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from: Presidency

to: Council

No. prev. doc.: 10204/1/13 REV 1

No. Cion prop.: 15426/11 + REV 1 (en, fr, de) - COM(2011) 628 final/2, 14314/12 - COM(2012) 551 final

Subject: Proposal for a Regulation of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy (the horizontal regulation *(CAP Reform)*)
- Presidency consolidated draft regulation reflecting the outcome of the informal trilogues

With a view to the Council (Agriculture and Fisheries) on 24-25 June 2013, delegations will find attached in the Annex:

- In Section I, recitals agreed in trilogues (subject to further legal-linguistic revision);
- In Section II, corrections to doc. 11082/1/13 REV 1.

I. RECITALS

The following recitals were agreed at the trilogues as at 19 June 2013:

- (5a) **In order to ensure consistency between the practices of Member States and harmonised application of the *force majeure* clause, this Regulation should provide, where appropriate, for exemptions in cases of force majeure and exceptional circumstances, as well as for a non-exhaustive list of possible cases of *force majeure* and exceptional circumstances to be recognised by the national competent authorities. The national authorities could use the list in order to identify case of force majeure or exceptional circumstances. However, the decision should be taken on a case by case basis, based on relevant evidence to the satisfaction of the competent authority and the concept of force majeure in the framework of agricultural law should be interpreted in the light of the case law of the Court of Justice.**
- (14) The use of the agro-meteorological system and the acquisition and improvement of satellite images should provide the Commission, **in particular,** with the means to manage ~~the~~ agricultural markets **and,** to facilitate the monitoring of agricultural expenditure **and to monitor agricultural resources in the medium and long term.** **[Also, in light of the experience gained with the application of Council Regulation (EC) No 165/94 of 24 January 1994 concerning the co-financing by the Community of remote-sensing checks¹ some of its provisions should be incorporated in this Regulation and Regulation (EC) No 165/94 should thus be repealed.**
- (37a) **The funding under the CAP of activities which generate additional costs in other policy areas covered by the general budget of the European Union, especially environment and public health, should be avoided. In addition, the introduction of new payment systems, and related monitoring and penalty systems, should not result in unnecessary additional, complicated administrative procedures and red tape.**

¹ OJ L 24, 29.1.1994, p.6

- (38) Provisions relating to general principles on checks, withdrawals, reductions or exclusions from payments and to the imposition of penalties are contained in various sectoral agricultural regulations. Those rules should be gathered in the same legal framework at a horizontal level. They should cover the obligations of the Member States as regards administrative and on-the-spot checks, **the purpose of which shall be to check compliance with the provisions of the CAP measures**, the rules on the recovery, reduction and exclusions of aid. Rules on checks of obligations not necessarily linked to the payment of an aid should be laid down as well.
- (41) The main elements of that integrated system and, in particular, the provisions concerning a computerised database, an identification system for agricultural parcels, aid applications or payment claims and a system for the identification and recording of payment entitlements should be maintained **while taking into account the evolution of the policy in particular the introduction of the payment for agricultural practices beneficial for the climate and the environment and the ecological benefits of landscape features. Member States should make appropriate use of technology when setting up these systems, with a view to reducing administrative burden and ensuring efficient and effective controls.**
- (41a) **[For the purpose of creating a reference layer in the identification system for agricultural parcels to accommodate the ecological focus areas, Member States could take account of specific information that may be required from farmers on their applications for claim years [2015] to [2018] such as the identification of those landscape features or other areas which may qualify as ecological focus areas and, where necessary, the size of such features and other areas.]**

(68) Each measure under the CAP should be subject to monitoring and evaluation in order to improve its quality and demonstrate its achievements. In this context a list of indicators should be determined and the **performance impact** of the CAP policy assessed by the Commission in relation to **the policy objectives of viable food production, the sustainable management of natural resources and climate action and balanced territorial development. In assessing in particular the performance of the CAP in relation to the objective of viable food production, all relevant factors, including the evolution of input prices, should be taken into account.** The Commission should set up a framework for a common monitoring and evaluation ensuring among others that relevant data, including information from Member States is available on a timely manner. In so doing it should take into account the data needs and synergies between potential data sources. Moreover, the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Budget for Europe 2020 - Part II stated that the climate related expenditure in the overall Union budget should increase to at least 20%, with contribution from different policies. The Commission should therefore be able to assess the impact of the Union's support in the framework of the CAP to climate objectives.

- (70d) The objective of the public control of the use of the money from the EAGF and the EAFRD pursued with the publication of beneficiaries may be achieved only by ensuring a certain degree of information to be delivered to the knowledge of the public. That information should cover data on the identity of the beneficiary, the amount awarded and under which of the funds, the purpose and the nature of the measure concerned. The publication of that information should be made in such a way as to cause less interference with the beneficiaries' right to respect for their private life in general and to protection of their personal data in particular, rights recognised by Articles 7 and 8 of the Charter of Fundamental Rights of the European Union. **In order to ensure that this Regulation complies with the principle of proportionality, the legislator, on the basis of an *aide-mémoire*, has explored all the alternative means of attaining the objective of public control of the use of the money and has chosen the one which would cause the least interference with the individual rights concerned.**
- (70g) The threshold should reflect and be based on the level of the support schemes set up within the framework of the CAP. As the structures of the Member States' agricultural economies vary considerably and may differ significantly from the average Union farm structure, the application of different minimum thresholds that reflect the particular situation of the Member States should be allowed. Regulation xxx/xxx [DP] sets out a simple and specific scheme for small farms. Article 49 of that Regulation lays down criteria for calculating the amount of aid. For reasons of consistency, **in the case of Member States applying the scheme, the threshold to be taken into account should be set at the same level as the amounts fixed by the Member State as referred to in Article 49(1) second subparagraph or Article 49(2) second subparagraph of Regulation xxx/xxx those criteria should also be used for fixing specific thresholds per Member State for the publication of the name of a beneficiary. In the case of Member States deciding not to apply the above Scheme, the threshold to be taken into account should be set at the same level as the maximum amount of aid possible under the scheme, as provided for in Article 49 of Regulation xxx/xxx [DP].** Except for the name, below that specific threshold the publication should contain all the relevant information in order to allow the taxpayers to have an accurate image of the CAP.

II. CORRECTIONS

In document 11082/1/13 REV 1, footnotes 5, 6, 10, 15, 17, 18 and 19 were of an explanatory nature should be deleted because they do not form part of the operative provisions of the Regulation.

Article 115 should read as follows:

Article 115
Entry into force and application

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

It shall apply from 1 January 2014.

2. However, the following provisions shall apply ~~from 16 October 2013~~:

(a) Articles 7, 8 ~~and 9~~, **16, 24a and 25, from 16 October 2013**;

(b) Articles 18, 42, ~~43~~ and 45 ~~as regards~~ **for** expenditure incurred from 16 October 2013;

(c) Article 54, from 1 January 2015.