Regulation (EC) No 1337/2008 of the European Parliament and of the Council of 16 December 2008 establishing a facility for rapid response to soaring food prices in developing countries

REGULATION (EC) No 1337/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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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 Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(1)],

Whereas:

(1) The volatility of food prices has put numerous developing countries and their populations in a dramatic situation. This food crisis, accompanied by a financial and energy crisis and environmental deterioration, risks putting additional hundreds of millions of people in extreme poverty, and in circumstances of hunger and malnutrition and calls for increased solidarity with those populations. All the data on the outlook for food markets lead to the conclusion that the high volatility of food prices could continue in the years to come.

(2) As a complement to the European Union's current development policy instruments, a financing facility for a rapid response to the crisis caused by volatile food prices in developing countries should therefore be established by this Regulation.

(3) The European Consensus on Development[(2)], 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 20 December 2005, states that the European Community (hereinafter referred to as 'the Community') will continue to work to improve 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 European Union 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.

(5) During its meeting of 20 June 2008, the European Council strongly reaffirmed its commitment to achieving a collective Official Development Assistance (ODA) target of 0,56 % of Gross National Income (GNI) by 2010 and 0,7 % of GNI by 2015, as set

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out in the Council conclusions of 24 May 2005, the European Council conclusions of 16 and 17 June 2005 and the European Consensus on Development.

(6) Acknowledging in its conclusions of 20 June 2008 that high food prices were affecting the situation of the world's poorest populations and putting at risk progress towards the achievement of all Millennium Development Goals (MDGs), the European Council adopted an EU Agenda for Action on MDGs which states that the European Union is committed, in line with the Food and Agricultural Organisation (FAO) Conference Declaration adopted by the FAO High Level Conference on World Food Security on 5 June 2008 (the 'FAO Conference Declaration'), to promote a global partnership for food and agriculture and wishes to play a substantial role in helping to bridge part of the financing gap by 2010 in the areas of agriculture, food security and rural development.

(7) The European Council also concluded that in this endeavour the European Union will promote a more coordinated and longer-term international response to the current food crisis, in particular in the United Nations (UN) and in international financial institutions, that it welcomes the establishment of the High-Level Task Force on the Global Food Security Crisis (HLTF) established by the UN Secretary-General and is determined to play its full part in implementing the FAO Conference Declaration. In this regard a Comprehensive Framework of Action (CFA) has been adopted by the HLTF, and international organisations and regional organisations have launched their own initiatives. The European Council also concluded that the European Union will support a strong agricultural supply response in developing countries, providing in particular the necessary financing for agricultural inputs and assistance in using market-based risk management instruments, that the European Union will significantly enhance its support to public and private investments in agriculture and more generally encourage developing countries to develop better agriculture policies, especially to support food security and reinforce regional integration and that the European Union will also mobilise resources to finance, beyond food aid, safety nets for poor and vulnerable population groups.

(8) Financial and material needs to fully address the consequences and causes 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. The European Council of 20 June 2008 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.

(9) The Community response strategy should notably 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 volatility of food prices 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, in particular Regulation (EC) No 1905/2006 of the European Parliament and the Council of 18 December 2006 establishing a

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financing instrument for development cooperation[(3)], and the European Development Fund, providing ODA to African, Caribbean and Pacific (ACP) countries and Overseas Countries and Territories (OCTs) (hereinafter referred to as 'the 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. The Community also has at its disposal Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid[(4)] to provide emergency assistance and Regulation (EC) No 1717/2006 of the European Parliament and of the Council of 15 November 2006 establishing an Instrument for Stability[(5)].

(11) Those instruments, however, have already been mobilised or reprogrammed in 2008 to the fullest possible extent to address the negative effects of the volatile 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) As a consequence, it is necessary to adopt a specific financing facility, complementary to existing external financing instruments, to adopt urgent and supplementary measures that address rapidly the consequences in developing countries of the present situation of volatile food prices.

(13) Assistance under this Regulation should be managed in such a way as to increase the supply of foodstuffs to local populations.

(14) The measures adopted with this financing facility should help developing countries to boost agricultural productivity in the next seasons, to respond rapidly to the 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 volatile food prices globally, to the benefit of the poorest people, of small-holder farmers and also of European consumers and farmers.

(15) 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 strong cooperation between all institutions concerned.

(16) Coherence and continuity must be ensured between short-term measures aimed at providing relief to the populations most directly and seriously affected by the soaring and/or volatile food prices, and more structural measures intended to prevent the recurrence of the current food crisis.

(17) It is necessary to provide for the protection of the Community's financial interests in accordance with Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests[(6)], Council Regulation (Euratom, EC) 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 irregularities[(7)] and Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-fraud Office (OLAF)[(8)].

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(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 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 that Article, this Regulation does not go beyond what is necessary to achieve those objectives.

(19) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[9].

(20) The different development instruments and this financing 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. This Regulation should fit in with a long-term strategy to contribute to food security in developing countries, based on their own needs and plans.

(21) In order to ensure that the measures provided for in this Regulation are effective and given their urgent 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 volatile food prices in developing countries, addressing primarily the period between emergency aid and medium- to long-term development cooperation.

2 The measures referred to in paragraph 1 shall benefit developing countries, as defined by the Organisation for Economic Cooperation and Development's Development Assistance Committee (OECD/DAC), and their populations, in accordance with the following provisions.

Those measures shall be adopted in accordance with the procedure referred to in Article 13(2). They shall finance initiatives supporting the purpose and objectives of this Regulation.

3 Whenever feasible the action programmes implemented by entities eligible for funding under Article 4(1) shall be drawn up in consultation with civil society organisations and implementation of projects funded through this financing facility shall involve such organisations.

4 To optimise the utility and impact of this Regulation, resources shall be concentrated on a limited list of high-priority target countries, identified on the basis of the set of criteria laid down in the Annex, and in coordination with other donors and other development partners through relevant needs-assessments made available by specialised and international organisations such as those of the UN system, in consultation with partner countries.

5 To ensure the coherence and effectiveness of Community assistance, where the programme to be implemented is of a regional or cross-border nature, it may be decided, in

accordance with the procedure referred to in Article 13(2), that populations of other developing countries not belonging to that region can benefit from the programme in question.

6 Where support is to be provided for measures implemented by international organisations, including regional organisations, such organisations shall be selected in accordance with the procedure referred to in Article 13(2) and on the basis of their added value, their comparative advantage and their capacity to implement programmes in a speedy and efficient manner in 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:

a encourage a positive supply response from the agricultural sector in target countries and regions;

b support activities to respond rapidly and directly to mitigate the negative effects of volatile food prices on local populations in line with global food security objectives, including UN standards for nutritional requirements;

c strengthen the productive capacities and the governance of the agricultural sector to enhance the sustainability of interventions.

2 A differentiated approach depending on development contexts and the impact of volatile 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 Measures supported under this Regulation shall be coordinated with those supported under other instruments, including Regulation (EC) No 1257/96, Regulation (EC) No 1905/2006 and Regulation (EC) No 1717/2006, and the ACP-EC Partnership Agreement[10], 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), which shall be adopted in accordance with the procedure referred to in Article 13(2). An overall plan for the use of this financing facility, including the list of target countries referred to in Article 1(4) and the balance between eligible entities referred to in Article 4(2) shall be presented by the Commission and adopted in accordance with the procedure referred to in Article 13(2). This overall plan shall receive the opinion of the committee referred to in Article 13(1) before 1 May 2009.