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from: General Secretariat of the Council  
to: Permanent Representatives' Committee (Part I)

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Subject: Proposal for a Regulation of the European Parliament and of the Council on the  
Fund for European Aid to the Most Deprived  
- *Analysis of the final compromise text with a view to agreement*

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1. On 24 October 2012, the Commission submitted a proposal on the Fund for European Aid to the Most Deprived (FEAD) to the European Parliament and the Council, based on Article 175(3) (TFEU). The general objective of the proposed Fund is to promote social cohesion by contributing to achieving the EU 2020 poverty reduction headline target. More specifically, the aim is to alleviate the worst forms of poverty by providing assistance to the most deprived persons.
2. The European Economic and Social Committee delivered its opinion on the proposal at the 13-14 February 2013 plenary session. The Committee of Regions delivered its opinion on the proposal at its session on 11-12 April 2013.

3. The European Parliament voted on 12 June 2013 on its mandate to enter into negotiations with a view to a possible first reading agreement. The most important amendments were that the Fund should apply to all Member States and that its global resources for the period 2014-2020 should be increased to EUR 3.5 billion, i.e. to the amount that was available for the Union's current food distribution programme.
4. In the context of the agreement reached at the end of June/early July between the Council and the European Parliament on the MFF for the period 2014-2020, it was agreed that, on top of the EUR 2.5 billion originally proposed by the Commission and agreed by the European Council of 7-8 February 2013, Member States could decide on a voluntary basis to increase their allocations by a total of EUR 1 billion to EUR 3.5 billion.
5. On 5 October 2013 (doc. 14055/13), the Committee gave the Presidency a mandate for informal first reading trilogues, which started on 16 October. In total 4 trilogues took place; at the last meeting on 28 November, the representatives of the three institutions reached an agreement on a compromise, subject to approval of the Committee.
6. The compromise includes all the major objectives of the Council mandate:
  - the Fund is applicable to all Member States,
  - the scope of the Fund is broadened so that the Member States which so wish can use (all or part of) their allocation under the Fund for social inclusion activities,
  - the flexibility in the programming of the Fund allows sufficient time to plan and implement the activities of the Fund (so-called n+3 rule),
  - the Member States' wishes regarding their allocations have been fully taken into account and are included in Annex III of the draft Regulation (however, DE has maintained its scrutiny reservation on its allocation),
  - the approach agreed in Common provision Regulation (CPR) and Financial Regulation has been followed in the management and control provisions of the Regulation.

7. The other elements of the final compromise as agreed in the informal trilogues are as follows:
- the EP having insisted on a reference to eradicating poverty, the text refers to the issue in a manner that records eradicating poverty as an ultimate goal which is external to the Fund (Article 3(1) and recital 4);
  - the partnership principle was accepted by all and the EP accepted the Council and Commission arguments that any conflicts of interest must be avoided. In several parts of the text, a reference was included reflecting the Council's position on avoiding conflicts of interest; therefore the Council was in a position to agree on a text in Article 5(8a)(new) that referred to "*...in respecting the partnership principle when carrying out the consultations .....as set out in this Regulation*",
  - one important issue for the EP was the objective of avoiding food waste. According to the compromise text, the partner organisations are not to pay supermarkets for food donations and supermarkets themselves should not receive payments for the storage and/or transportation. The partner organisations, however, may pay for transportation and storage of donated food. In order to ensure that awareness-raising on food donations would not take most of the scarce resources, only "*directly related awareness raising costs*" can be eligible. The issue of food donations is reflected in Articles 4(1), 5(12) and 24(1)(ca) and in recital 8a,
  - Member States may consider geographical elements in the operational programmes (Article 2(1)),
  - the EP having insisted that social inclusion Operational Programmes must be separated from ESF activities, the words "*outside active labour market measures*" are included in Article 2(3b). While FEAD shall not fund active labour market measures, the most deprived persons could benefit from such measures funded by other sources. This approach is also in line with the legal basis of the FEAD.

- the EP insisted on references to balanced types of food (Article 5(2)) and on guidance of balanced diet to the end-recipients (Article 2(7a)). These are considerations which will not create new obligations to the design of operational programmes,
  - the possibility of supporting children in care facilities without further accompanying measures is included in Article 7(1c)(d),
  - Article 10 refers to a website but does not exclude other ways to facilitate exchange of good practice and capacity building. This is with the understanding that with the limited funds available for the Commission, the website is the preferred method for activities included in this article.
  - after a difficult discussion on technical assistance (Article 25) for Member States, a figure of 5% was agreed (Commission proposed 4 % and Council wanted 6%),
  - standard text formulations in the recitals and articles are needed to ensure the retroactivity of the Fund,
  - on the delegated acts vs. implementing acts, it was agreed to follow the approach and text of the CPR. Therefore, in Article 11(6) on annual implementation reports, a delegated act is included in the text. The text now stipulates that the Commission shall adopt the proposal for a delegated act by 17 July 2014.
8. CZ, DE, DK, NL, SE and UK have maintained reservations on the proposal. In addition, the UK has maintained its parliamentary scrutiny reservation. EE, EL, FR, CY and SK have maintained linguistic scrutiny reservations on the proposal, as has FI on Title V.

## Conclusion

9. Should the Committee of Permanent Representatives approve the informally agreed text as set out in the Addendum, the formal procedure requires that a letter be sent by the President of the Permanent Representatives Committee to the Parliament proposing that an agreement in first reading could be reached, subject to Parliament agreeing to adopt an identical text at its plenary session.

In order to pave the way for the final adoption of the Regulation, in accordance with Article 294 of TFEU, the Permanent Representatives Committee is invited to confirm, on the basis of the consolidated text set out in the Addendum, that this text is acceptable and to agree to inform the Parliament accordingly.

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