



HOUSE OF LORDS  
Clerk of the Parliaments

House of Lords  
London  
SW1A 0PW

Tel: +44(0)20 7219 3181  
Fax: +44(0)20 7219 0329  
pownallmg@parliament.uk  
www.parliament.uk/lords

3 November 2010

The President  
European Commission  
rue de la Loi 200  
B-1049 Brussels  
Belgium

*Dear President,*

**COM(2010)486, Council Document 13435/10 Commission proposal for a Regulation of the European Parliament and of the Council amending Council regulations (EC) No 1290/2005 and (EC) No 1234/2007, as regards distribution of food products to the most deprived persons in the Union**

On 3 November 2010 the House of Lords of the United Kingdom Parliament resolved as follows:

“that this House considers that the amended Commission proposal for a Regulation of the European Parliament and of the Council amending Council Regulations (EC) No 1290/2005 and (EC) No 1234/2007, as regards distribution of food products to the most deprived persons in the Union (COM(2010)486, Council Document 13435/10) does not comply with the principle of subsidiarity, for the reasons set out in the 2nd Report of the European Union Committee, Session 2010-11 (HL Paper 44); and, in accordance with article 6 of the Protocol on the application of the principles of subsidiarity and proportionality, instructs the Clerk of the Parliaments to forward this reasoned opinion to the Presidents of the European institutions.”

I have the honour so to do. I enclose the report referred to, with a translation.

*Yours sincerely*  
*Michael Pownall*

Michael Pownall  
Clerk of the Parliaments



HOUSE OF LORDS

European Union Committee

---

2nd Report of Session 2010–11

**Subsidiarity  
assessment:  
distribution of food  
products to  
deprived persons**

Report

---

Ordered to be printed 27 October 2010 and published 28 October 2010

---

Published by the Authority of the House of Lords

*London* : The Stationery Office Limited  
£3.00

HL Paper 44

### *The European Union Committee*

The Committee considers EU documents in advance of decisions being taken on them in Brussels, in order to influence the Government's position and to hold them to account.

The Government are required to deposit EU documents in Parliament, and to produce within two weeks an Explanatory Memorandum setting out the implications for the UK. The Committee examines these documents, and 'holds under scrutiny' any about which it has concerns, entering into correspondence with the relevant Minister until satisfied. Letters must be answered within two weeks. Under the 'scrutiny reserve resolution', the Government may not agree in the EU Council of Ministers to any proposal still held under scrutiny; reasons must be given for any breach.

The Committee also conducts inquiries and makes reports. The Government are required to respond in writing to a report's recommendations within two months of publication. If the report is for debate, then there is a debate in the House of Lords, which a Minister attends and responds to.

The Committee has seven Sub-Committees which are:

- Economic and Financial Affairs and International Trade (Sub-Committee A)
- Internal Market, Energy and Transport (Sub-Committee B)
- Foreign Affairs, Defence and Development Policy (Sub-Committee C)
- Agriculture, Fisheries and Environment (Sub-Committee D)
- Justice and Institutions (Sub-Committee E)
- Home Affairs (Sub-Committee F)
- Social Policies and Consumer Protection (Sub-Committee G)

### *Our Membership*

The Members of the European Union Committee are:

Lord Bowness	Lord Plumb
Lord Carter of Coles	Lord Richard
Lord Dear	Lord Roper (Chairman)
Lord Dykes	The Earl of Sandwich
Lord Hannay of Chiswick	Baroness Sharp of Guildford
Lord Harrison	Lord Teverson
Baroness Howarth of Breckland	Lord Tomlinson
Lord Jopling	Lord Trimble
Baroness O'Cathain	Baroness Young of Hornsey
Lord Paul	

The Members of the Sub-Committee which prepared this report are listed in Appendix 1.

### *Information about the Committee*

The reports and evidence of the Committee are published by TSO. For information freely available on the web, our homepage is <http://www.parliament.uk/hleu>

There you will find many of our publications, along with press notices, details of membership and forthcoming meetings, and other information about the ongoing work of the Committee and its Sub-Committees, each of which has its own homepage.

### *General Information*

General information about the House of Lords and its Committees, including guidance to witnesses, details of current inquiries and forthcoming meetings is on the internet at [http://www.parliament.uk/about\\_lords/about\\_lords.cfm](http://www.parliament.uk/about_lords/about_lords.cfm)

### *Sub-Committee Staff*

The current staff of the Sub-Committee are Paul Bristow (Clerk), Alistair Dillon (Policy Analyst) and Melanie Moore (Committee Assistant).

### *Contacts for the European Union Committee*

Contact details for individual Sub-Committees are given on the website.

General correspondence should be addressed to the Clerk of the European Union Committee, Committee Office, House of Lords, London, SW1A 0PW

General enquiries 020 7219 5791. The Committee's email address is [euclords@parliament.uk](mailto:euclords@parliament.uk)

# Subsidiarity assessment: distribution of food products to deprived persons

**Amended Commission proposal for a Regulation of the European Parliament and of the Council amending Council Regulations (EC) No 1290/2005 and (EC) No 1234/2007 as regards distribution of food products to the most deprived persons in the Union ((COM(2010)486, Council Document 13435/10)**

## Recommendation

1. We recommend that the House of Lords should issue the reasoned opinion set out below to the effect that the proposed Regulation does not comply with the principle of subsidiarity; and should send it to the Presidents of the European Parliament, the Council and the Commission, in accordance with the provisions of the EU Treaties.

## Scrutiny reserve

2. This report does not complete our scrutiny of this proposal.

## Our report

3. This report was prepared by the Agriculture, Fisheries and Environment Sub-Committee whose members are listed in Appendix 1.

## Reasoned opinion

4. Since 1987,<sup>1</sup> excess stocks of food purchased into public stores under the intervention mechanisms of the Common Agricultural Policy (CAP) have been made available to the most deprived persons in the Union. In 2008, more than 13 million people benefited from the scheme.<sup>2</sup> Following reform of the CAP, and the consequent reduction in intervention stocks, the programme has relied increasingly on market purchases for the provision of this food. An internet-based public consultation has expressed strong support for the continuation of an EU food aid programme and the European Parliament has stressed the fundamental nature of the right to food.<sup>3</sup> Member State participation in the scheme is voluntary, and the UK has not participated in it since the mid-1990s.
5. While leaving unchanged the voluntary nature of Member State participation in the scheme, the Commission's proposal would:
  - formalise the provision for food under the scheme to be sourced not just from intervention stocks but also from the open market;
  - widen the range of goods that can be purchased in order to take into account nutritional balance and suitability for distribution, allowing Member States to give preference to food products of Union origin;

---

<sup>1</sup> Council Regulation (EEC) No 3730/87

<sup>2</sup> COM(2010)486 p.2

<sup>3</sup> Ibid p.3

- establish three-year programmes instead of the current annual rounds in order to allow longer-term planning by Member States and charities;
  - introduce co-financing by participating Member States at a minimum of 25% (10% for cohesion countries) of eligible costs with an annual ceiling of €500m for co-financing from the EU budget; and
  - enhance reporting obligations, both for participating countries and for the Commission.
6. The Commission justifies its action on the following basis:<sup>4</sup>
- the programme addresses problems of hunger, deprivation, poverty and social exclusion in the spirit of the Treaty, which states that the Union's aim is to "promote the well-being of its peoples" and "promote [...] solidarity among Member States" (Article 3, TEU);
  - the programme contributes to meeting the CAP's objectives of stabilising markets and ensuring that supplies reach consumers at reasonable prices;
  - social support provided by Member State authorities rarely focuses on access to food; and
  - the programme can trigger Member State action, and help charities and civil society to develop their own initiatives to ensure the right of all EU citizens to food.

#### *Conclusions*

7. Even to the extent that addressing problems of hunger, deprivation, poverty and social exclusion can be considered to be in the spirit of the Treaties, it is nevertheless the case that the spirit of the Treaties can be respected without Union action, and it can be promoted by the Union without following the legislative route. Inequalities between Member States are dealt with through EU cohesion policy. Member States are capable of acting individually to address the issues highlighted; and indeed confusion could arise from the parallel operation in a Member State of a national system and the EU scheme.
8. The extent to which purchases from the market contribute to the objectives of the CAP is questionable, being dependent on numerous factors, including: the quantity of food purchased from the market; any reduction in purchases by deprived persons who become eligible for the scheme; and the price paid. In any event, there is no reason why the Union is better placed to organise the purchase of products from the market than Member States.
9. The failure of Member States to act is not in itself a reason for the Union to act. The voluntary nature of the scheme suggests also that there is no demonstrable need for action, particularly at the Union level. All Member States do, of course, retain a stake in the proposal because it is part-financed from the Union budget.
10. In conclusion, there appears to be no compelling argument to suggest that the Union is better placed than Member States to ensure a food supply to its most deprived citizens.

<sup>4</sup> SEC(2008)2437 p.3

## APPENDIX 1: SUB-COMMITTEE ON AGRICULTURE, FISHERIES AND ENVIRONMENT

---

The members of the Sub-Committee which prepared this report were:

Earl of Arran  
Baroness Byford  
Earl of Caithness  
Lord Cameron of Dillington  
Lord Carter of Coles (Chairman)  
Earl of Dundee  
Lord Giddens  
Baroness Howarth of Breckland  
Lord Lewis of Newnham  
Baroness Parminter  
Baroness Sharp of Guildford

### Declarations of Interests:

A full list of Members' interests can be found at the Register of Lords Interests:

<http://www.publications.parliament.uk/pa/ld/ldreg.htm>