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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing a facility for rapid response to soaring food prices in developing countries

(presented by the Commission)

EXPLANATORY MEMORANDUM

Introduction

Rising food prices in 2007 and 2008 have had negative effects on many developing countries and their population. Poverty for hundreds of millions of people has deepened and recent progress towards achieving the Millennium Development Goals is put at risk. Moreover, rising food prices have resulted in riots, unrest and instability in several countries, risking the gains of years of political, developmental and peacekeeping investments.

However, rising prices could also provide a window of opportunity to stimulate a supply-response from farmers in developing countries. Higher prices offer new income-generating opportunities to bring rural communities out of poverty and could enhance the contribution of agriculture to economic growth by providing incentives for investments and productivity improvements.

The European Commission wishes to launch a short term response, called a "Facility", to the global recent soaring of food prices by using part of the margin in the Heading 2 of the Financial Framework in favour of those most affected developing countries. This facility would primarily support agriculture in developing countries hence enabling them to enhance production levels. It will also help those countries to rapidly mitigate the negative effects of the high food prices on the poorest. It will hence help them to reduce extreme poverty and hunger.

The political response

The **Commission** adopted the Communication 'Tackling the challenge of rising food prices – Directions for EU action', on 20 May 2008¹. This Communication sets out elements for an EU response to the food price challenges, proposing actions internal to the EU, and actions to address the effects of the crisis at international level.

On 22 May, the **European Parliament** adopted a resolution² on rising food prices in the EU and the developing countries, urging the Council to ensure coherence of all food-related national and international policies aiming at implementing the right to food of populations.

EU Ministers also expressed their concern with the effects of the high food prices in developing countries in the Conclusions of the General Affairs and External Relations Council of 27 May and committed to a collective response to the food price challenge, addressing a combination of short-, medium- and long-term issues, with support provided in the framework of partner countries' own policies and strategies.

The **European Council** of 19-20 June re-affirmed that high food prices are severely affecting the situation of the world's poorest populations and are putting at risk progress towards all MDGs. The Council concluded that action is required from the European Union from a development and humanitarian assistance perspective. **The European Council** welcomed the Commission's intention to come forward with a proposal for a new fund to support agriculture in developing countries, within the framework of the current Financial Perspectives, and stated that the EU will support a strong agricultural supply response in developing countries,

¹ COM(2008) 321.

² P6_TA(2008)0229.

providing in particular the necessary financing for agricultural inputs and assistance in using market-based risk management instruments. The Council also stated that in its response strategy, the Union will work in close liaison with the United Nations and other international organisations and in the framework of partner countries' own policies and strategies.

An estimate of the financing needed to respond to the soaring of food prices

Commission services made an estimate of the short-term (2008-09) financing needs of most affected developing countries and this reaches € 18 billion. This figure is based on an extrapolation of recent country assessments. It was further corroborated by comparing it with the costs of short-term measures in other countries. Moreover, the order of magnitude is supported by the preliminary costing by the UN High-Level Task Force on the Global Food Crisis³ that estimates the additional donor requirements for agricultural development in all developing countries for 2008 and 2009 at € 18.0 -€ 25.0 billion.

The response so far on the basis of existing cooperation instruments

The external cooperation instruments at the disposal of the Community encompass:

- for immediate crisis response: the Humanitarian Instrument⁴ and the Instrument for Stability⁵ and
- for long-term development cooperation: the Development Cooperation Instrument⁶ for thematic programmes – including food security - and for geographic programmes in developing countries including South Africa, but not the other ACP countries, and the European Development Fund (EDF) for the remaining ACP countries⁷.

The long-term development cooperation instruments have recently been programmed in line with development priorities of partner countries, leaving little or no room for short-term adjustments. Moreover, existing instruments have all been mobilised or reprogrammed in 2008 to the fullest extent possible to address the challenges posed by the increased food prices. To a very limited extent the same could be done in 2009; however, mobilisation of short-term resources will still be greatly inadequate. Further re-programming would take too long for short-term responses and also risks affecting the coherence of the existing cooperation programmes with partner countries. In the current situation where high food prices lead to lower CAP expenditure, the Commission proposes to redirect parts of those savings to agricultural production in developing countries.

³ Draft document of 13 June 2008.

⁴ Council Regulation (EC) No 1257/96.

⁵ Regulation (EC) No 1717/2006 of the European Parliament and the Council.

⁶ Regulation (EC) No 1905/2006 of the European Parliament and the Council.

⁷ Internal Agreement, OJ L 247, 9.9.2006, p. 32.

The response offered by the Facility

The amount indicated in this Regulation is based on a European Community's share of 10% in responding at short-term to the food price crisis, given that, on average, the Community finances 10% of worldwide development cooperation. This implies that the Community would finance about € 1.8 billion in 2008 and 2009. As the currently available EC instruments could contribute € 800 million in 2008-09 (€ 550 million in 2008 and an estimated € 250 million in 2009) the remaining €1 billion will be covered by the Facility.

The Regulation will provide the legal basis for short-term Community assistance to developing countries in response to the food price challenges. The facility is time-bound and will operate in 2008 and 2009, using part of the available margins under heading 2 of the Financial Framework. It will be complementary to existing crisis-response and development cooperation instruments, both in its *time-span* (in-between emergency and long-term development cooperation), and in its *specificity* (directly related to measures that address the causes and effects of the soaring food prices).

Objectives of the Facility

The primary objective of this Facility shall be to encourage a positive supply response of farmers in developing countries in the short to medium term in the context of their sustainable development. The Facility will also support activities to respond rapidly and directly to mitigate the negative effects of high food prices in line with food security objectives. The expected results of the assistance are among others: (i) an increase in agricultural production and food security in assisted countries, (ii) reduced malnutrition rates, especially among vulnerable groups, and (iii) reduced food price inflation.

Targeting of the measures financed by the Facility

The Commission shall adopt the measures to implement this regulation. They shall finance global initiatives supporting the purpose and objectives of this Regulation and which are implemented through international organisations, including regional organisations.

The Commission will adopt these decisions immediately after this Regulation will have been adopted by Parliament and Council and published.

While all developing countries are potentially eligible for support, assistance will be provided to those developing countries that are severely affected by the food price crisis in socio-economic and political terms, have a need for measures to be taken and which do not have the means or capacity to respond unassisted. Hence, the measures will include a list of target countries identified on the basis of the set of indicative criteria laid down in the Annex to the Regulation and which include: reliance on food imports, food price inflation, and social and fiscal vulnerability. Other financing available to the country from the donor community will be taken into account, as well as the country's potential to increase agricultural production. The Facility also allows for regional-level programmes, covering all developing countries of that region. Global initiatives may equally be financed when implemented through a regional or international organization. The Commission decisions will build on information, including on actual country needs, made available, in particular through its delegations and through internationally relevant evaluations made available by organisations such as those of the UN system. The Commission Decisions will be accompanied by a detailed explanation on the methods applied to select the target countries. Information provided by the UN Task Force

and international organisations (mainly UN agencies - FAO, WFP, World Bank and IMF) will be used, and this will -when inadequate- be supplemented by country-specific information obtained from EC Delegations.

Responding directly to the food crisis and taking into account the country-specific conditions, the following operational measures may be supported through the Facility: (i) measures to improve access to agricultural inputs and services, including fertilizers and seeds; (ii) safety net measures aiming at maintaining or improving the agricultural productive capacity, and at addressing the basic food needs of the most vulnerable populations.

A small part of the Facility, up to 1 %, will be used for support measures required for an effective implementation of the Regulation.

Measures taken will have to be seen in the light of longer-term development needs of the recipient country, should be sustainable (socially, environmentally, economically), and contribute to reduce distortions of agricultural prices. For subsidized input delivery this implies, for instance, that they need to be well-targeted, responding to and adapted to local needs and conditions, market-developing, time-bound, financially sustainable, and contributing to the sustainability of agricultural production systems. Where necessary, information systems and transparency will be strengthened in order to improve the effectiveness of market systems, to avoid privileged positions and enable small-scale farmers to benefit from the measures taken.

Types of financing and implementation modalities

Assistance will be provided to countries affected by the food price increases, through international or regional organisations. All assistance will respond to country-level needs assessments and plans.

Assistance channelled through International Organisations, including Regional Organisations, will be decided on the basis of their comparative advantage and initiatives proposed and assessed. This could for instance apply to FAO, IFAD, UNICEF, WFP or the World Bank. Financing could also be channelled through Regional Organisations.

Short-term responses to the soaring food prices require quick mobilisation of finance in order to be able to provide post-emergency assistance and support for a supply response in the next agricultural seasons. The Regulation allows for quick decision-making and disbursement procedures, by using Contribution Agreements with International Organisations, including Regional Organisations.

The programming and the implementation will be made following the principles of the Paris Declaration on Aid Effectiveness, including by coordinating activities with Member States and with other donors, in order to ensure that no country is over supported or orphan.

The preparatory work will start immediately after adoption of the proposed Regulation by the Commission and will be finalised in time to allow adoption of the implementing Decisions referred to in article 1(2) immediately after the Regulation enters into force.

Financing Decisions (article 3) will be taken at the same time where this is feasible, otherwise as soon as possible after entry into force and in any case before the end of 2008 for those using 2008 funds.

Source of the Facility's budget

The high agricultural prices have contributed to a reduction of market expenditure in the 2008 budget and to lower estimates for the 2009 budget within heading 2 of the financial framework. Current estimates indicate that a significant margin will be available in this heading in 2008 and to a lesser extent in 2009.

In order to ensure that the Community can meet its obligations concerning market related expenditure and direct payments to farmers, the Regulation contains a clause (article 10.4) that guarantees a margin under heading 2 of at least € 600 million for each year. Should the forecasted margin be lower than this guaranteed level for a particular year, the maximum amount to be committed to the Facility for that year will have to be reduced accordingly.

Partial retrospective financing

Considering that this Regulation will finance measures that will provide support to selected countries through international, including regional organisations, including measures already initiated before the adoption of this Regulation, the Regulation contains a provision (Article 6.2) allowing for financing as from 20 June 2008, corresponding to the date of the European Council Conclusions.

Proposed Timeline

Following its adoption by the Commission, the proposal will be subject to co-decision procedure in Parliament and Council. The fastest possible calendar under normal procedures, but with only one reading in Parliament, will most likely result in entry into force by the end of November.

The following **indicative** timeline is envisaged:

July – September 2008: technical preparation of the Commission Decisions (selected international including regional organisations, beneficiary countries, indicative share of allocations, identification of actions under this Regulation and other instruments to ensure complementarity).

September 2008: Preliminary Draft amending Budget for budget 2008 and letter of amendment for budget 2009 in order to introduce the new budget lines.

November 2008: Adoption by the co-legislators, publication and entry into force of Regulation

December 2008: First implementing Commission Decisions. With regard to ex-ante evaluations, they will be carried out in the technical preparation of these implementing Commission decisions.

December 2008: Start of budgetary commitments.

Early 2009: Start implementation of first measures

By 31 December 2012 the Commission will provide a report to Council and the European Parliament on the implementation of the measures, including, as far as possible, on the main outcomes and impacts of the assistance provided under the Regulation. This will include a

retrospective evaluation of the human and financial resources allocated and of the results obtained in relation to the objectives of the Regulation. (Article 9).

It is therefore proposed that the Commission adopts the attached proposal for a Regulation.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a facility for rapid response to soaring food prices in developing countries

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 179(1) thereof,

Having regard to the proposal from the Commission⁸,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁹,

Whereas:

- (1) The recent soaring of Food Prices has put numerous developing countries and their populations in a dramatic situation. This risks putting additional hundreds of millions of people in extreme poverty and calls for increased solidarity with those populations.
- (2) A financing facility for a rapid response to the crisis caused by high food prices in developing countries should therefore be established by this Regulation.
- (3) The European Consensus on Development¹⁰, adopted by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the Commission on 22 November 2005, states that the European Community (hereafter "The Community") will continue to work to improved food security at international, regional and national level, to which goal this Regulation should contribute.
- (4) The European Parliament adopted on 22 May 2008 a resolution on rising food prices in the EU and the developing countries¹¹, urging the Council to ensure coherence of all food-related national and international policies aiming at implementing the right to food of populations.
- (5) The European Council meeting on 20 June 2008, concluded that action is required from the European Union from a development and humanitarian perspective. In addition it was stated that the European Union will mobilise resources to finance, beyond food aid, safety nets for poor and vulnerable population groups, that the EU will support a strong agricultural supply response in developing countries, providing in

⁸ OJ C , , p. .

⁹ OJ C , , p. .

¹⁰ OJ C 46, 24.2.2006, p. 1.

¹¹ P6_TA(2008)0229.

particular the necessary financing for agricultural inputs and assistance in using market-based risk management instrument and welcomed the Commission's intention to come forward with a proposal for a new fund to support agriculture in developing countries, within the current financial framework.

- (6) Moreover, in the European Council Conclusions, it is also stated that the EU will promote a more coordinated and longer-term international response to the current food crisis, in particular in the UN and in international financial institutions; the EU also welcomes the establishment of the High-Level Task Force on the Global Food Security Crisis established by the UN Secretary General and is determined to play its full part in implementing the Declaration agreed in Rome on 5 June 2008 at the High Level Conference on World Food Security. A Comprehensive Framework of Action (CAF) is under preparation under the UN Task Force and an Initiative on Soaring Food Prices (ISFP) has been launched by the FAO; other international organisations such as IFAD, the World Bank and regional organisations have launched their own initiatives;
- (7) Financial needs to fully address the immediate consequences of the high food prices are very high. The response should come from the international community in its entirety and the Community has endeavoured to contribute its fair share.
- (8) The same conditions which lead to the need for the present financing facility (the high food prices), also lead to lower agriculture market expenditure under Heading 2 of the Financial Framework. Current estimates also indicate a significant unallocated margin under the ceiling of Heading 2 in 2009.
- (9) The Community response strategy should aim to strongly encourage a positive short to medium term supply response from the agricultural sector in developing countries while at the same time also significantly reducing the negative effects of the food price rises on the poorest in these countries. A supply side response is also in the interest of the Community in order to alleviate the current pressure on agricultural prices.
- (10) The Community has at its disposal several instruments focused on development assistance with a long term perspective, and in particular Regulation (EC) No 1905/2006 of the European Parliament and the Council of 18 December 2006 establishing a financing instrument for development cooperation¹², and the European Development Fund , providing official development assistance to ACP countries and OCTs (hereinafter referred to as "EDF"), which have recently been programmed in line with eligible countries medium and long term development priorities. Large scale reprogramming under these instruments to respond to a short term crisis would jeopardise the balance and coherence of the existing cooperation strategies with those countries. It has also at its disposal Council Regulation EC No 1257/96 of 20 June 1996 concerning humanitarian aid¹³ to provide emergency assistance and Regulation (EC) No 1717/2006 of the European Parliament and the Council of 15 November 2006 establishing an Instrument for Stability¹⁴.

¹² OJ L 378, 27.12.2006, p. 41.

¹³ OJ L 163, 2.7.1996, p. 1. Regulation as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

¹⁴ OJ L 327, 24.11.2006, p. 1.

- (11) Those instruments, however, have already been mobilised or re-programmed in 2008 to the fullest possible extent to address the negative effects of the high food prices situation in developing countries. To a very limited extent the same could be done in 2009; however, that would be far from being sufficient to respond to the needs.
- (12) In the current situation where high food prices lead to lower CAP expenditure, the Commission proposes to redirect parts of those savings to agricultural production in developing countries.
- (13) It is however necessary to protect the interest of the European farmers and to guarantee that this proposal will not under any circumstances trigger the mechanism of the financial discipline as provided in Council Regulations (EC) No 1782/2003¹⁵ and (EC) No 1290/2005¹⁶.
- (14) As a consequence, it is necessary to adopt a specific financing facility, complementary to existing development instruments and the Humanitarian Aid Instrument, to adopt urgent and supplementary measures that address rapidly the consequences in developing countries of the present soaring food prices situation.
- (15) The measures adopted with this facility should help developing countries to boost agricultural productivity in the next seasons, to respond rapidly to immediate needs of the countries and their population and to take initial steps needed to prevent as far as possible further food insecurity situations, and also contribute to mitigating the effects of the high food prices globally, to the benefit of the poorest people but also of the European consumers and farmers.
- (16) The very nature of measures provided for under this Regulation calls for the establishment of efficient, flexible, transparent and rapid decision-making procedures for their financing, with a strong cooperation between all Institutions concerned. This Regulation should in particular allow for the financing of measures already initiated that International Organisations are supporting or ready to support before the adoption of this Regulation, as from 20 June 2008, corresponding to the date of the European Council Conclusions.
- (17) It is necessary to provide for the protection of the Community's financial interests in accordance with Council Regulations (EC, Euratom) No 2988/95¹⁷ of 18 December 1995 on the protection of the European Communities financial interests, No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities¹⁸ and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Antifraud Office (OLAF)¹⁹.
- (18) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale of the action required, be better

¹⁵ OJ L 94, 31.3.2004, p. 70.

¹⁶ OJ L 209, 11.8.2005, p. 1.

¹⁷ OJ L 312, 23.12.1995, p. 1. Regulation as amended by Commission Regulation (EC) No 1233/2007 (OJ L 279, 23.10.2007, p. 10).

¹⁸ OJ L 292, 15.11.1996, p. 2.

¹⁹ OJ L 136, 31.5.1999, p. 1.

achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in Article 5 of the Treaty, this Regulation does not go beyond what is necessary to achieve those objectives.

- (19) In order to ensure that the measures provided for in this Regulation are effective and given the urgency of their nature, this Regulation should enter into force on the day following that of its publication.

HAVE ADOPTED THIS REGULATION:

Article 1
Subject matter and scope

1. The Community shall finance measures aimed at supporting a rapid and direct response to the increased food prices in developing countries, addressing the period between emergency aid and medium- to long-term development cooperation.

2. Measures shall benefit developing countries, as defined by OECD/DAC, and their populations, in accordance with the following provisions.

The Commission shall adopt the measures referred to in paragraph 1. They shall finance international initiatives supporting the purpose and objectives of this Regulation and which are implemented through regional and global International Organisations. It shall inform the European Parliament and the Council thereof.

3. Such measures will specify a list of target countries identified on the basis of the set of criteria laid down in the Annex, building on information, including on actual country needs, made available, in particular through its delegations and through internationally relevant evaluations made by organisations such as those of the UN system.

4. To ensure the coherence and effectiveness of Community assistance, where the programme to be implemented is of regional or cross-border nature, the Commission may decide that populations of other developing countries not belonging to that region can benefit from the programme in question.

5. International Organisations, including Regional Organisations (hereafter "International Organisations") will be selected on the basis of their capacity to deliver a speedy and high quality response to the specific needs of the targeted Developing Countries in relation to the objectives of this Regulation.

Article 2
Objectives and Principles

1. The primary objectives of the assistance and cooperation under this Regulation shall be to encourage a positive supply response of agricultural sector in target countries and regions in the context of their sustainable development and to support activities to respond rapidly and directly to mitigate the negative effects of high food prices in line with food security objectives.

2. A differentiated approach depending on development contexts and impact of soaring food prices shall be pursued so that target countries or regions and their populations are provided with targeted, tailor-made and well adapted support, based on their own needs, strategies, priorities and response capacities.

3. Notwithstanding Regulation (EC) No 1905/2006 of the European Parliament and of the Council, and Regulation (EC) No 1717/2006 of the European Parliament and of the Council, if the envisaged measures are in accordance with Articles 1(1) and 3.2 of this Regulation, they shall be financed under this Regulation.

The different development instruments and this Facility shall be applied so as to ensure continuity of cooperation, in particular as regards the transition from emergency to medium- and long-term response.

4. The Commission shall ensure that measures adopted under this Regulation are consistent with the Community's overall strategic policy framework for the eligible country or countries concerned.

Article 3 Implementation

1. Community assistance and cooperation shall be implemented through a set of decisions to finance supporting measures as described in Article 1, paragraphs (1) (2) and (3) of this Regulation, which shall be adopted by the Commission.

2. Taking into account the specific country-level conditions, supporting measures that shall be eligible for implementation are:

- (a) measures to improve access to agricultural inputs and services, including fertilizers and seeds;
- (b) safety net measures aiming at maintaining or improving the agricultural productive capacity, and at addressing the basic food needs of the most vulnerable populations.

3. Support measures which meet the objectives of this Regulation may be financed up to a maximum of 1 % of the amount referred to in article 10(1).

Article 4 Eligibility

The entities eligible for funding shall be International Organisations fulfilling the conditions laid down in Article 43 of Commission Regulation (EC, Euratom) No 2342/2002²⁰.

²⁰ COMMISSION REGULATION (EC, EURATOM) No 2342/2002 of 23 December 2002 (and modified by regulation 1261/2005, 1248/2006 and 478/2007) laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation (and modified by Regulation 1996/2006, 1525/2007) applicable to the general budget of the European Communities (OJ L 357, 31.12.2002, p. 1)

Article 5
Financing and Management procedures

1. The measures financed under this Regulation shall be implemented in accordance with Regulation (EC, Euratom) No 1605/2002²¹, taking into account where appropriate the crisis nature of the measures to be adopted.
2. Community assistance shall in principle not be used for paying taxes, duties or charges in eligible countries.
3. Participation in the appropriate contractual procedures shall be open to all natural and legal persons who are eligible pursuant to the geographical development instrument applicable to the country in which the action takes place, as well as to all natural and legal persons who are eligible pursuant to the rules of the implementing international organisation, care being taken to ensure that equal treatment is afforded to all donors. The same rules shall apply in respect of supplies and materials. Experts may be of any nationality.

Article 6
Budget commitments

1. Budget commitments shall be made on the basis of decisions taken by the Commission.
2. Measures adopted under this Regulation may finance as from 20 June 2008 ongoing activities initiated in target countries or by organisations referred to in Article 4, before the entry into force of this Regulation.

Article 7
Protecting the Community's financial interests

1. Any financial agreement resulting from the implementation of this Regulation shall contain provisions ensuring the protection of the Community's financial interests, in particular with respect to irregularities, fraud, corruption and any other illegal activity, in accordance with Council Regulations (EC, Euratom) No 2988/95, (Euratom, EC) No 2185/96 and Regulation (EC) No 1073/1999 of the European Parliament and of the Council.
2. Financial agreements shall contain provisions granting the Commission and the Court of Auditors access to the information required to perform their duties, if necessary on the spot, in accordance with the verification agreements concluded with the international organisations concerned.

²¹ Council Regulation (EC, Euratom) n° 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1) as last amended by Council Regulation n° 1525/2007 of 17 December 2007 (OJ L 343, 27.12.2007, p.9.)

Article 8
Visibility of the EU

Contracts concluded by virtue of this Regulation shall include specific provisions that ensure the appropriate visibility of the European Union in all activities undertaken on the basis of those contracts.

Article 9
Reporting

The Commission shall inform the European Parliament and the Council on the measures it has adopted pursuant to this Regulation no later than 31 December 2009. The Commission shall provide them with a report on the implementation of the measures, including, as far as possible, on the main outcomes and impacts of the assistance provided under this Regulation, no later than 31 December 2012.

Article 10
Financial provisions

1. The total financial reference amount for the implementation of this Regulation over the period 2008-2009 shall be EUR 1.0 billion.
2. For 2008, the reference amount shall be EUR 750 million
3. For 2009, the maximum reference amount shall be EUR 250 million.
4. The amount committed shall, for each year, leave a margin under heading 2 of the financial framework of at least EUR 600 million, based on the forecast of the most recent early warning system report as established in Regulation (EC) No 1290/2005. Should that not be the case for a particular year, the maximum amount which can be committed for that year pursuant to this Regulation shall be reduced in order to restore such a margin under heading 2.

Article 11
Entry into force

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

It shall apply until 31 December 2009

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX
Indicative list of criteria to select target countries

Indicative criteria to select target countries:

- Food price inflation and its potential socio-economic and political impact:

- Level of food price inflation (in comparison to general inflation)
- Reliance on food imports, including imports of food aid
- Social vulnerability and political stability
- Food production as a percentage of farm consumption

- Capacity of the potentially eligible country to respond and implement appropriate response measures

- Measures taken by Government, including supply side and trade measures
- Export earnings
- Fiscal vulnerability

Account will also be taken of other sources of financing available to the target country, at short term, from the donor community, to respond to the Food crisis, and of the potential of the country to increase agricultural production, in a long term sustainable manner.

