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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.9.2008  
COM(2008) 563 final

2008/0183 (CNS)

Proposal for a

**COUNCIL REGULATION**

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

{SEC(2008) 2436}

{SEC(2008) 2437}

## **EXPLANATORY MEMORANDUM**

### **1. 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 That Regulation was subsequently repealed and integrated into the Regulation establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products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 by the Community have proven to be a reliable supply of food aid for the most deprived. The need for food distribution has grown following the successive enlargements that have substantially increased the Community's needy population. In 2006 more than 13 million people benefited from this aid scheme. Moreover, rising food prices are adversely affecting the food security of the most deprived persons as well as increasing the costs of providing food aid.

The objectives of the Common Agriculture Policy (CAP) as defined in Article 33(1) of the Treaty include stabilising the markets and ensuring that supplies reach consumers at reasonable prices. Over the years the food distribution plans implemented under the scheme have helped to achieve both objectives and, by reducing the food insecurity of the most deprived persons in the Community, have proven to be an essential tool, contributing to guarantee the broad availability of food within the European Union while reducing the intervention stocks.

In recent years, the CAP has been substantially reframed, with a switch of emphasis from the primary objective of increasing productivity to enhancing the long-term sustainability of agriculture. In this context, intervention as a regulatory tool has been removed completely for some products such as olive oil, sugar and maize and, for the rest, is being returned to its original role as a safety net. As a result, the Community programme's reliance on market purchases for the provision of food has increased significantly over the years.

In its declaration of 4 April 2006 on supplying approved charities working to implement the European food aid programme for the most deprived, the European Parliament expressed its concern about the future of the European food aid programme for the most deprived and, in acknowledgement of the need to meet their food requirements, called on the Commission and the Council to put the European food aid programme on a permanent footing.

More recently, on 22 May 2008, the European Parliament adopted a resolution on rising food prices in the EU and the developing countries, in which it stresses the fundamental nature of the right to food and the need to improve access for all people at all times to enough food for an active, healthy life.

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 foresees an increase in budget for this initiative by two thirds.

- Consultation of interested parties and impact assessment

An internet-based public consultation on the Community food distribution programme attracted a large response, with replies expressing overwhelming support for the continuation of the Community food distribution programme. Suggestions from charitable organisations involved in the distribution in the Member States were solicited at two workshops held on 11 April and 15 July 2008 and, in the framework of the Management Committee for the Common Organisation of Agricultural Markets, national authorities presented their views on the implementation of the programme.

In accordance with the commitment to better regulation, the Commission has assessed the impact of four possible options: "Status quo", where intervention stocks would remain the sole permanent source of food; "Intervention stocks complemented by market purchases", which bases the programme on withdrawals from intervention when stocks are available, supplemented by market purchases; "Market purchases only", where the use of intervention stocks would no longer be possible; and "Termination of food distribution" where the food distribution programme would either be phased out gradually or brought to an end. The Impact Assessment found that the second and third options best achieve the stated objectives.

## 2. ELEMENTS OF THE PROPOSAL

In this context the Commission proposes a revision of the food distribution programme based on the following elements:

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

- **Reinforcing monitoring and reporting.** Reporting obligations at various levels would be increased and include a report from the Commission to the European Parliament and the Council by 31 December 2012, at the latest.

### **3. BUDGETARY IMPLICATIONS**

The proposed rules are designated to implement the new provisions for the food distribution scheme for the most deprived persons in the Community. The new scheme will be co-financed by the Community; hence the amendment of Article 3(1) of Regulation (EC) No 1290/2005 is necessary. These rules by themselves will have no impact on the budget. The budget impact will start with the 2010 food distribution programme and will be determined at the time that this programme is drawn up.

Proposal for a

## **COUNCIL REGULATION**

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion from the European Parliament<sup>1</sup>,

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>2</sup>, subsequently repealed and integrated into Council Regulation (EC) No 1234/2007<sup>3</sup>, has provided a reliable source of food for distribution to the most deprived persons of the Community for more than two decades.
- (2) The objectives of the Common Agricultural Policy (CAP) as defined in Article 33(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 plans implemented under the scheme have successfully underpinned the fulfilment of both objectives and, by reducing the food insecurity of the most deprived persons in the Community, have proven to be an essential tool contributing to guarantee broad availability of food within the Community while reducing the intervention stocks.
- (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>4</sup>, noted that the European food aid programme for the most deprived had proved its worth and was vital for millions of Europeans. Moreover, it expressed its

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<sup>1</sup> XX

<sup>2</sup> OJ L 352, 15.12.1987, p. 1.

<sup>3</sup> OJ L 299, 16.11.2007, p. 1.

<sup>4</sup> OJ C 293 E, 2.12.2006, p. 170.

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.

- (4) The successive enlargements of the Community have increased the potential number of beneficiaries of food aid schemes in the Community. 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 has grown over the years. It is therefore essential to continue the scheme at Community level and further adapt it to changing market developments.
- (5) The current food distribution scheme relies on the distribution of products from Community 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) A Community scheme cannot constitute the sole response to the growing needs for food aid in the Community. National policies implemented by public administrations and the mobilisation of civil society are equally necessary to provide food security for the most deprived. A Community scheme with a strong cohesive element might, however, serve as a model for the distribution of food to the most deprived, 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 stocks in the Member States, it can contribute to their best use. The Community scheme should therefore also be without prejudice to any such national policies.
- (7) In order to fully benefit from the cohesive dimension of the Community scheme and reinforce the synergies thereby created, and in order to ensure proper planning, provision should be made for Member States to co-finance the food distribution programme. Maximum Community co-financing rates should be provided for and the Community financial contribution 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<sup>5</sup>. Higher co-financing rates should apply in the first years of application of the revised scheme in order to ensure the continued high take-up of funds, the gradual phase in of co-financing, to allow for a smooth transition and to avoid the risk of discontinuation of the scheme due to a possible lack of resources.
- (8) The rate of the contribution from the EAGF should be set taking into account the situation of Member States eligible for funding from the Cohesion Fund, as listed in

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<sup>5</sup> OJ L 209, 11.8.2005, p. 1.

Annex I to Commission Decision 2006/596/EC<sup>6</sup> or in subsequent relevant decisions, in order to strengthen the economic and social cohesion of the Community.

- (9) Experience has shown that certain improvements in the management of this scheme are desirable, in particular to provide Member States and designated organisations with a longer term perspective through multi-annual plans. The Commission should therefore establish three-year-plans for the implementation of the scheme, based on the Member States requests to be communicated to the Commission and other information considered relevant by the Commission. Member States should base their requests in terms of food products to be distributed within any three-year-plan on national food distribution programmes setting out their objectives and priorities for food distribution to the most deprived persons. The Commission should define an objective methodology for allocating available funds.
- (10) Regulations (EC) No 1290/2005 and (EC) No 1234/2007 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

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

- "(g) the Community's financial contribution to food distribution to the most deprived persons in the Community provided for in Article 27 of Regulation (EC) No 1234/2007."

*Article 2*

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

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

*"Article 27*

*Food distribution to the most deprived persons in the Community*

1. Products in intervention stocks shall be made available or food products shall be purchased on the market so that food products may be distributed to the most deprived persons in the Community through organisations designated by Member States.

Food products shall be purchased in the market only where intervention stocks suitable for the food distribution scheme are not available.

2. Member States wishing to participate in the scheme shall communicate to the Commission national food distribution programmes, containing requests for

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<sup>6</sup> OJ L 243, 6.9.2006, p. 47.

amounts of food products to be distributed during a three-year period and other relevant information.

3. The scheme referred to in paragraph 1 shall be based on three-year plans drawn up by the Commission, based on requests notified by Member States in accordance with paragraph 2 and other information considered relevant by the Commission.

The three-year plan shall set out annual financial allocations by the Community per Member State and minimum annual financial contributions of Member States, determined by the Commission in accordance with a methodology to be set out in the implementing rules adopted in accordance with Article 43(g). Allocations for the second and third year of the programme shall be indicative. Member States participating in the scheme shall confirm every year the requests referred to in paragraph 2. Following these confirmations, the Commission shall decide each subsequent year on the definitive allocations, within the limits of the appropriations available in the budget.

The three-year plan may be modified in the light of any relevant developments affecting the implementation of the food distribution programmes.

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

The food products referred to in paragraph 1 shall be released free of charge to the designated 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 point (b) of the second subparagraph of paragraph 6.
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. Eligible costs under the scheme shall be:
    - (a) the cost of products released from intervention stocks, which shall be accounted for at the intervention price, adjusted by coefficients, where necessary, to take account of quality differences;

- (b) the cost of food products purchased on the market.

The following costs may be considered as eligible in accordance with Article 43(g):

- (a) costs of transport of food products referred to in paragraph 1 to the designated organisations;
- (b) costs of transport of food products and administrative costs for the designated organisations directly linked with the implementation of the scheme.

7. The Community shall co-finance the eligible costs under the scheme.

The Community co-financing rate shall not exceed:

- (a) for the three-year plan starting on 1 January 2010, 75% of the eligible costs, or 85% of the eligible costs in the Member States eligible for funding from the Cohesion Fund for the period 2007-2013, as listed in Annex I to Commission Decision 2006/596/EC\*;
- (b) for subsequent three year plans, 50% of the eligible costs, or 75% of the eligible costs in the Member States eligible for funding from the Cohesion Fund in a given year, as listed in Annex I to Decision 2006/596/EC and in subsequent decisions.

8. The Community scheme shall be without prejudice to any national schemes which respect Community law, whereby food products are distributed to most deprived persons."

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

- (2) In Article 43, points (g) and (h) are replaced by the following:

- "(g) the scheme for food distribution to the most deprived persons in the Community provided for in Article 27, including rules on financial and budgetary management, transfers of intervention products between Member States and eligible costs and on the coefficients referred to in point (a) of the first subparagraph of paragraph 6 of that Article;
- (h) the drawing up and modification of the three-year plans provided for in Article 27(3), including Commission decisions on definitive financial allocations;"

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

- "(9) by 31 December 2012, 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 Community provided for in Article 27, together with any appropriate proposals."

### *Article 3*

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

It shall apply in relation to three-year plans starting on or after 1 January 2010.

For the execution of the 2009 distribution plan, the provisions amended pursuant to Articles 1 and 2 as they stood before the entry into force of this Regulation shall apply.

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

Done at Brussels, [...]

*For the Council*

*The President*

# FINANCIAL STATEMENT

<b>1. BUDGET HEADING:</b>		<b>APPROPRIATIONS</b>		
05 02 04 01		2008: 307 mio euro		
<b>2. TITLE:</b> Council Regulation amending Regulation (EC) No 1290/2005 on the financing of the common agricultural policy and Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)				
<b>3. LEGAL BASIS:</b> Article 37 of the Treaty establishing the European Community				
<b>4. AIMS:</b> To implement the new provisions for the food distribution scheme for the most deprived persons				
<b>5. FINANCIAL IMPLICATIONS</b>	<b>12 MONTH PERIOD</b>	<b>CURRENT FINANCIAL YEAR</b>	<b>FOLLOWING FINANCIAL YEAR</b>	
	(EUR million)	2008 (EUR million)	2009 (EUR million)	
<b>5.0 EXPENDITURE</b>	-	-	-	
- CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS)				
- NATIONAL AUTHORITIES				
- OTHER				
<b>5.1 REVENUE</b>	-	-	-	
- OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES)				
- NATIONAL				
	2010	2011	2012	2013
5.0.1 ESTIMATED EXPENDITURE	(a)	-	-	-
5.1.1 ESTIMATED REVENUE	-	-	-	-
<b>5.2 METHOD OF CALCULATION:</b> -				
<b>6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?</b>				<b>YES NO</b>
<b>6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?</b>				<b>YES NO</b>
<b>6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY?</b>				<b>YES NO</b>
<b>6.3 WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?</b>				<b>YES NO</b>
<b>OBSERVATIONS:</b>				
(a) The proposed rules aim at implementing the new provisions for the food distribution scheme for the most deprived persons in the Community. The new scheme will be co-financed by the Community, hence, the completion of Article 3(1) of Regulation (EC) No 1290/2005. These rules by themselves will not have an impact on the budget. The impact on the budget will start with the 2010 food distribution programme and it will be determined at the time of drawing up this programme.				