article 15, it shall be open for accession by any State other than those referred to in Article 12 or by a Separate Customs Territory possessing full autonomy in the conduct of its external commercial relations that is deemed eligible by a decision of the Committee. Instruments of accession shall be deposited with the Depositary.

Article 14

Notification of Provisional Application

Any State referred to in Article 12, or the European Union, that intends to ratify, accept, or approve this Convention or accede thereto, or any State or Separate Customs Territory deemed eligible under Article 13(2) for accession by a decision of the Committee but has not yet deposited its instrument, may at any time deposit a notification of provisional application of this Convention with the Depositary. The Convention shall apply provisionally for that State, Separate Customs Territory, or the European Union from the date of deposit of its notification.

Article 15

Entry into Force

1. This Convention shall enter into force on 1 January 2013 if by 30 November 2012 five Signatories have deposited instruments of ratification, acceptance, or approval.
2. If this Convention does not enter into force in accordance with paragraph 1, the Signatories to this Convention that have deposited instruments of ratification, acceptance, or approval and States or the European Union that have deposited instruments of accession pursuant to Article 13(1) may decide by unanimous consent that it shall enter into force among themselves.
3. For any State or Separate Customs Territory, or the European Union, that ratifies, accepts, approves, or accedes to the Convention after the Convention enters into force, this Convention shall enter into force on the date of the deposit of its instrument of ratification, approval, acceptance, or accession.

Article 16

Assessment and Amendment Procedure

1. At any time after the entry into force of this Convention, a Party may propose an assessment of the relevance of this Convention or propose amendments to it. Any proposed amendments shall be circulated by the Secretariat to all of the Parties at least six months in advance and discussed at the next formal session of the Committee following the end of the notice period.

2. Proposals for amendment to this Convention shall be adopted by decision of the Committee. The Secretariat shall communicate to all of the Parties, and to the Depositary, any proposals for amendment adopted by the Committee. The Depositary shall circulate any adopted amendment to all Parties.
3. Notification of acceptance of an amendment shall be sent to the Depositary. An adopted amendment shall enter into force for those Parties having sent that notification, ninety days after the date on which the Depositary has received such notifications from not less than four fifths of the number of Parties to this Convention on the date of adoption of the proposed amendment by the Committee. Such an amendment shall enter into force for any other Party ninety days after that Party deposits its notification with the Depositary. The Committee may decide that a different threshold be used for the number of notifications required to trigger the entry into force of a specific amendment. The Secretariat shall communicate such a decision to all Parties and the Depositary.

Article 17

Withdrawal and Termination

1. Any Party may withdraw from this Convention at the end of any year by giving written notice of withdrawal to the Depositary and the Committee at least ninety days prior to the end of that year. That Party shall not be released from its minimum annual commitment or reporting obligations incurred under this Convention, while it was a Party, that have not been discharged by the end of that year.
2. At any time after the entry into force of this Convention, a Party may propose the termination of this Convention. Such a proposal shall be communicated in writing to the Secretariat and shall be circulated by it to all of the Parties at least six months in advance of its consideration by the Committee.

Article 18

Depositary

1. The Secretary-General of the United Nations is designated as the Depositary of this Convention.
2. The Depositary shall receive notice of any signature, ratification, acceptance, approval, notification of provisional application of, and accession to, this Convention, and notify all Parties and Signatories of these notices.

Article 19

Authentic texts

The originals of this Convention, of which the English and French texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS THEREOF the undersigned, being duly authorised, have signed this Convention.

DONE at London, 25 April 2012.

LEGISLATIVE FINANCIAL STATEMENT

FRAMEWORK OF THE PROPOSAL/INITIATIVE

- 1.1. Title of the proposal/initiative
- 1.2. Policy area(s) concerned in the ABM/ABB structure
- 1.3. Nature of the proposal/initiative
- 1.4. Objective(s)
- 1.5. Grounds for the proposal/initiative
- 1.6. Duration and financial impact
- 1.7. Management method(s) envisaged

2. MANAGEMENT MEASURES

- 2.1. Monitoring and reporting rules
- 2.2. Management and control system
- 2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

- 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected
- 3.2. Estimated impact on expenditure
 - 3.2.1. *Summary of estimated impact on expenditure*
 - 3.2.2. *Estimated impact on operational appropriations*
 - 3.2.3. *Estimated impact on appropriations of an administrative nature*
 - 3.2.4. *Compatibility with the current multiannual financial framework*
 - 3.2.5. *Third-party participation in financing*
- 3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT

INTRODUCTORY REMARKS

The EU has been the driving force pushing for the negotiation of the Food Aid Convention 1999. This effort has been made in line with **EU Humanitarian Food Assistance Policy**, which promotes the most effective and efficient mix of tools to respond to a specific crisis.

The new Convention **reflects a modern approach to food assistance and has a humanitarian focus**, envisaging short term activities of one year maximum. It aims at improving the effectiveness of food assistance practices and foresees the eligibility of a wider range of food assistance tools (including cash and vouchers). The Convention promotes the provision of food assistance that is firmly needs-based, based on objectively identified needs and sensitive to local contexts. It further promotes the respect for humanitarian principles, encourages local and regional purchase and reflects nutrition concerns in the context of food assistance. It further encourages partnership with stakeholders, includes adequate monitoring and evaluation tools; encourages sharing of best practices.

The new Food Assistance Convention will be open for **individual signature and ratification to the EU, the EU Member States and third countries**, each taking commitments stemming from their respective budgets. Upon ratification of the Convention, one becomes a party and has to notify the secretariat about one's **minimum annual commitment** of food assistance, expressed in tonnage and/or value. The minimum annual commitment is flexible and can be modified through notification to the secretariat.

Based on the EU's budget, a conservative approach is envisaged for the **European Union's minimum annual commitment**, i.e. an amount of EUR 200 million, which corresponds to some 80% of average Humanitarian Food Aid Budget Line over the past few years. Given the Convention's humanitarian focus, the ex-post reporting concerns food assistance activities of a short-term nature, which are supported by the EU and eligible to be counted under the Convention. In reality, the fulfilment of the annual minimum commitment and the reporting ex-post primarily concerns humanitarian food assistance activities. Only very specific elements of food security operations may exceptionally be deemed eligible under the Convention but this would have to be assessed on a case-by-case basis.

Each year, a party has to **report ex-post on the fulfilment of its annual commitment and the food assistance activities undertaken or supported**. The Convention's secretariat draws up a report on the basis of the individual reporting by parties, and this report is subsequently made public. The EU will undertake the reporting on the fulfilment of the EU minimum annual commitments and EU Member States will do a similar individual reporting on the fulfilment of their commitment.

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal of the Commission for a Council decision on the Signing and Conclusion of the Food Assistance Convention

1.2. Policy area(s) concerned in the ABM/ABB structure⁴

Humanitarian Aid - Food Assistance

1.3. Nature of the proposal/initiative

- ☐ The proposal/initiative relates to **a new action**
- ☐ The proposal/initiative relates to **a new action following a pilot project/preparatory action⁵**
- ☐ The proposal/initiative relates to **the extension of an existing action**
- ☐ The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objectives

1.4.1. The Commission's multiannual strategic objective(s) targeted by the proposal/initiative

- (a) Giving the EU an effective voice in the wider world.

The proposal fits in the overarching objective of "giving the EU an effective voice in the wider world" that is governing the Commission's annual programme of work 2012

1.4.2. Specific objective(s) and ABM/ABB activity(ies) concerned

Specific objective No..

ABM/ABB activity(ies) concerned

⁴ ABM: Activity-Based Management – ABB: Activity-Based Budgeting.

⁵ As referred to in Article 49(6)(a) or (b) of the Financial Regulation.

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

In line with the EU policy on Humanitarian Food Assistance, the new Food Assistance Convention encourages the use of innovative food assistance tools and enhances the effectiveness of food assistance practices, based on objectively identified needs; sensitive to local contexts; includes adequate monitoring and evaluation tools; and encourages sharing of best practices of the Food Assistance Convention (FAC).

"Predictability" lies in particular in the fact that donors who become parties to the Convention commit themselves to a determined level of food assistance support per year. They are also held accountable on the basis of annual report that will be made public.

1.4.4. *Indicators of results and impact*

Specify the indicators for monitoring implementation of the proposal/initiative.

Donors becoming parties to the FAC commit themselves to a determined level of food assistance support per year; they are held accountable on the basis of annual report that will be made public (though no sanctions foreseen for non-fulfilment).

1.5. **Grounds for the proposal/initiative**

1.5.1. *Requirement(s) to be met in the short or long term*

Ensure that the most effective and efficient food assistance is put in place and/or supported by main donors to respond to food and nutrition needs of the most vulnerable based on identified needs and with respect of fundamental principles and in compliance with WTO obligations.

1.5.2. *Added value of EU involvement*

- The EU, one of the main humanitarian food assistance donors, has together with EU Member States advocated for the renegotiation of the Food Aid Convention, 1999 and have been the main driver of the process towards a modern Food Assistance Convention both at EU and international level, in accordance with the procedure laid down in Article 218 of the TFEU;
- The Food Assistance Convention is instrumental in allowing the EU to pursue at international level, as contemplated by Article 214(4) TFEU, the advancement of its humanitarian aid policy objectives as laid down in Article 214(1) TFEU.
- The EU involvement contributes to foster greater coherence between EU and Member States food assistance related activities;
- Action at the international level, under the auspices of the Food Assistance Convention, lays down the conditions for greater transparency and predictability of food assistance related actions;

- In response to food and nutrition insecurity needs, the EU has encouraged the move from a merely product-based approach to a more varied approach, using a broader, more appropriate mix of response tools.
- The EU's actions at international level, in the context of the Food Assistance Convention, together with other major international donors, will contribute to engage further other donors a view to fostering a modernised approach to food assistance.

1.5.3. *Lessons learned from similar experiences in the past*

DG ECHO experience on the involvement of the EU in international conventions and fora on food assistance-related matters relate (in particular to the Food Aid Convention, 1999 to which the EU has been party) led to the following lessons being drawn, which contributed to the EU's push towards a modernised international instrument to support food assistance policy: the clear focus on meeting in the most efficient and effective manner beneficiaries' needs is confirmed to be at the forefront (as opposed to the need, in the past, of donating to dispose of excessive food supplies); the need to allow time for all parties to adjust existing instrument to reflect the new needs and try to meet them through a modernised policy approach.

1.5.4. *Coherence and possible synergy with other relevant instruments*

Trade and Agriculture. The new Convention will be WTO compatible and fosters best practices that seek to minimize the distorting or harmful effects on local populations, markets and the broader society.

For the time being, the secretariat of the Convention will be the International Grains Council, which is established and financed by the Grains Trade Convention, that is managed by the European Commission (DG AGRI).

Where appropriate and feasible, synergies with the Food Security Thematic Programme under the DCI will be sought to foster longer-term solutions to food and nutrition security.

1.6. Duration and financial impact

☐ Proposal/initiative of **limited duration**

- ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
- ☐ Financial impact from YYYY to YYYY

☒ Proposal/initiative of **unlimited duration**

- Entry into force with a start-up period from 01 January 2013 if five parties have ratified by 30 November 2012.
- followed by full-scale operation.

1.7. Management mode(s) envisaged⁶

☒ **Centralised direct management** by the Commission

☐ **Centralised indirect management** with the delegation of implementation tasks to:

- ☐ executive agencies
- ☐ bodies set up by the Communities⁷
- ☐ national public-sector bodies/bodies with public-service mission
- ☐ persons entrusted with the implementation of specific actions pursuant to Title V of the Treaty on European Union and identified in the relevant basic act within the meaning of Article 49 of the Financial Regulation

☐ **Shared management** with the Member States

☐ **Decentralised management** with third countries

☒ **Joint management** with international organisations (UN organisations and the ICRC/IFRC)

Comments

The Convention foresees setting up a Food Assistance Committee, composed of the parties to the Convention, that administers the Convention and that functions as the main forum for discussions and exchange of information amongst parties to the Convention.

⁶ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

⁷ As referred to in Article 185 of the Financial Regulation.

Commission (DG ECHO) operations are managed through CDM when implementation is ensured by NGOs or joint management when implementation is done through the UN organisations or IFRC/ICRC.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

Article 6 of the Convention foresees annual reporting. The specific requirements for the reporting are detailed in Rules of Procedure (rule 9 and 10) that will be adopted in the first meeting of the Food Assistance Committee.

2.2. Management and control system

2.2.1. Risk(s) identified

No specific risk has been identified. The FAC does not imply any activity bringing additional risk than the ones identified in the yearly exercise performed for DG ECHO as a whole.

2.2.2. Control method(s) envisaged

There is no change of the general control structure of DG ECHO that can be attributed to the FAC]

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

There is no change of the general control structure of DG ECHO that can be attributed to the FAC

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing expenditure budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Description.....]	Diff./non-diff. (8)	from EFTA ⁹ countries	from candidate countries ¹⁰	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
4	23.02.02 Food Aid	Diff.	NO	NO	NO	NO

- New budget lines requested

Not applicable

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading.....]	Diff./non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

⁸ Diff. = Differentiated appropriations / Non-diff. = Non-Differentiated Appropriations

⁹ EFTA: European Free Trade Association.

¹⁰ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

EUR million (to 3 decimal places)

Heading of multiannual financial framework:	4	Global Europe
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DG ECHO			Year N ¹¹	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7	Subsequent years	TOTAL
• Operational appropriations												
23 02 02	Commitments	(1)	200	200	200	200	200	200	200	200		1600
	Payments	(2)	130	160	180	200	200	200	200	200	130	1600
	Payments	(2a)										
Appropriations of an administrative nature financed from the envelope for specific programmes ¹²												
N/A		(3)										
TOTAL appropriations for DG ECHO	Commitments	=1+1a +3	200	200	200	200	200	200	200	200		1600
	Payments	=2+2a +3	130	160	180	200	200	200	200	200	130	1600

¹¹ Year N is the year in which implementation of the proposal/initiative starts.

¹² Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

• TOTAL operational appropriations	Commitments	(4)	200	200	200	200	200	200	200	200		1600
	Payments	(5)	130	160	180	200	200	200	200	200	130	1600
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)										
TOTAL appropriations under HEADING 4 of the multiannual financial framework	Commitments	=4+ 6	200	200	200	200	200	200	200	200		1600
	Payments	=5+ 6	130	160	180	200	200	200	200	200	130	1600

If more than one heading is affected by the proposal / initiative:

• TOTAL operational appropriations	Commitments	(4)										
	Payments	(5)										
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)										
TOTAL appropriations under HEADINGS 1 to 4 of the multiannual financial framework (Reference amount)	Commitments	=4+ 6										
	Payments	=5+ 6										

Heading of multiannual financial framework:	5	" Administrative expenditure "
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EUR million (to 3 decimal places)

		Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7	TOTAL
DG: ECHO										
• Human resources		0,031	0,031	0,031	0,031	0,031	0,031	0,031	0,031	0,248
• Other administrative expenditure		0,002	0,002	0,002	0,002	0,002	0,002	0,002	0,002	0,016
TOTAL DG ECHO	Appropriations	0,033	0,033	0,033	0,033	0,033	0,033	0,033	0,033	0,264

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)	0,033	0,033	0,033	0,033	0,033	0,033	0,033	0,033	0,264
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EUR million (to 3 decimal places)

		Year N ¹³	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7	Subsequent years	TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments	200,033	200,033	200,033	200,033	200,033	200,033	200,033	200,033		1600,264
	Payments	130,033	160,033	180,033	200,033	200,033	200,033	200,033	200,033	130,033	1600,264

¹³ Year N is the year in which implementation of the proposal/initiative starts.

3.2.2. Estimated impact on operational appropriations

- ☐ The proposal/initiative does not require the use of operational appropriations
- x The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to 3 decimal places)

Indicate objective s and outputs ⇓			Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7	TOTAL								
	Type of output ¹⁴	Average cost of the output	Number of outputs Cost	Number of outputs Cost	Number of outputs Cost	Type of output	Cost	Type of output	Cost	Type of output	Cost	Type of output	Cost	Number of outputs Cost	Total number of outputs Total cost				
SPECIFIC OBJECTIVE No 1 ¹⁵ ...																			
- Output																			
- Output																			
- Output																			
Sub-total for specific objective N°1																			
SPECIFIC OBJECTIVE No 2...																			
- Output																			

¹⁴ Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).
¹⁵ As described in Section 1.4.2. "Specific objective(s)..."

Sub-total for specific objective N°2																				
TOTAL COST			200		200		200		200		200		200		200		200		200	1600

3.2.3. Estimated impact on appropriations of an administrative nature

3.2.3.1. Summary

- The proposal/initiative does not require the use of administrative appropriations
- x The proposal/initiative requires the use of administrative appropriations, as explained below:

EUR million (to 3 decimal places)

	Year N ¹⁶	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7	TOTAL
--	-------------------------	-------------	-------------	-------------	-------------	-------------	-------------	-------------	-------

HEADING 5 of the multiannual financial framework									
Human resources	0,031	0,031	0,031	0,031	0,031	0,031	0,031	0,031	0,248
Other administrative expenditure	0,002	0,002	0,002	0,002	0,002	0,002	0,002	0,002	0,016
Subtotal HEADING 5 of the multiannual financial framework	0,033	0,033	0,033	0,033	0,033	0,033	0,033	0,033	0,264

Outside HEADING 5¹⁷ of the multiannual financial framework									
Human resources									
Other expenditure of an administrative nature									
Subtotal outside HEADING 5 of the multiannual financial framework									

TOTAL	0,033	0,033	0,033	0,033	0,033	0,033	0,033	0,033	0,264
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¹⁶

Year N is the year in which implementation of the proposal/initiative starts.

¹⁷

Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

3.2.3.2. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources
- x The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full amounts (or at most to one decimal place)

	Year N	Year N+1	Year N+2	Year N+3	Year N+4	Year N+5	Year N+6	Year N+7
• Establishment plan posts (officials and temporary agents)								
XX 01 01 01 (Headquarters and Commission's Representation Offices)	0,3	0,3	0,3	0,3	0,3	0,3	0,3	0,3
XX 01 01 02 (Delegations)								
XX 01 05 01 (Indirect research)								
10 01 05 01 (Direct research)								
• External personnel (in Full Time Equivalent unit: FTE)¹⁸								
XX 01 02 01 (CA, INT, SNE from the "global envelope")								
XX 01 02 02 (CA, INT, JED, LA and SNE in the delegations)								
XX 01 04 yy¹⁹	- at Headquarters ²⁰							
	- in delegations							
XX 01 05 02 (CA, INT, SNE - Indirect research)								
10 01 05 02 (CA, INT, SNE - Direct research)								
Other budget lines (specify)								
TOTAL	0,3	0,3	0,3	0,3	0,3	0,3	0,3	0,3

23 is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

¹⁸ CA= Contract Agent; INT= agency staff ("Intérimaire"); JED= "Jeune Expert en Délégation" (Young Experts in Delegations); LA= Local Agent; SNE= Seconded National Expert;
¹⁹ Under the ceiling for external personnel from operational appropriations (former "BA" lines).
²⁰ Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

Officials and temporary agents	Prepare the EU's participation in meetings of the Food Assistance Committee and attend the meetings. Prepare and deliver the annual reporting on the fulfilment of the annual minimum commitment and on the food assistance activities that have been supported
External personnel	

3.2.4. Compatibility with the current multiannual financial framework

- ☒ Proposal/initiative is compatible the current multiannual financial framework.
- ☐ Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

- ☐ Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework²¹.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. Third-party contributions

- The proposal/initiative does not provide for co-financing by third parties
- The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to 3 decimal places)

	Year N	Year N+1	Year N+2	Year N+3	... enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
<i>Specify the co-financing body</i>								
TOTAL appropriations cofinanced								

²¹ See points 19 and 24 of the Interinstitutional Agreement.

3.3. Estimated impact on revenue

- x Proposal/initiative has no financial impact on revenue.
- ☐ Proposal/initiative has the following financial impact:
 - ☐ on own resources
 - ☐ on miscellaneous revenue

EUR million (to 3 decimal places)

Budget revenue line:	Appropriations available for the ongoing budget year	Impact of the proposal/initiative ²²						
		Year N	Year N+1	Year N+2	Year N+3	... insert as many columns as necessary in order to reflect the duration of the impact (see point 1.6)		
Article								

For miscellaneous assigned revenue, specify the budget expenditure line(s) affected.

Specify the method for calculating the impact on revenue.

²² As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% for collection costs.