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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND TO THE COUNCIL**

**on promoting the adaptation of the European Union fishing fleets to the economic
consequences of high fuel prices**

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1. Introduction

The European Union (EU) has a critical interest in maintaining a sustainable fishing industry. The fisheries sector is a key component of the economic life of several coastal regions. European fisheries bring a distinct contribution to food security and national health by providing a range of high-quality local products to EU consumers.

The EU fisheries sector has long suffered from a vicious circle of poor economic profitability and over-exploitation of stocks due to a significant overcapacity. Several steps have been taken since the 2002 reform of the Common Fisheries Policy (CFP) to counter this vicious circle. However, overcapacity and excessive fishing effort remains an issue for many segments of the EU fleet and continues to jeopardise the economic viability of the sector.

EU catches have steadily declined since 1993, at an average of 2% per year, leading to constantly declining revenues (-25% since the early nineties). In particular, almost all demersal stocks have declined in recent years and are currently not sustainable. In addition market prices have remained constant or even diminished. With declining revenues and an excessive capital invested (estimated at around 40%), there is a high leverage effect of changes in operating costs, which has squeezed the industry margins for several years. The absence of a sufficient return on capital has delayed modernisation and further weakened competitiveness of the fisheries sector.

Within the context of this structural fragility the sharp increase in global oil prices has hit hard. The international Brent oil price has more than quintupled from US\$20 per barrel in 2002 to over US\$130 per barrel by June 2008 and shows no signs of stopping. Since January 2008, crude oil has risen by 35% (in \$) and by 22% (in €). Marine fuel prices in the EU since 2002 have actually increased by some 240% (increase partly cushioned by the Euro strength vis-à-vis the US dollar) and are now in many cases even above 0.7€/litre, although marine fuel used for fishing is already exempt from excise duty.

The fleet segments most affected by the increase in fuel prices are the towed gears (e.g. trawlers) which tend to have engines with large engine power; fuel costs in some cases (e.g. UK and Dutch beam trawlers) represent up to 60% of the landing value. The impact on vessels using passive gears (e.g. traps, gillnets, long-lines) is significantly less given the nature of their fishing operations, but can still account for between 5-20%. Many artisanal fleets will be in this latter category.

In principle, fish prices should reflect these rising costs. However, first sale fish prices have continued to stagnate for the last decade and hence fishermen have not been able to pass their cost increases down the chain. This is due in part to constraints by the strong buying power of processors and marketing chains which have access to fish products at low import

prices from the global market, including large volumes of illegal, unregulated and unreported (IUU) fish.

Fisheries is not the only sector suffering from problems due to high oil prices, as outlined by the Commission's recent Communication on oil prices¹ and at the recent European summit. The Commission also noted that high oil prices are mainly a structural phenomenon, and are not expected to go down in the future. However, the fisheries problem is specifically complex, as the European Council itself recognised in the conclusions to the June summit. This specificity lies in the double constraint - from the resource and from the market - which makes it less resilient to economic pressure. It also lies in the fact that almost the entirety of the sector is composed of small and medium enterprises and is heavily concentrated in peripheral areas featuring high fisheries dependency, both in terms of income and employment.

The Commission had issued a Communication in 2006 that acknowledged these economic difficulties and outlined a number of available policy tools at EU and national level to tackle the difficulties. Since then, however, fuel prices have escalated dramatically and the situation has deteriorated further. There is therefore now a compelling need and a window of opportunity to act more decisively in order to avert a severe crisis for the EU fishing industry and foster the much needed restructuring.

The Commission is thus proposing an emergency package to address both the immediate situation of economic and social hardship and to make a long term contribution to tackling systemic overcapacity. This response must be EU-wide and co-ordinated in order to avoid distorting competition between Member States or fleets.

2. Principles underlying the package

Ensuring an in-depth adaptation of the EU fleet towards economic and environmental sustainability

The crisis triggered by high fuel prices makes it imperative, more than ever, to attack the root of the structural problems of the sector. The package will therefore focus primarily on reducing fishing overcapacity while ensuring that vessels can operate more efficiently and at higher productivity, thus helping the sector to become more competitive; no measures will be allowed that would increase fleet capacity or fishing effort. It will also address the problem of the high dependence on fuel, which should be reduced through modernisation and reconversion towards fuel efficient fishing techniques and equipment. A number of the proposed measures will improve the energy efficiency and reduce the emissions of the fishing fleet as a whole. Moreover, this will promote the moving away from fishing techniques which are also particularly damaging for the environment (e.g. bottom trawlers). Finally, it will focus on increasing the first sale value of fish.

Providing immediate support to the sector to alleviate social and economic hardship

The current situation is not sustainable for large parts of the sector. An increasing number of fishing vessels are tied up at port since it is simply uneconomical for them in the present circumstances to go to sea. Temporary support is needed primarily for crew members who have seen their income curtailed in the recent months. Support is also needed for vessel

¹ Facing the challenge of higher oil prices, COM(2008) 384, Brussels, 13-VI-2008

owners who need to be given some breathing space to engage into restructuring which is the only way to bring long term remedies. The package thus provides for some urgent measures of limited duration, mainly of social nature.

Focusing the bulk of the effort on very badly hit segments of the fleet through Fleet Adaptation Schemes

It is essential that the EU and Member States focus their efforts and resources where they are most needed and on those which are more vulnerable. This should then be translated into specific measures, in particular regarding the identification of recipients and derogations to current thresholds in the EFF Regulation. While the problem of high fuel prices affects the whole fishing industry, it is in those sectors that are very badly hit that the scope for more efficiency is largest. The package is therefore primarily addressed to fleet segments which have a high level of incidence of fuel costs (min. 30% of total production costs). Support will be granted to these fleet segments in various forms, provided they define a comprehensive Fleet Adaptation Scheme that includes, among other, a substantial permanent reduction (min. -30%) of the fishing fleet capacity and a significant improvement in its energy efficiency.

Ensuring coordinated EU intervention through an enhanced use of the EFF and possibly other EU funds and instruments

This is an EU emergency which requires coordinated solutions at EU level. Given that the EU has common fish resources and a common fish market, we should avoid uncoordinated national initiatives which could end up displacing the problems elsewhere, thus affecting the level playing field among Member States. For this reason, the package relies basically on an enhanced use of the European Fisheries Fund (EFF), which is "the" CFP instrument designed to assist the sector. The package will provide for the adjustment of existing EFF rules and procedures on an exceptional and temporary basis to make them more usable in the current situation. Funds will thereby be unlocked for an immediate use in structural interventions and transitional accompanying measures, as required by the current economic crisis.

The Commission invites Member States to reprogramme their EFF operational programmes in view of adapting the current allocation of funds between priority axes, allowing for a greater concentration on Axis 1 measures in the coming two years. The Commission will also propose derogations from the EFF regulation in order to increase the amount of the pre-financing payments of the operational programmes to the Member States and to increase the ceiling of participation of the EFF to measures financed in the context of this action.

However, the dimension of the crisis and the extent of the measures that need to be taken will demand an additional financial effort. The Commission thus envisages to provide additional EU financing for the measures, along the lines described in Section 6 of this communication.

State aid to accompany the process may also be facilitated, which may require some adaptation to existing rules, without however jeopardising basic legal principles in this area. The package will be carefully designed to ensure compliance with WTO rules and coherence with the ongoing negotiations on fisheries subsidies.

3. Package of measures

The package will consist mainly of measures based on temporary derogations from rules under the EFF, to support a faster adaptation of the Community fleet to the present situation and to provide temporary relief in order to cushion economic and social consequences in the transitional phase. It will give Member States the possibility to develop Fleet Adaptation Schemes for the fleets that are most dependent on fuel and most significantly affected by the situation of overcapacity.

The package will take primarily the form of a proposal for a Council regulation instituting an *ad hoc* special, temporary regime which will derogate from some provisions of the EFF regulation for a period up to end 2010.

4. Measures

Five main types of measures are envisaged: emergency measures, restructuring measures, horizontal measures, market measures, and measures facilitating the use of the EFF.

4.1. Emergency measures

4.1.1. Exceptional emergency aid for temporary cessation of fishing activities

In order to allow Member States and fishing enterprises to elaborate the necessary restructuring and adaptation initiatives, the Commission proposes to allow Member States to grant emergency aid under the form of financing the temporary cessation of fishing vessels for a maximum period of three months (to commence before 30.11.2008). Such a measure may finance crew costs and fixed costs of vessels. This measure will only apply in cases where there is an explicit commitment that the enterprises benefiting from it will be involved in restructuring leading to a reduction of capacity and fishing effort under e.g. Fleet Adaptation Schemes (see below), effort adjustment plans, national decommissioning schemes, fishing plans, other restructuring/modernization measures. This restructuring shall commence within six months from the date of entry into force of the Council regulation mentioned in paragraph 3 (failing which, the aid must be repaid).

The total public financial contribution to this measure shall be capped at €400 million and will be authorised to Member States in proportion with EFF national financial allocations. This temporary cessation shall not be taken into consideration when determining the thresholds (duration and budget) set by the EFF Regulation for temporary cessation measures.

This temporary cessation shall be tailored with a view to enhancing economic benefits by supporting stock recovery and/or by promoting more favourable marketing conditions. To that effect, Member States are encouraged to link the period of temporary cessation with considerations of biological dynamics, seasonality and market aspects.

4.2. Restructuring measures (Fleet Adaptation Schemes)

Fleets may benefit from special support measures by developing Fleet Adaptation Schemes, to be adopted by the Member State. Mandatory requirements for the Fleet Adaptation Schemes will be that:

- fuel represents on average at least 30% of the production costs of the fleet,

- a permanent reduction of at least 30% of the fishing fleet capacity is assured. The package shall introduce measures that ensure compliance with the conditions and outcomes of the Fleet Adaptation Schemes, including the 30% capacity reduction requirement. In very exceptional circumstances, and only for Member States whose fleet is less than 100 vessels, this threshold can be lowered when a 30% reduction would disproportionately affect the viability of the fisheries related activities depending on this fleet.

The Commission will ensure that appropriate control mechanisms are in place to ensure compliance with the commitments taken by Member States and undertakings in the context of the implementation of the package. Lack of compliance will be sanctioned, i.e. aid granted in breach of the conditions and requirements imposed by the above mentioned Council Regulation will have to be reimbursed.

In particular, the Commission will closely monitor the implementation of the mandatory requirement in relation to the permanent reduction of capacity to be achieved in the context of a Fleet Adaptation Scheme. To that end, vessels which are earmarked for permanent decommissioning will be requested to cease permanently their fishing activity within six months from the adoption of the Fleet Adaptation Scheme.

The following measures will only be allowed for vessels and/or fishermen concerned by Fleet Adaptation Schemes.

4.2.1. Facilitate access to EFF premiums for permanent cessation of fleets in restructuring

The Commission proposes to derogate from EFF rules in order to lift any limitation to the access of permanent cessation premiums for the fleets involved in a Fleet Adaptation Scheme, provided that vessels benefiting from these premiums cease their fishing activity promptly. Member State authorities should ensure that following successful fleet restructuring, sufficient management mechanisms are in place to guarantee that capacity will in future remain in balance with resources.

4.2.2. Additional aid for temporary cessation

The Commission proposes to allow vessels involved in a Fleet Adaptation Scheme to receive aid for additional months of temporary cessation, as long as it is carried out before 31.12.2009. This temporary cessation shall not be taken into consideration against the limits (duration and budget) set by the EFF Regulation. The aid shall help finance crew costs and vessel fixed costs during the time of inactivity.

The aid will be granted within the following limits:

- 3 months to vessels which are going to be scrapped or change engine; a maximum of 3 additional months may be allocated after 1.1.2010 in case restructuring is still ongoing,
- Six weeks to any other vessel involved in other restructuring measures within the Fleet Adaptation Scheme.

The total public financial contribution to this measure shall be capped at €400 million and will be authorised to Member States in proportion with EFF national financial allocations. This temporary cessation shall not be taken into consideration when determining the thresholds (duration and budget) set by the EFF Regulation for temporary cessation measures.

4.2.3. Increase the aid intensity for vessel modernisation

Currently the mandatory private financial participation in relation to financing investments on board is 60% and 80% for gear and engine replacement, respectively. In order to provide a substantial additional incentive for fishing companies to use more efficient vessels and gears, the Commission proposes to reduce the mandatory private financial participation to measures of vessel modernization where the investments concern energy saving equipment, engine or gear. The actual percentage will be defined by Member States on the basis of objective criteria such as the age of the vessel, the energy efficiency improvement, and the degree of capacity reduction included in the Fleet Adaptation Scheme. The minimum mandatory private financial participation should nevertheless not be less than 40% of the investment costs.

Aid for the modernisation of gear and equipment for vessels less than 5 years old shall also be permitted on the condition that there will be a substantial reduction in energy consumption.

4.2.4. Allow the granting of partial decommissioning aid in case of replacement of an old vessel with a new smaller and more energy efficient vessel

The Commission proposes that a vessel owner scrapping one or more vessels and replacing them by a new one, which is smaller and less fuel consuming, may be eligible to receive the scrapping premium (i.e. "partial decommissioning") in relation to the difference between the capacity of the scrapped vessels and the capacity of the replacing vessel. The Member States shall under partial decommissioning only be allowed to replace 25% of the total capacity permanently withdrawn in the Fleet Adaptation Scheme to which partial decommissioning is applied.

This proposal introduces more flexibility into scrapping policies. It must however be carefully designed to support fleet restructuring, but also the overarching policy objectives of conservation. The capacity of the new vessel shall be smaller than the withdrawn capacity; the maximum replacement ratio allowed per vessel should not be higher than 2:5. Furthermore, the measure should only be permissible if the Fleet Adaptation Scheme comprises a high percentage of vessels in a homogeneously defined fleet.

4.3. Horizontal measures (outside Fleet Adaptation Schemes)

4.3.1. Increase the EFF aid intensity for fuel-saving equipment

The Commission proposes to apply a lower rate for mandatory private financial participation (40%) for investment on board concerning equipment which helps to significantly reduce fuel consumption.

4.3.2. Expertise in relation to energy audits and the development of restructuring plans

The Commission proposes to adjust EFF rules on collective actions to make sure Member States can provide financial assistance to vessel owners for seeking expertise in relation to energy audits and expert advice on the development of restructuring/modernisation plans.

4.3.3. Expand the range of eligible beneficiaries of EFF socio-economic measures

Currently early departure and early retirement aid under EFF is granted only to fishermen. The Commission proposes to allow such aid also for other workers in fisheries-related activities (e.g. auction halls, port services etc.) in order to tackle the difficulties arising from closures and consolidations as a consequence of reduced fishing activities.

4.3.4. Promote research on technical improvements for vessels/engines/equipment/gear to reduce energy consumption and extend the eligibility of pilot projects

Research activities concerning energy efficiency in fishing remain vital in the longer term and thus more funds should be made available for technical developments in this area. The Commission therefore proposes to amend EFF eligibility rules to enable Member States to promote pilot projects concerning technical improvements aiming at reducing energy consumption.

EU-wide research projects are ongoing and merit sufficient knowledge sharing when completed². The Commission will continue to explore ways to encourage further research programmes and studies in this domain, along with other industrial sectors.

The sector could also encourage national research funders to examine possible research activities in this domain through networks such as ERA-NET³. In this context a more strategic approach, going beyond the current coordination of the several ERA-NET actions covering marine research, is proposed in the foreseen Commission Communication on *"A Marine and Maritime Research Strategy for Europe"*.

4.4. Market measures

The Commission encourages the Member States to provide the opportunity and the financial means to stakeholders in order to promote actions aiming at improving in particular the first sale value of fish. This shall be done by using both the largely unexploited possibilities offered by the EFF and the opportunities under the Common Market Organisation laid down in Council Regulation (EC) No 104/2000. The Commission proposes promoting initiatives aiming at the following objectives:

- Increasing fishermen's marketing position by joining forces within larger Producer Organisations or local marketing associations
- Improving planning of EU production and its adjustment to demand
- Promoting quality initiatives e.g. marking, labelling and better handling and processing
- Promoting information to consumers (health, nutrition, responsible fishing, etc.)

² European Commission study "Energy Saving in Fisheries" (ESIF) FISH/2006/17, European Commission website on energy efficiency in fisheries (planned launch in September 2008), European Commission 6th Research Programme projects "HOP – Macro-economic impact of High Oil Price in Europe" and "Superior life-time operation economy of ship propellers"; www.hop-project.eu, <http://canal.etsin.upm.es/superprop/>.

³ The aim of ERA-NET is to promote coordination and cooperation of national and regional research programmes

- Developing tools to analyse value chain and prices: market audit/assessments, establishment of a price monitoring system, to be related to the ongoing food price monitoring exercise that is being carried out by the Commission.
- Strengthening the monitoring in view to ensure compliance with labelling provisions and fight against IUU fishing.

4.4.1. Measures under the Common Market Organisation

The production sector has to find ways of successfully and efficiently adapting and regulating supply to meet market requirements, and especially the needs of the distribution sector. The only way to secure commercially viable prices is to provide the market with what it wants in terms of quantity, quality and regularity of supply. Excessive landings in periods of the fishing year when the market is slack can be counterproductive in terms of business management and commercial return.

In this vein, producer organisations have at their disposal the operational programmes, a powerful instrument for the regulation of the market. These are strategies for adapting supply to demand, by way of which producer organisations must plan in advance the deliveries from their members and must examine ways of improving financial returns of their catches. In the current situation, the Commission recommends that producer organisations redirect some of their measures and adopt a new position as regards their members and the market. In order to maximise the first sale value of their catches, producer organisations are encouraged to take specific initiatives such as redirecting products towards different market outlets, raising their quality, introducing voluntary labelling initiatives or developing other promotional activities, as well as concentrating fishery production in periods of higher prices.

In the case of products marketed fresh, there is a need for the production sector to create the means of improving quality and thus adding value. The quality improvement plans is a mechanism designed to encourage producer organisations to enhance the quality of their products in all stages of production and marketing. Yet they have met very little response in spite of the financial support available under the EFF. Therefore the Commission invites the Member States to support producer organisations in their efforts to prepare and implement quality improvement plans.

Another imperative need for Community producers is to take into account changes in patterns of consumer habits and of distribution. A majority of products are now sold through the big distribution chains, which generally have a policy of buying in quantity on the basis of forecast demand. All the uncertainties over landings and the fragmented nature of the first-stage marketing sector are reasons why these major chains may avoid purchasing Community products. The setting up of inter-branch organisations can contribute to improve the situation. These organisations gather representatives of production, business and processing in order to carry out measures that would benefit the entire industry. Most of these measures qualify for financial assistance from the EFF. Nevertheless, there has been a poor acceptance of these organisations so far. Therefore the Commission encourages Member States to promote the establishment of inter-branch organisations in order to strengthen the co-operation between the different operators of the marketing chain.

4.4.2. Observatory / price monitoring system

The Commission will put in place the necessary measures to establish a price monitoring system for fish and aquaculture products throughout the marketing chain, to be related to the ongoing food price monitoring exercise being carried out by the Commission. This will lead to developing a tool for analysis and decision making aiming at improving knowledge on price setting and understanding how added value is generated from the first sale. Some recent studies have demonstrated that price and added value transmissions mechanisms are heterogeneous according to family of products and marketing chain. The price monitoring system will concern aquaculture and fish products which are captured, transhipped, landed or imported.

Such an analytical tool does not aim at influencing price directly but should enable to improve anticipation of price variations. It is also expected that improved information on markets mechanisms should enable producers to adapt their supply to get better value for their products.

The Commission is conducting a study on supply and marketing of fish and aquaculture products within the EU which will specifically focus on price mechanisms. It will also provide methodological inputs for setting a price monitoring system. First consolidated results and recommendations will be shared and discussed with stakeholders by early 2009.

Various elements of price analyses are already addressed in the Common Market Organisation (CMO), which may be reviewed at the forthcoming revision of the CMO scheduled for 2009.

4.4.3. Specific Stakeholder Initiative Projects

The Commission will examine the possibility of modifying the second fisheries instrument to finance directly stakeholder organisations' initiatives in the area of market monitoring, labelling, etc. through calls for proposals.

4.5. Measures facilitating the use of the EFF

4.5.1. Reprogramming

Member States are strongly encouraged to use the EFF to the greatest extent possible by adjusting operational programmes, where necessary, with a view to maximising the financial support to initiatives aiming at tackling the fuel crisis. To this extent Member States shall consider a substantial transfer of funds within their operational programmes from the other EFF axes to increase the Axis 1 (adjustment of the Community fishing fleet) allocation.

Strengthening EFF support for these initiatives may in some cases only require a re-distribution of funds between measures within Axis 1, which can be decided autonomously by the Member States. In most cases, it will require a programme modification. The Commission will commit to examine and approve all such modifications in the shortest timeframe possible to allow for their rapid implementation.

Such reprogramming would be a necessary pre-condition for allowing the access of Member States to possible additional funding opportunities that the Community may make available at a later stage.

4.5.2. Easing the use of EFF funds

In order to make it easier for those Member States that may have difficulties in quickly mobilising the national co-financing funds for Axis 1 measures, the Commission proposes to increase the permitted EFF co-financing rates for actions taken in the context of the proposed *ad hoc* measure to up to 95% of the total public expenditure.

In addition, the Commission proposes to double the EFF pre-financing amount paid by the Commission after the adoption of the operational programmes, from 7% to 14% of the total EFF contribution to the operational programme, for those Member States which request it. This will considerably increase the funds immediately available for Member States to quickly pay for emergency measures once any necessary budgetary transfers have been completed.

4.5.3. Retroactivity

The temporary cessation measure implemented as of 1 June 2008 will be eligible for support under the EFF.

5. Other measures

5.1. De minimis aid

Currently *de minimis* rules limit of €30,000 are applicable on a company basis, which creates large disparities in relation to the benefit fishermen can obtain from Member States regimes financed under the *de minimis* threshold. Based on further economic analysis, the Commission will consider modifying this regime for the fisheries sector by allowing the concession of the €30,000 *de minimis* aid per vessel instead of per firm, but with an overall cap of €100,000 per enterprise. The Commission undertakes to carry out the necessary economic analysis in the very short term.

5.2. Social aid in the form of decreased social security contributions

In view of the importance of safeguarding employment the Commission, through a modification of the *Guidelines for the examination of state aid to fisheries and aquaculture*, will open the possibility for Member States to take responsibility for part of the rates for social security contributions for fishermen.

This shall be limited only to the contributions payable by fishermen (and not the contribution payable by the enterprises employing them), and provided that there is no associated reduction in the normal remuneration of the employees in question by the employer. The specific case of those artisan fishermen working as the sole employee on their own vessel should also be covered.

This will bring about a direct benefit to employed fishermen, including sole self-employing ones, as these are able to continue receiving the benefits of social security while they may be allowed to pay a decreased social security contribution. The measure would be possible for a maximum period of two years.

6. Additional funds

It is essential that this package is applied in a way that safeguards a level playing field across the Union. There should be no distortion of competition among EU fishermen resulting from

the different ability of Member States to mobilise public or Community funding. There should also be no discrimination against those Member States that have already engaged in fleet restructuring. The best way to do this is to use the EFF as the main instrument for the structural adaptation of EU fleets. Therefore, the EFF will remain the principal contributor to the package. However, there remain several important problems which cannot be solved by the sole use of the current EFF:

- Several Member States have a very small EFF allocation. This is because country repartition keys under the EFF are not in direct relation with the size of the fleet but rather based on more general criteria governing structural funds. The implementation of the package through exclusive use of the EFF could create unwarranted distortions to the detriment of these Member States.
- Within some Member States the bulk of EFF funding is focused on convergence regions, in line with the overall logic applying to EU structural funds. The result of this situation is that EFF funds cannot be sufficiently mobilised to restructure the fleets located outside convergence regions.
- Some Member States benefit from a larger EFF allocation but still remains insufficient to tackle all the necessary measures needed for the extensive restructuring of the fleets concerned by the crisis.
- Several Member States have provided for significant restructuring plans in their EFF operational programmes but they extend over the whole period (2007-2013). Tackling the current crisis will require them to shorten the period of these plans, leading to a considerable increase in their short and medium term financing needs.
- The extent of the crisis will require an unprecedented restructuring effort. The implementation of the package will therefore involve a large amount of public financial support. The financial requirement only for permanent and temporary cessation of fisheries activities, in relation to fleet segments that are badly hit by the crisis, is estimated to be in excess of €1.6 billion. With the additional support for investment to reduce energy consumption, market and socio-economic measures, collective actions and pilot projects, which are all included in the temporary specific action to promote the restructuring of the fishing fleets affected by the economic crisis, the total financial requirement is estimated to be in the region of €2.0 billion. The current programming of EFF axis 1 for these measures is estimated to cover around € 600 million, with an estimated additional € 250 million coming from national co-financing. The Commission further estimates that € 550 million will have to come from reprogramming of EFF Operational Programmes. The remaining amount is estimated at up to €600 million. Part of that amount could be financed through the unallocated margin under Heading 2 of the Financial Framework ceilings for the years 2009 and 2010, with the bulk coming in 2009. This shall not prejudice actual CAP expenditure levels. Any additional amount would be conditional on CAP expenditure levels in these years being well below the corresponding sub-ceilings, and will be subject to full analysis and justification.

Before any additional funds can be mobilized, the Commission will first ensure that Member States have made available the significant resources highlighted above through OP reprogramming and national funds. For implementation purposes, the Commission will examine the possibility of establishing an *ad hoc* financial instrument. This instrument would

have a limited duration aligned with the fuel crisis measures under the EFF. Resources under this new *ad hoc* facility would be allocated to Member States using specific criteria.

In particular, in order to benefit from this additional support, Member States should previously have made a substantial contribution of their EFF allocation to the measures needed to tackle the crisis, by way of reprogramming the funds of their operational programmes in favour of Axis 1, or they should have set up ambitious Fleet Adaptation Schemes involving a significant share of the national fleet.

7. Timing

Actions under the Council Regulation shall be committed before 31 December 2010.