



EUROPEAN COMMISSION

Brussels, 3.10.2011  
COM(2011) 634 final

2008/0183 (COD)

Amended proposal for 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**

## **EXPLANATORY MEMORANDUM**

### **1. HISTORY OF THE PROPOSAL**

Commission's adoption of the proposal: 17 September 2008

Transmission of the Proposal to the Council and the European Parliament – COM(2008) 563 final: 15 October 2008 (2008/0183(CNS))

Opinion of the European Parliament – first reading: The opinion adopted on 26 March 2009 was confirmed by the resolution of 5 May 2010 on the consequences of the entry into force of the Treaty of Lisbon for ongoing inter-institutional decision-making procedures (COM(2009)0665)- "omnibus".

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

On 17 September 2010, the Commission adopted an amended proposal (COM(2010) 486 final). Together with lower rates of national co-financing, it included a ceiling of € 500 million for the EU annual financial contribution and a series of technical adjustments following the amendments proposed by the European Parliament. The amended proposal was also adjusted to take into account the entering into force of the Lisbon Treaty.

Opinion of the European Economic and Social Committee on the amended proposal: CESE 70/2011 adopted on 20 January 2011 (Rapporteur: Mr. Lucan)

Opinion of the Committee of the Regions on the amended proposal: CdR 340/2010 adopted on 27 January 2011 (Rapporteur Mr. Martikainen).

This new amended proposal replaces amended proposal (COM(2010) 486 final).

### **2. CONTEXT OF THE PROPOSAL**

Council Regulation (EEC) No 3730/87 laid down the general rules for the supply of food from intervention stocks to designated organisations for distribution to the most deprived in the Community. That Regulation was subsequently repealed and integrated into the Regulation establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

For more than two decades intervention stocks made available through this scheme have proven to be a reliable supply of food for the most deprived. The need for food distribution has grown following the successive enlargements that have substantially increased the Union's needy population. In 2010 more than 18 million people benefited from this scheme.

The objectives of the Common Agriculture Policy (CAP) as defined in Article 39(1) of the Treaty include stabilising the markets and ensuring that supplies reach

consumers at reasonable prices. On the other hand, the strengthening of the Union's social cohesion is a goal enshrined in Article 174 of the Treaty. By reducing the food insecurity of the most deprived persons in the Union and contributing to reduce public intervention stocks, the programme supports the fulfillment of all these objectives.

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 and, as a result, intervention stocks of agricultural products have declined. The legal framework of the food distribution scheme needs to be adjusted to this new reality.

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.

On 22 May 2008, the European Parliament adopted a resolution on rising food prices in the EU and the developing countries, in which it highlighted 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.

The Commission has already recognised the importance of this scheme in its Communication on "Tackling the challenge of rising food prices – Direction for EU Action" of 20 May 2008. During his speech to the Parliament on 18 June 2008, the President of the European Commission indicated that the Commission foresaw an increase in budget for this initiative by two thirds.

On 13 April 2011 the European Court of Justice (case T-576/08) annulled the provisions of the 2009 distribution plan providing for purchases on the market. Against this background, the Commission was compelled to source the 2012 distribution plan entirely from existing intervention stocks. As a result, the budget of the 2012 plan amounts for only €113 million, less than a quarter of the previous annual plans.

The Commission adopted on 29 June 2011 a Communication on the multi-annual financial perspectives for the period 2014-20. As for the food distribution scheme for the most deprived people, it proposed that in future it will be funded out of Heading 1 with an overall amount of €2.5 billion (2011 prices).

The European Parliament, in its resolution of 7 July 2011 called on the Commission and the Council to develop a transitional solution for the remaining years of the current multi-annual financial framework as to avoid a sharp cutback in food aid as a result of the reduction in funding from €500 million to €133 million and to ensure that people dependent on food aid do not suffer from food poverty. Numerous representatives of the European civil society, ranging from local authorities to NGOs and charities, have expressed their worries for the future of the scheme and have unanimously called on the various institutions of the Union to find a solution to secure its continuation.

### 3. ELEMENTS OF THE INITIAL PROPOSAL

In 2008 the Commission proposed a revision of the food distribution programme (COM (2008) 563 final) based on the following elements:

- **Two sources of supply.** Food would 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 would be given to the use of suitable intervention stocks where these are available.

- **Wider variety of foods to be distributed and clearer priorities.** In order to improve the nutritional balance of the food provided through the scheme, the choice of distributed foods would no longer be limited to those for which intervention applies. Food products would be chosen by Member State authorities in the frame of national food distribution programmes setting out objectives and priorities for food distribution to the most deprived and that would include nutritional concerns.

- **Long-term perspective.** Food distribution activities require long-term planning and careful preparation by the national authorities and charities. In order to enhance its efficiency, the Union food distribution scheme 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. Furthermore, a ceiling for the financial contribution of the Union is proposed.

- **Co-financing.** The introduction of co-financing would underpin the cohesive 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 strengthened and include a report from the Commission to the European Parliament and the Council.

The 2008 proposal was accompanied by an Impact Assessment in form of a Commission staff working document (SEC(2008)2436/2).

### 4. OPINION OF THE COMMISSION ON THE AMENDMENTS BY THE EUROPEAN PARLIAMENT; ELEMENTS OF THE NEW AMENDED PROPOSAL

In its opinion, the European Parliament has strongly advocated the maintenance of the full Union's funding for this scheme (amendments 5, 10, 16, 17, 18, 19). The opinion of the European Economic and Social Committee contains a similar request.

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. They argue that in the current context of financial crisis certain participating Member States could not be able to secure their part of national funding and, as a result, the food distribution scheme might be disrupted where it is most needed.

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 (COM(2010)486 final) by this new amended proposal.

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 is of the view that this would be more appropriately reflected in its proposal through a double legal base (Articles 42 and 43(2) together with 175(3)).

This new amended proposal 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 € 500 million for the Union's financial contribution is maintained.

Amendments 8, 11, 13 and 14 contain other substantial changes accepted by the Commission in this amended proposal although the wording eventually retained by the Commission may differ from the one proposed by the European Parliament. Amendment 8 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. Amendment 11 provides 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. Amendment 13 states that purchase of food products should be made on the basis of competitive procedures as it is now explicitly indicated in the proposal. Finally, Amendment 14 calls for the reimbursement of storage costs incurred by charitable organisations, which is now incorporated as well.

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.

The 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 remain in this new amended proposal.

## **5. ALIGNMENT TO THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION (TFEU)**

The Treaty on the Functioning the European Union (TFEU) establishes a clear distinction between on the one hand the jurisdiction delegated to the Commission in order to adopt non legislative acts (delegated acts), which supplement or modify certain non-essential elements of the legislative act as provided by Article 290, and, on the other, jurisdiction conferred to the Commission in order to adopt implementing acts pursuant to Article 291. In fact, Member States are responsible for

the implementation of the legally binding acts of the European Union but if the application of the legislative act requires uniform conditions for implementation, it is up to the Commission to adopt them by means of implementing acts.

The alignment of the scheme of food distribution for the most deprived persons to the new rules of the Treaty 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 or delegated acts.

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

In accordance with Article 290 of the Treaty on the Functioning of the European Union, the Legislator entrusts the Commission to supplement or modify certain non-essential elements which are nevertheless necessary for the proper operation of the scheme. 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.

Member States, in accordance with Article 291 of the Treaty on the Functioning of the European Union are responsible for the implementation of legally binding Union acts adopted by the Legislator. It seems however necessary to ensure a uniform implementation of the scheme across participating the Member States in order to avoid any risk of distortion or discrimination. Consequently, in this amended proposal the Legislator confers to the Commission implementing powers for adopting detailed rules and procedures, adopting and where necessary revise the plans, the definition of the additional elements to be included in the three-year plans, the procedures and time limits applicable to withdrawals, the format of annual implementation reports and national food distribution programmes, 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, the minimal requirements of control programmes, uniform conditions concerning payment procedures including the tasks to be fulfilled by national intervention agencies and the detailed rules on the obligation to display the participation of the Union in this scheme both in the packing and the distribution points.

## **6. BUDGETARY IMPLICATIONS**

The proposed rules are designated to implement the new provisions for the food distribution scheme for the most deprived persons in the Union. The new scheme will remain entirely financed by the Union.

This amended proposal maintains an annual financial ceiling of €500 millions for the EU financing of the scheme.

## **7. AMENDED PROPOSAL**

Having regard to Article 293(2) of the Treaty on the functioning of the European Union, this new amended proposal by the Commission is presented below.

Amended proposal for 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**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the first subparagraph of Article 42, Article 43(2) and Article 175 (3) thereof,

Having regard to the proposal from the European Commission<sup>1</sup>,

After transmission of the proposal to the national Parliaments,

Having regard to the opinion from the European Economic and Social Committee<sup>2</sup>,

Having regard to the opinion of the Committee of the Regions<sup>3</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Regulation (EEC) No 3730/87 of 10 December 1987 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<sup>4</sup>, subsequently repealed and integrated into Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)<sup>5</sup>, has provided a reliable scheme for distribution of food products to the most deprived persons of the Union for more than two decades and has positively contributed to the social cohesion of the EU by reducing economic and social disparities.
- (2) The objectives of the Common Agricultural Policy (CAP) as defined in Article 39(1) of the Treaty include stabilising the markets as well as ensuring that supplies reach consumers at reasonable prices. Over the years the food distribution scheme has successfully underpinned the fulfilment of both objectives and, by reducing the food insecurity of the most deprived persons in the Union, has proven to be an essential tool

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> XX

<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> OJ L 352, 15.12.1987, p. 1.

<sup>5</sup> OJ L 299, 16.11.2007, p. 1.



contributing to guarantee broad availability of food within the Union while reducing the intervention stocks. The EU food aid scheme for the most deprived should continue to guarantee the aims of the CAP. At the same time, it should also aim to strengthen the Union's social cohesion.

- (3) The European Parliament, in its declaration of 4 April 2006 on supplying approved charities working to implement the European food aid programme for the most deprived<sup>6</sup>, noted that the European food aid programme for the most deprived had proved its worth and was vital for millions of persons. Moreover, it 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 inter alia to place the European food aid programme on a permanent footing. Furthermore, the European Parliament, in its resolution of 7 July 2011 has called on the Commission and the Council to develop a transitional solution for the remaining years of the current multi-annual financial framework as to avoid a sharp cutback in food aid as a result of the reduction in funding from €500 millions to €113 millions and ensure that people dependent on food aid do not suffer from food poverty.
- (4) The successive enlargements of the Union have increased the potential number of beneficiaries of food aid schemes. At the same time rising food prices have negatively affected the food security of the most deprived persons and increased the cost of providing the food aid. As a result, the importance of the scheme originally set up under Regulation (EEC) No 3730/87 and currently under Article 27 of Regulation (EC) No 1234/2007 has grown over the years. It is therefore essential to continue the scheme at Union level and further adapt it to changing market developments.
- (5) The current food distribution scheme relies on the distribution of products from Union intervention stocks supplemented, on a temporary basis, by purchases on the market. However, successive reforms of the CAP and favourable developments of producer prices have resulted in a progressive reduction in intervention stocks, as well as the range of products available. Consequently, market purchases should also be made a permanent source of supply for the scheme to complement intervention stocks, where suitable intervention stocks are not available.
- (6) To the extent the scheme operates by way of purchase of food products on the markets when intervention stocks suitable for the food distribution are not available, it is a specific action necessary to pursue the objective of strengthening the Union's social cohesion.
- (7) A Union scheme cannot constitute the sole response to the growing needs for food aid in the Union. National policies implemented by public administrations and the mobilisation of civil society including local initiatives are equally necessary to provide food security for the most deprived. A Union scheme with a strong cohesive element might, however, serve as a model for the distribution of food to the most deprived, especially in less developed regions, help create synergies and encourage public and private initiatives aimed at increasing the food security of persons in need. Furthermore, given the geographical dispersion of the reduced available intervention

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<sup>6</sup> OJ C 293 E, 2.12.2006, p. 170.

stocks in the Member States, it can contribute to their best use. The Union scheme should therefore also be without prejudice to any such national policies.

- (8) In order to ensure sound budgetary management, a fixed ceiling of Union aid should be provided for. The most deprived scheme should be added to the list of measures eligible for financing by the European Agricultural Guarantee Fund (EAGF) set out in Article 3(1) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy<sup>7</sup>.
- (9) Experience has shown that certain improvements in the management of the food distribution scheme are necessary. The Commission should therefore establish annual plans for the implementation of the scheme, based on the Member States requests to be communicated to the Commission and other information considered relevant. Member States should base their requests of food products on national food distribution programmes setting out their objectives and priorities for food distribution to the most deprived persons including nutritional considerations. In this context, it would be appropriate that Member States may decide to give preference to products of Union origin. Finally, in order to secure a proper coverage of costs linked to the implementation of the plan, it should be provided that Member States may decide to reimburse, within the resources made available through the plan, certain costs incurred by designated organisations in relation to administration, transport and storage.
- (10) Member states should undertake adequate administrative and physical controls and provide penalties in case of irregularities in order to ensure that the annual plan is implemented in accordance with the applicable rules.
- (11) Article 27 of Regulation (EC) No 1234/2007, confers powers to the Commission in order to implement some of the provisions of that Article.
- (12) As a consequence of the entry into force of the Lisbon Treaty, the Commission powers conferred for the operation of the scheme provided for in Article 27 of Regulation (EC) No 1234/2007 need therefore to be aligned to Articles 290 and 291 of the Treaty on the Functioning of the European Union ("the Treaty").
- (13) The Commission should have the power to adopt delegated acts in accordance with Article 290 of the Treaty in order to supplement or amend certain non-essential elements of Article 27 of Regulation (EC) No 1234/2007. The elements for which that power may be exercised should be defined, as well as the conditions to which that delegation is to be subject.
- (14) In order to guarantee a uniform application of Article 27 of Regulation (EC) No 1234/2007 in all Member States, the Commission should be empowered to adopt implementing acts in accordance with Article 291 of the Treaty. Measures required for such uniform application should be adopted by the Commission, by means of implementing acts, in accordance with the provisions of Regulation (EU) No XX/XXXX of the European Parliament and the Council on...
- (15) In order to ensure efficiency and transparency in the adoption of annual plans the Commission should adopt the procedures for the adoption and revision of the plans by

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<sup>7</sup> OJ L 209, 11.8.2005, p. 1.

means of implementing acts. For the same reason adoption and, where necessary, review annual -year plan should also be done by means of implementing acts.

- (16) In order to ensure that Member States are given a coherent and efficient framework for participating in and implementing the scheme, the Commission should adopt implementing acts for determining additional elements to be included in the annual plan, rules for the supply of products as well as procedures and time limits applicable to withdrawals of intervention products including transfers between Member States.
- (17) In order to ensure the comparability of the information to be submitted by participating Member States, the Commission should adopt by means of implementing acts rules on the format of national food distribution programmes and annual implementation reports.
- (18) Member States should have the possibility to consider eligible under the scheme certain expenses of the charitable organisations. In order to ensure that this possibility is uniformly put into effect across Member States the Commission should adopt implementing acts determining common detailed rules for the reimbursements of those costs including time limits and financial ceilings.
- (19) In order to ensure that invitations for tender are issued according to uniform rules across all Member States, the Commission should adopt implementing acts for the conditions pertaining to the invitation to tender and the conditions applicable to food products and their the supply.
- (20) To ensure a harmonised level of performance of the different elements of the control system, the Commission should adopt implementing rules laying down the obligations of Member States concerning checks.
- (21) In order to ensure that the implementation of the plan by the authorities of Member States is done in a uniform manner and to facilitate collaboration among them, the Commission should adopt implementing rules setting down procedures and deadlines for payments, including reductions for their non-respect, accounting provisions and the tasks to be fulfilled by national intervention bodies including in the case of transfers between Member States.
- (22) Regulations (EC) No 1290/2005 and (EC) No 1234/2007 should therefore be amended accordingly.

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

In Article 3(1) of Regulation (EC) No 1290/2005, the following point (g) is added:

- "(g) the scheme for distribution of food products to the most deprived persons in the Union provided for in Article 27 of Regulation (EC) No 1234/2007."

## Article 2

Regulation (EC) No 1234/2007 is amended as follows:

- (1) A new Article 4a is inserted:

### "Article 4a

#### *[Adoption of delegated and implementing acts]*

Where powers are conferred upon the Commission to adopt delegated acts, it shall act in accordance with the procedure referred to in Article 196a.

Where powers are conferred upon the Commission to adopt implementing acts, it shall act in accordance with the procedure referred to in Article 196b."

- (2) In Part II, Title I, Chapter I, Section II, the Subsection IV is amended as follows:

- (a) Article 27 is replaced by the following:

### "Article 27

#### *Scheme for food distribution to the most deprived persons in the Union*

1. A scheme is established whereby food products may be distributed to the most deprived persons in the Union through organisations designated by Member States. For that purpose, products in intervention stocks shall be made available or, where intervention stocks suitable for the food distribution scheme are not available, food products shall be purchased on the market.

For the purposes of the scheme provided for in the first subparagraph 'most deprived persons' means physical persons, whether individuals, families or groups composed of such persons, whose social and financial dependence is recorded or recognised on the basis of eligibility criteria adopted by the national competent authorities, or is judged to be so on the basis of the criteria used by the designated organisations and which are approved by those competent authorities.

2. Member States wishing to participate in the scheme provided for in paragraph 1 shall submit to the Commission food distribution programmes containing the following:
  - (a) details of their main characteristics and objectives,
  - (b) the organisations designated,
  - (c) the requests for quantities of food products to be distributed each year and other relevant information.

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.

3. Based on requests notified by Member States pursuant to the first subparagraph of paragraph 2 and other information considered relevant, the Commission shall adopt annual plans.

Each annual plan shall set out annual financial allocations by the Union per Member State.

When products included in the annual plan are not available in intervention stocks in the Member State where such products are required, the annual plan shall provide for their transfer from Member States where they are available in intervention stocks.

An annual plan may be revised in the light of any relevant developments affecting its execution.

4. The organisations designated by the Member States as referred to in paragraph 1 cannot be commercial undertakings.

The food products shall be released free of charge to those organisations.

The distribution of the food products to the most deprived persons shall be:

- (a) free of charge, or
- (b) at a price which is in no case greater than that justified by the costs incurred by the designated organisations in implementing the operation, other than the costs that may be covered under points (a) and (b) of the second subparagraph of paragraph 7.

5. Member States participating in the scheme shall:

- (a) submit to the Commission an annual report on implementation of the scheme;
- (b) keep the Commission informed in a timely manner on developments affecting the implementation of the food distribution programmes.

6. The Union shall finance the eligible costs under the scheme. This financing shall not exceed EUR 500 million per budget year.

7. Eligible costs under the scheme shall be:

- (a) the cost of products released from intervention stocks,
- (b) the cost of food products purchased on the market, and

- (c) the costs of transporting products in intervention stocks between Member States, when required.

Within the financial resources available to implement the annual plan in each Member State, the national competent authorities may consider eligible the following costs:

- (a) costs of transport of food products to the storage depots of the designated organisations;
- (b) the following costs incurred by the designated organisations, to the extent that they are directly linked with the implementation of the plan:
  - (i) administrative costs;
  - (ii) transport costs between the storage depots of the designated organisations and the points of final distribution, and
  - (iii) storage costs.

- 8. Member States shall carry out administrative and physical controls to ensure the implementation of the plan in compliance with the applicable rules and establish the penalties applicable in cases of irregularities.
- 9. The words "European Union aid" accompanied by the emblem of the European Union shall be clearly marked in the packing of food distributed through the plans as well as in the distribution points.
- 10. The Union scheme shall be without prejudice to any national schemes whereby food products are distributed to most deprived persons, in conformity with Union law.

\* OJ L 243, 6.9.2006, p. 47."

- (b) The following Articles 27a and 27b are added:

*"Article 27a*

*Non-essential elements of the scheme for food distribution*

- 1. In order to ensure the efficient use of the budget assigned to the scheme provided for in Article 27, the Commission shall, by means of delegated acts, define the method for calculating the overall allocation of resources including the distribution of intervention products and financial means for the purchase of food products on the market among Member States. It shall also define the accounting value of products released from intervention stocks as well as the method to be used for any reallocation of resources among Member States as a result of an annual plan revision.
- 2. In order to ensure the effective and efficient use of the budget assigned to the scheme provided for in Article 27, and to safeguard the rights and

obligations of operators, the Commission shall, by means of delegated acts, adopt provisions requiring the use of tendering procedures for all operations relating to the execution of the food distribution programmes, provisions on securities to be lodged by participants in tenders, and provisions on sanctions, reductions and exclusions to be applied by the Member States especially with regard to the non respect of time-limits for withdrawal of products from intervention stocks and in the case of serious shortcomings or irregularities in the execution of the annual plan.

#### *Article 27b*

##### *Uniform implementation of the scheme for food distribution*

1. The Commission shall, by means of implementing acts, adopt provisions for the uniform implementation of the annual plan and the national food distribution programmes referred to in Article 27. Those acts shall concern:
  - (a) detailed rules and procedures for the adoption and revision of the annual plans, including applicable deadlines;
  - (b) the adoption of the annual plans and their revisions;
  - (c) provisions on additional elements that annual plans shall consist of, rules for the supply of food products, as well as the procedures and time limits applicable to withdrawals of intervention products and transfers between Member States;
  - (d) provisions on the format of annual reports on implementation as well as of the national food distribution programmes;
  - (e) detailed rules applying to the reimbursement of the costs provided for in the second subparagraph of Article 27(7) including financial ceilings and time limits;
  - (f) uniform conditions pertaining to tender invitations including conditions applicable to food products and their supply;
  - (g) provisions on administrative and physical controls to be undertaken by the Member states;
  - (h) uniform provisions concerning payment procedures and deadlines and reductions applicable in case of non-respect, accounting provisions and procedures for transfers between Member States including the description of tasks to be fulfilled by concerned national intervention bodies;
  - (i) uniform conditions for the implementation of Article 27(9)."

- (3) In Article 184, the following point (9) is added:

"(9) by 31 December 2014 at the latest, to the European Parliament and the Council on the application of the scheme for food distribution to the most deprived persons in the Union provided for in Article 27, together with any appropriate proposals."

(4) In Chapter I of part VII, the following Articles 196a and 196b are added:

*"Article 196a*

*Delegated acts*

1. The powers to adopt the delegated acts referred to in this Regulation shall be conferred on the Commission for an indeterminate period of time.

As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

2. The delegation of power referred to in paragraph 1 may be revoked at any time by the European Parliament or by the Council.

The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.

The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

3. The European Parliament and the Council may object to the delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by one month.

If, on the expiry of that period, neither the European Parliament nor the Council has objected to the delegated act it shall be published in the *Official Journal of the European Union* and shall enter into force at the date stated therein.

The delegated act shall be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.



## *Article 196b*

### *Implementing acts*

1. For the adoption by the Commission of the implementing acts referred to in this Regulation the procedure provided by Article [X] of Regulation (EU) No [XXX/XXXX] of the European Parliament and the Council shall apply.
2. The Commission shall be assisted by the Management Committee for the Common Organisation of Agricultural Markets set up by Article 195 of Council Regulation (EC) No 1234/2007."

## *Article 2*

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done [...]

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

<b>FINANCIAL STATEMENT</b>		Fichefin/478963rev2 (FB/nh) 6.5.2011.1		
		DATE: 27/09/2011		
1. BUDGET HEADING: 05 02 04 01		APPROPRIATIONS: 500 M€ in B-2011 500 M€ in DB-2012		
2. TITLE: Amended Proposal for a Regulation (EU) No.../...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.				
3. LEGAL BASIS: Articles 42, 43(2) and 175(3) of the Treaty on the Functioning of the European Union				
4. AIMS: The proposed rules are designated to implement the new provisions for the food distribution scheme to the most deprived persons in the Union				
5. FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR (EUR million)	FOLLOWING FINANCIAL YEAR (EUR million)	
5.0 EXPENDITURE	500	-	-	
- CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS)				
- NATIONAL AUTHORITIES				
- OTHER				
5.1 REVENUE	-	-	-	
- OWN RESOURCES OF THE EU (LEVIES/CUSTOMS DUTIES)				
- NATIONAL				
5.0.1 ESTIMATED EXPENDITURE	2010	2011	2012	2013
5.1.1 ESTIMATED REVENUE	-	-	500	500
5.2 METHOD OF CALCULATION: -				
6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?			<del>YES</del> NO	
6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			<del>YES</del> NO	
6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			<del>YES</del> NO	
6.3 WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?			YES <del>NO</del>	
OBSERVATIONS: The proposal includes an annual budget ceiling of 500 M€				