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Subject: Proposal for a regulation of the European Parliament and of the Council laying down certain transitional provisions on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and amending Regulation (EU) No [RD] as regards resources and their distribution in respect of the year 2014 and amending Council Regulation (EC) No 73/2009 and Regulations (EU) No [DP], (EU) No [HZ] and (EU) No [sCMO] as regards their application in the year 2014

- Further Presidency suggestions for amendments

With a view to the meeting of the Special Committee on Agriculture on 9 September 2013, the Presidency suggests the further changes set out in the Annex. Changes compared to the text considered by the SCA at its meeting on 8 July 2013 are marked in ***bold and italics*** or **~~strikethrough~~**.

These further changes reflect certain draft amendments under discussion within the European Parliament and certain comments that delegations made within the SCA or subsequently in writing. They also include some further legal-linguistic revisions. Further technical and legal changes will be necessary, particularly as regards the entry into force provisions.

For ease of reference, the changes of substance are highlighted in yellow. They concern:

- recital 12;
 - Article 1(1);
 - Article 3(1);
 - Annex I; and
 - Annex II.
-

Draft

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
laying down certain transitional provisions on support for rural development by the
European Agricultural Fund for Rural Development (EAFRD) and amending Regulation
(EU) No [RD] as regards resources and their distribution in respect of the year 2014 and
amending Council Regulation (EC) No 73/2009 and Regulations (EU) No [DP], (EU) No [HZ]
and (EU) No [sCMO] as regards their application in the year 2014

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular
Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C , , p. .

² OJ C , , p. .

Whereas:

- (1) Regulation (EU) No [...] [RD] of the European Parliament and of the Council of... on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)¹, which is to apply from 1 January 2014, lays down rules governing Union support for rural development and repeals Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)², without prejudice to the continued application of the Regulations implementing that Regulation until they are repealed by the Commission. To facilitate the transition from existing support schemes under Regulation (EC) No 1698/2005 to the new legal framework which covers the programming period starting on 1 January 2014 ("the new programming period"), transitional rules should be adopted to avoid any difficulties or delays in the implementation of rural development support, which may result from the time of adoption of the new rural development programs. For that reason, Member States should be allowed to continue to undertake legal commitments under their existing rural development programs in 2014 for certain measures and the resulting expenditure should be eligible for support in the new programming period.
- (2) In view of the substantial change in the method for the delimitation of areas facing significant natural constraints proposed for the forthcoming programming period, the obligation for the farmer to continue farming in the area for 5 years should not apply for new legal commitments undertaken in 2014.

¹ OJ L [...], [...], p. [...].

² OJ L 277, 21.10.2005, p. 1.

- (3) To ensure legal certainty in the transition, expenditure undertaken pursuant to Regulation (EC) No 1698/2005 under area and animal related measures should be eligible for an EAFRD contribution in the new programming period when there are still payments to be made. This provision should also cover certain long-term commitments under similar measures ~~of~~ ***provided for in*** Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations¹, ~~and in Council~~ ***in Council*** Regulations (EEC) No 2078/1992 of 30 June 1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside² ~~and of in Council Regulation~~ (EEC) No 2080/1992 of 30 June 1992 instituting a Community aid scheme for forestry measures in agriculture³ where these ***measures*** were receiving support under Regulation 1698/2005 and there are still payments to be made in 2014. In the interest of sound financial management and effective programme implementation, such expenditure should be clearly identified in the rural development programmes and throughout the management and control systems of the Member States. In order to avoid unnecessary complexity in the financial management of rural development programmes in the new programming period, the co-financing rates of the new programming period should apply to transitional expenditure.

¹ OJ L 160, 26.6.1999, p. 80.

² OJ L 215, 30.7.1992, p. 85.

³ OJ L 215, 30.7.1992, p. 96.

- (4) Regulation (EU) No [...] of the European Parliament and of Council of... establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy [DP]¹ sets up new support schemes and is to apply from 1 January 2014. That date of application would not allow that the administrative and practical arrangements needed for the lodging of applications for 2014 are set up in time. For that reason, the application of the new direct payments regime needs to be postponed by one year. Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers² should therefore continue to form the basis on which to grant income support for farmers in calendar year 2014, while taking due account of [Regulation laying down the Multiannual Financial Framework]³.
- (5) Given that Regulation (EC) No 73/2009 is to continue to apply in 2014 and in order to ensure consistency in the implementation of the provisions on cross-compliance and the respect of the standards required by certain measures, it should be provided that the relevant provisions that apply in the 2007-2013 programming period continue to apply until the new legislative framework becomes applicable. For the same reasons, it should be provided that the provisions relating to complementary national direct payments for Croatia that apply in 2013 continue to apply.
- (6) Article 76 of Regulation (EU) No [...] [HZ] of the European Parliament and the Council⁴ provides for the possibility of Member States to pay advances for the direct payments. Under Regulation (EC) No 73/2009 such possibility needs to be authorised by the Commission. Experience in the implementation of direct support schemes shows that it is appropriate to allow for farmers to receive advance payments. As regard applications made in 2014, those advances should be limited to up to 50% of the support schemes listed in Annex I to Regulation (EC) No 73/2009 and to up to 80% of the beef and veal payment.

¹ OJ L [...], [...], p. [...].

² OJ L 30, 31.1.2009, p. 16.

³ OJ L [...], [...], p. [...].

⁴ OJ L [...], [...], p. [...].

- (7) In order to respect [Regulation laying down the Multiannual Financial Framework], and in particular the levelling of the amount available for granting direct support to farmers as well as the external convergence mechanism, it is necessary to modify the national ceilings fixed in Annex VIII to Regulation (EC) No 73/2009 for 2014. The modification of the national ceilings will inevitably have an impact on the amounts that individual farmers may receive as direct payments in 2014. The way in which this modification will impact on the value of payment entitlements and the level of other direct payments should therefore be laid down.
- (8) Certain provisions of Regulation (EC) No 73/2009, in particular as regards the elements covered by the figures set out in Annex VIII to that Regulation and the link with the possibility given to Member States to use the funds unspent in the single payment scheme to finance the specific support, should be clarified on the basis of experience gained in the financial implementation of that Regulation.
- (9) Under Regulation (EC) No 73/2009, Member States had the possibility to decide to use a certain percentage of their national ceiling for specific support for their farmers as well as to review a previous decision by deciding to modify, or put an end to, such support. It is appropriate to provide for an additional review of those decisions with effect from calendar year 2014. At the same time, the special conditions under which the specific support is paid in some Member States pursuant Article 69(5) of Regulation (EC) No 73/2009, which are due to expire in 2013, need to be extended for one more year, in order to avoid disruption in the degree of support.
- (10) The single area payment scheme laid down in Regulation (EC) No 73/2009 has a transitional nature and was due to end on 31 December 2013. Since the new basic payment scheme will replace the single payment scheme only as from 1 January 2015, an extension of the single area payment scheme for the year 2014 is necessary in order to prevent new Member States from having to apply the single payment scheme for only one year.

- (10a) In accordance with Article 133a of Regulation (EC) 73/2009 ~~as inserted by Regulation (EU) No 671/2012 of the European Parliament and of the Council~~, new Member States other than Bulgaria and Romania applying the single area payment scheme may grant transitional national aid in 2013. In view of the prolongation of the single area payment scheme for the year 2014, ~~it is appropriate to continue to allow~~ Member States applying the single area payment scheme *should maintain the possibility* to grant transitional national aids to farmers in 2014. In view of the level of complementary national direct payments under Article 132 of Regulation (EC) 73/2009 in Bulgaria and Romania in 2014, ~~it is further appropriate to also allow~~ those Member States *should be able* to opt for transitional national aid in 2014 instead of granting complementary national direct payments.
- (10b) Such transitional national aid is to be granted under the same conditions as the conditions applied to those payments in 2013 or, in the case of Bulgaria and Romania, under the same conditions as the conditions applied to complementary national direct payments in 2013. *However, in order to simplify the management of the transitional national aid in 2014, it is however appropriate not to apply* the reductions referred to in Article 132(2) in conjunction with Articles 7 and 10 of Regulation (EC) 73/2009 *should not be applied*. Furthermore, in order to ensure the compatibility of the transitional national aid with the convergence mechanism, the maximum level of aid per sector shall be limited by certain percentage.
- (11) With a view to allowing Member States to address the needs of their agricultural sectors or to strengthen their rural development policy in a more flexible way, they should be given the possibility to transfer funds from their direct payments ceilings to their support assigned for rural development and from the support assigned for rural development to their direct payments ceilings. At the same time, Member States where the level of direct support remains lower than 90% of the Union average level of support should be given the possibility to transfer additional funds from their support assigned for rural development to their direct payments ceilings. Such choices should be made, within certain limits, once and for the whole period of financial years 2015-2020.

- (12) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy¹ provided for the repeal of Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances² with effect from 22 December 2013. In order to maintain the **same** rules under cross-compliance related to protection of groundwater **as laid down in Directive 80/68/EEC on the last day of its validity**, it is appropriate to adjust the scope of cross-compliance and to define a standard of good agricultural and environmental condition encompassing the requirements of Articles 4 and 5 of *that* Directive ~~80/68/EEC~~.
- (12a) ~~According to~~ Article 83 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC³, **provides for** the reference in Annex II of Regulation (EC) No 73/2009 to Article 3 of Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market⁴ ~~is~~ to be construed as a reference to Article 55 of that Regulation. However, in Regulation No [...] [HZ], this reference has been limited to the first and second sentence of Article 55. In order to ensure consistency between the requirement for use of plant protection products in the year 2014 and following years, ~~it is appropriate to adjust~~ Annex II of Regulation (EC) No 73/2009 **should be adjusted** accordingly.
- (13) Regulation (EU) No [...] [sCMO] of the European Parliament and of the Council⁵ provides for the integration of the support for silkworm rearing into the direct support regime and therefore its removal from Regulation (EU) No [...] [sCMO]. In view of the delayed application of the new direct support regime, aids in the silkworm sector should continue for one more year.

¹ OJ L 327, 22.12.2000, p. 1.

² OJ L 20, 26.1.1980, p. 43.

³ **OJ L 309, 24.11.2009, p. 1.**

⁴ **OJ L 230, 19.8.1991, p. 1.**

⁵ OJ L [...], [...], p. [...].

- (14) Moreover, the provisions on the farm advisory system, the integrated administration and control system and cross compliance laid down in Title III, Chapter II of Title V and Title VI, respectively, of Regulation (EU) No [...] [HZ] of the European Parliament and of the Council on the financing, management and monitoring of the common agricultural policy¹ should apply from 1 January 2015.
- (15) Following the insertion of Article 136a into Regulation (EC) No 73/2009 and the replacement of Article 14 of Regulation (EU) No [DP], which applies from 1 January 2015, references to Article 14 of Regulation (EU) No [DP] in Regulation (EU) No [...] [RD] need to be amended.
- (16) Regulations (EC) No 73/2009, (EU) No [...] [DP], (EU) No [...] [HZ], (EU) No [...] [sCMO] and (EU) No [...] [RD] should therefore be amended accordingly.
- (17) This Regulation should apply from 1 January 2014. In order to avoid any overlap between the rules on flexibility between pillars laid down in Regulation (EC) No 73/2009 and Regulation (EU) No [DP] as amended by this Regulation, that particular amendment to Regulation (EC) No 73/2009 should apply from the date of entry into force of this Regulation and the amendments of Regulation (EU) No [DP], including its deferred application from 1 January 2015, should apply from the date of entry into force of Regulation (EU) No [DP]. Furthermore, the amendment of Annexes II and III to Regulation (EC) No 73/2009 should apply from 22 December 2013,

HAVE ADOPTED THIS REGULATION:

¹ OJ L [...], [...], p. [...].

CHAPTER 1

Transitional provisions on support for rural development

Article 1

Legal commitments under Regulation (EC) No 1698/2005 in 2014

1. By way of derogation from Article 94 of Regulation (EU) No [...] [RD], Member States may continue to undertake new legal commitments to beneficiaries in 2014, in relation to the measures referred to in Articles **s 20(a)(ii), (b)(i), (iii) and (v) and** 36(a)(i) to (v) and (b)(iv) and (v) of Regulation (EC) No 1698/2005, Member States may continue to undertake new legal commitments to beneficiaries in 2014 pursuant to the rural development programmes adopted on the basis of Regulation (EC) No 1698/2005 even after the financial resources of the 2007-2013 programming period have been used up, until the adoption of the respective rural development programme for the 2014-2020 programming period. The expenditure incurred on the basis of these commitments shall be eligible in accordance with Article 3 of this Regulation.
2. The condition set out in the second indent of Article 14(2) of Council Regulation (EC) No 1257/1999¹ shall not apply to new legal commitments undertaken by Member States under Article 36(a)(i) and (ii) of Regulation (EC) No 1698/2005 in 2014.

Article 2

Continued application of Articles 50a and 51 of Regulation (EC) No 1698/2005

By way of derogation from Article 94 of Regulation (EU) No [...] [RD], Articles 50a and 51 of Regulation (EC) No 1698/2005 shall continue to apply until 31 December 2014 in relation to operations selected under the rural development programmes of the 2014-2020 programming period pursuant to Article 22(1)(a) and (b) of Regulation (EU) No [...] [RD] as regards the annual premium, and Articles 29 to 32, 34 and 35 of that Regulation.

¹ OJ L 160 , 26.6.1999, p. 80.

Article 3

Eligibility of certain types of expenditure

1. By way of derogation from Article 7(1) of Regulation (EU) No [...] [RD], expenditure relating to legal commitments to beneficiaries, undertaken under the measures referred to in Articles **20(a)(ii), (b)(i), (iii) and (v) and** 36(a)(i) to (v) and (b)(iv) and (v) of Regulation (EC) No 1698/2005 and Article 36(b)(i) and (iii) of that Regulation in relation to the annual premium, shall be eligible for an EAFRD contribution in the 2014-2020 programming period in the following cases:
 - (a) for payments to be made between 1 January 2014 and 31 December 2015, if the financial allocation for the measure concerned of the respective programme adopted pursuant to Regulation (EC) No 1698/2005 has already been used up; and
 - (b) for payments to be made after 31 December 2015 **for all commitments undertaken pursuant to Article 36(a)(i) to (v) and (b)(i), (iii), (iv) and (v) of that Regulation.**

This paragraph shall also apply in relation to legal commitments to beneficiaries undertaken under corresponding measures in Regulations (EC) No 1257/1999 or (EEC) No 2078/1992 and (EEC) No 2080/1992 which are receiving support under Regulation (EC) No 1698/2005.

2. The expenditure referred to in paragraph 1 shall be eligible for an EAFRD contribution in the 2014-2020 programming period subject to the following conditions:
 - (a) such expenditure is provided for in the respective rural development programme for the 2014-2020 programming period;

- (b) the EAFRD contribution rate of the corresponding measure under Regulation (EU) No [...] [RD] as set out in Annex I to this Regulation applies;
- (c) Member States ensure that the relevant transitional operations are clearly identified through their management and control systems.

Article 4

Application of certain provisions of Regulation (EC) No 73/2009 in 2014

1. For the year 2014, the reference to Chapter I of Title VI of Regulation (EU) No [HZ] in Articles 29, 30, 31 and 34 of Regulation (EU) No [...] [RD] shall be read as a reference to Articles 5 and 6 of Regulation (EC) No 73/2009 and Annexes II and III thereto.
2. For the year 2014,
 - (a) the reference in Article 40a(1) of Regulation (EU) No [...] [RD] to Article 17a of Regulation (EU) No [DP] shall be read as a reference to Article 132 of Regulation (EC) No 73/2009;
 - (b) the reference in Article 40a(2)(a) of Regulation (EU) No [...] [RD] to Article 16a of Regulation (EU) No [DP] shall be read as a reference to Article 121 of Regulation (EC) No 73/2009.

CHAPTER 1

Amendments

Article 5

Amendments to Regulation (EC) No 73/2009

Regulation (EC) No 73/2009 is amended as follows:

(1) In Article 29, the following paragraph is added:

"5. By way of derogation from paragraph 2, Member States may pay, from 16 October 2014, advances to farmers of up to 50 % of the direct payments under the support schemes listed in Annex I in respect of applications made in 2014. Regarding the beef and veal payments provided for in Section 11 of Chapter 1 of Title IV, Member States may increase the amount referred to in the first subparagraph to up to 80 %."

(2) Article 40 is replaced by the following:

"Article 40

National ceilings

1. For each Member State and each year, the total value of all allocated payment entitlements, of the national reserve as referred to in Article 41 and of the ceilings fixed in accordance with Articles 51(2) and 69(3) shall be equal to the respective national ceiling determined in Annex VIII.

2. Where necessary, a Member State shall make a linear reduction/increase in the value of all payment entitlements and/or the amount of the national reserve as referred to in Article 41 in order to ensure compliance with the ceiling determined in Annex VIII.
3. Without prejudice to Article 25 of Regulation (EU) No [HZ] of the European Parliament and of the Council*, the amounts of direct payments which may be granted in a Member State in respect of calendar year 2014 under Articles 34, 52, 53 and 68 of this Regulation and for the aid to silkworm rearers under Article 111 of Regulation (EC) No 1234/2007 shall not be higher than the ceilings set out in Annex VIII to this Regulation for that year, reduced by the amounts resulting from the application of Article 136aa for the calendar year 2014 as set out in Annex VIIIa to this Regulation. Where necessary, and in order to comply with the ceilings set out in Annex VIII reduced by the amounts resulting from the application of Article 136aa for the calendar year 2014 as set out in Annex VIIIa to this Regulation, Member States shall make a linear reduction in the amounts of direct payments in respect of calendar year 2014.

* OJ L ..., ..., p."

- (3) In Article 51(2), the following sub-paragraph is added:

"For 2014, the ceilings for the direct payments referred to in Articles 52 and 53 shall be identical to the ceilings determined for 2013, multiplied by a coefficient to be calculated for each Member State concerned by dividing the national ceiling for 2014 set out in Annex VIII by the national ceiling for 2013. This multiplication shall only apply to Member States where the national ceiling set out in Annex VIII for 2014 is lower than the national ceiling for 2013."

- (4) In Article 68(8), the introductory phrase is replaced by the following:

"8. By ...¹, the Member States that took the decision referred to in Article 69(1) may review it and decide, with effect from 2014, to:"

- (5) Article 69 is amended as follows:

- (a) Paragraph 1 is replaced by the following:

"1. Member States may decide, by 1 August 2009, 1 August 2010, 1 August 2011, 1 September 2012 or by [...]², to use, from the year following such decision, or in the case of a decision taken by [...], from the year 2014, up to 10 % of their national ceiling referred to in Article 40, or, in the case of Malta, the amount of EUR 2 000 000 for the specific support provided for in Article 68(1).";

¹ OJ please insert the date one month from the date of application of this Regulation.

² OJ please insert the date one month from the date of application of this Regulation.

(b) In paragraph 3, the second sub-paragraph is replaced by the following:
"For the sole purposes of ensuring compliance with the national ceilings as provided for in Article 40(2) and making the calculation referred to in Article 41(1), the amounts used to grant the support referred to in point (c) of Article 68(1) shall be deducted from the national ceiling referred to in Article 40(1). They shall be counted as allocated payment entitlements."

(c) In the first sentence of paragraph 5, "2013" is replaced by "2014";

(d) In paragraph 6, the second sub-paragraph is replaced by the following:

"For the sole purposes of ensuring compliance with the national ceilings provided for in Article 40(2) and making the calculation referred to in Article 41(1), where a Member State makes use of the option provided for in point (a) of the first sub-paragraph of this paragraph, the amount concerned shall not be counted as part of the ceilings fixed under paragraph 3 of this Article."

(6) In Article 90, paragraph 3 is replaced by the following:

"3. The amount of the aid per eligible hectare shall be established by multiplying the yields established in paragraph 2 with the following reference amounts:
Bulgaria: EUR [520,20]
Greece: EUR [234,18]
Spain: EUR [362,15]
Portugal: EUR [228,00]."

(7) In Article 122, paragraph 3 is replaced by the following:

"3. The single area payment scheme shall be available until 31 December 2014."

(8) In Article 131, paragraph 1 is replaced by the following:

"1. The new Member States applying the single area payment scheme may decide, by 1 August 2009, 1 August 2010, 1 August 2011, 1 September 2012 or by [...¹], to use, from the year following that decision, or in the case of a decision taken by [...²], from the year 2014, up to 10 % of their national ceilings referred to in Article 40 to grant support to farmers as set out in Article 68(1) and in accordance with Chapter 5 of Title III, as applicable to them."

(8a) In Article 133a, the ~~Title~~ is replaced by the following:

"Transitional national aid in 2013"

(8b) In Chapter 4 of Title V, the following Article ~~133b~~ is inserted:

"Article 133b

Transitional national aid in 2014

1. The new Member States applying the single area payment *in accordance with* ~~ing to~~ Article 122 may decide to grant transitional national aid in 2014.

¹ OJ please insert the date one month from the date of application of this Regulation.

² OJ please insert the date one month from the date of application of this Regulation.

2. Bulgaria and Romania may grant aid under this Article only if they decide by [one month from the date of application of this Regulation] not to grant in 2014 any complementary national direct payments under Article 132.
3. The aid may be granted to farmers in sectors in respect of which transitional national aid ~~according~~ *pursuant* to Article 133a, or in the case of Bulgaria and Romania complementary national direct payments *pursuant* ~~according~~ to Article 132, were granted in 2013.
4. The conditions for granting the aid shall be identical to those authorised for the granting of payments pursuant to Articles 132 or 133a in respect of 2013, with exception of the reductions due to the application of Article 132(2) in conjunction with Articles 7 and 10 ~~of this Regulation~~.
5. The total amount of aid that may be granted to farmers in any of the sectors referred to in paragraph ~~2~~ 3 shall be limited to 80% of the sector specific financial envelopes in respect of 2013 as authorised by the Commission ~~according~~ *pursuant* to Article 133a(5), or, for Bulgaria and Romania, ~~as authorised according pursuant~~ to Article 132(7).

For Cyprus, the sector specific financial envelopes are set out in Annex XVIIa ~~of this Regulation~~.

6. ~~The New~~ Member States shall notify the decisions referred to in paragraphs 1 and 2 to the Commission ~~at the latest~~ by 31 March 2014. The notification of the decision referred to in paragraph 1 shall include the following:
 - (a) the financial envelope for each sector;
 - (b) the maximum rate of transitional national aid where appropriate.

7. The new Member States may decide, on the basis of objective criteria and within the limits authorised by the Commission pursuant to paragraph 5, on the amounts of transitional national aid to be granted."

- (9) In Title VI, the following Article ~~136a~~ is *inserted changed as follows*:

"Article 136a

Flexibility between pillars

- "1. Before 31 December 2013, Member States may decide to make available as additional support for measures under rural development programming financed under the EAFRD as specified under Regulation (EU) No [...] [RD] of the European Parliament and of the Council*, up to [15%] of their annual national ceilings for calendar years 2014 to 2019 as set out in Annex VIII to this Regulation for year 2014 and in Annex II to Regulation (EU) No [DP] of the European Parliament and of the Council**, for years 2015-2019. As a result, the corresponding amount shall no longer be available for granting direct payments.

The decision referred to in the first sub-paragraph shall be notified to the Commission by 31 December 2013. That decision shall set out the percentage as referred to in that sub-paragraph which may vary by calendar year.

Member States which do not make use of the ~~provisions in the~~ first subparagraph for calendar year 2014 may take the decision referred to in the first subparagraph, as regards calendar years 2015 to 2019, before 1 August 2014 and shall notify it to the Commission by 1 August 2014.

Member States may decide to review the decision in this paragraph with effect from calendar year 2018. Such review shall not result in a decrease of the percentage notified to the Commission in accordance with the ~~previous~~ *first, second and third* sub-paragraphs. Member States shall notify the Commission of any such decision on review by 1 August 2017.

2. Before 31 December 2013, Member States not using the possibility under paragraph 1 may decide to make available as direct payments under this Regulation and Regulation (EU) No [DP] up to [15%] or, in the case of Bulgaria, Estonia, Finland, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Spain, Sweden and the United-Kingdom, up to [25%] of the amount allocated to support for measures under rural development programming financed under the EAFRD in the period 2015-2020 as specified under Regulation (EU) No [...] [RD]}. As a result, the corresponding amount shall no longer be available for support measures under rural development programming.

The decision referred to in the first sub-paragraph shall be notified to the Commission by 31 December 2013. That decision shall set out the percentage as referred to in that sub-paragraph which may vary by calendar year.

Member States which do not make use of ~~the provisions in~~ the first subparagraph for financial year 2015 may take the decision referred to in the first subparagraph, as regards the period 2016-2020, before 1 August 2014 and shall notify it to the Commission by 1 August 2014.

Member States may decide to review the decision in this paragraph with effect for financial year 2019 and 2020. Such review shall not result in an increase of the percentage notified to the Commission in accordance with the ~~previous~~ *first, second and third* sub-paragraphs. Member States shall notify the Commission of any such decision on review by 1 August 2017.

3. In order to take account of the decisions notified by Member States in accordance with paragraphs 1 and 2, the Commission shall be empowered to adopt delegated acts in accordance with Article 141a reviewing the ceilings set out in Annex VIII.

* OJ L ..., ..., p.

** OJ L ..., ..., p. "

(9a) *In Title VI, the following Article is inserted ~~Add a new Article 136aa~~:*

"Article 136~~baa~~

Member States that, in accordance with Article 136, decided to make an amount available from the financial year 2011 for Union support under rural development programming and financing under the EAFRD, shall continue to make the amounts of Annex VIIIa available for rural development programming and financing under the EAFRD for financial year 2015."

(10) Article 141a is replaced by the following:

"Article 141a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 11a shall be conferred on the Commission for a period from 1 September 2012 until 31 December 2014. The power to adopt delegated acts referred to in Article 136a(3) shall be conferred on the Commission for a period from [...¹] until 31 December 2014.

¹ OJ please insert the date 7 days from the date of entry into force of this Regulation.

3. The delegation of power referred to in Article 11a and Article 136a(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
 4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
 5. A delegated act adopted pursuant to Article 11a and Article 136a(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council."
- (11) Annexes II *and* III ~~and, VIII and XVIIa~~ are amended ~~and a new Annex VIIIa added~~ in accordance with *points (1), (1a) and (2) of Annex II to this Regulation.*
- (12) *Annexes VIII and XVIIa are amended and a new Annex VIIIa added in accordance with points (3), (4) and (5) of Annex II to this Regulation.*

Article 6

Amendments to Regulation (EU) No [...] [DP]

Regulation (EU) No [...] [DP] is amended as follows:

- (1) In Article 6, paragraph 2 is replaced by the following:

"2. In order to take account of the developments relating to the total maximum amounts of direct payments that may be granted, including those resulting from the decisions taken by the Member States in accordance with Article 136a of Regulation (EC) No 73/2009 and Article 14 of this Regulation and those resulting from the application of the second paragraph of Article 17b of this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 55 of this Regulation for the purpose of reviewing the national ceilings set out in Annex II to this Regulation."

- (2) Article 14 is replaced by the following:

"Article 14

Flexibility between pillars

1. Before 31 December 2013, Member States may decide to make available as additional support for measures under rural development programming financed under the EAFRD as specified under Regulation (EU) No [...] [RD], up to [15%] of their annual national ceilings for calendar years 2014 to 2019 as set out in Annex II to this Regulation. As a result, the corresponding amount shall no longer be available for granting direct payments.

The decision referred to in the first sub-paragraph shall be notified to the Commission by 31 December 2013. That decision shall set out the percentage as referred to in that sub-paragraph which may vary by calendar year.

Member States which do not make use of ~~the provisions in~~ the first sub-paragraph for calendar year 2014 may take the decision referred to in the first sub-paragraph, as regards calendar years 2015 to 2019, before 1 August 2014 and shall notify it to the Commission by 1 August 2014.

Member States may decide to review the decision in this paragraph with effect from calendar year 2018. Such review shall not result in a decrease of the percentage notified to the Commission in accordance with the ~~previous~~ *first, second and third* sub-paragraphs. Member States shall notify the Commission of any such decision on review by 1 August 2017.

2. [Before 31 December 2013, Member States not using the possibility under paragraph 1 may decide to make available as direct payments under this Regulation up to [15%] or, in the case of Bulgaria, Estonia, Finland, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Spain, Sweden and the United-Kingdom, up to [25%] of the amount allocated to support for measures under rural development programming financed under the EAFRD in the period 2015-2020 as specified under Regulation (EU) No [...] [RDR].] As a result, the corresponding amount shall no longer be available for support measures under rural development programming.

The decision referred to in the first sub-paragraph shall be notified to the Commission by 31 December 2013. That decision shall set out the percentage as referred to in that sub-paragraph which may vary by calendar year.

Member States which do not make use of ~~the provisions in~~ the first subparagraph for financial year 2015 may take the decision referred to in the first subparagraph, as regards the period 2016-2020, before 1 August 2014 and shall notify it to the Commission by 1 August 2014.

Member States may decide to review the decision in this paragraph with effect for financial years 2019 and 2020. Such review shall not result in an increase of the percentage notified to the Commission in accordance with the ~~previous~~ *first, second and third* sub-paragraphs. Member States shall notify the Commission of any such decision on review by 1 August 2017."

- (3) In Article 57(2), the following sub-paragraph is inserted after the first sub-paragraph:

"However, it shall continue to apply in respect of aid applications relating to claim years starting before 1 January 2015."

- (4) In Article 59, the second and the third paragraphs are replaced by the following:

"It shall apply from 1 January 2015.

However, Articles 8, 9(6), 11(5), **14**, 17b(4), 18(2) and (3), 20(5), 21(3b), **28a(1)**, 28c(1), 31(2), 35(1), 37(1) and 39 shall apply from the date of entry into force of this Regulation."

Article 7

Amendment to Regulation (EU) No [...] [HZ]

Regulation (EU) [HZR] is modified as follows:

- (1) ***The second subparagraph of Article 113(1) ~~second sub-paragraph shall be~~ is***
replaced by the following:

"However, Article 31 of Regulation (EC) No 1290/2005 and the relevant implementing rules shall continue to apply until 31 December 2014 and Article 44a or Regulation (EC) 1290/2005 and the relevant implementing rules shall continue to apply to payments made for financial year 2013."

- (2) A new Article ~~114a shall be~~ *is* inserted:

"Article 114a

Derogation from Regulation (EU) No 966/2012

By way of derogation from Article 59(5) of Regulation (EU) No 966/2012 and from Article 9(1) of this Regulation, for financial year 2014 the opinion of the certification body shall not be required to establish whether the expenditure for which reimbursement has been requested from the Commission is legal and regular."

- (3) Article 115 ~~of Regulation (EU) [HZR]~~ *is modified as follows replaced by the following:*

"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:
 - (a) Articles 7, 8, 16, 24a, 25 *and 45*, from 16 October 2013;
 - (b) Notwithstanding Article 114a, Articles 9, 18 *and* 42 ~~and 45~~ for expenditure incurred from 16 October 2013;
 - (c) Article 54, Title III, Chapter II of Title V, Title VI from 1 January 2015;
 - (d) Chapter IV of the Title VII for payments made as from financial year 2014 onwards."

Article 8

Amendment to Regulation (EU) No [...] [sCMO]*

In Article 163(1) of Regulation (EU) No [...] [sCMO], the following point is added:

"(h) Article 111 until 31 March 2015."

Article 9

Amendment to Regulation (EU) No [...] [RD]

In Article 64 of Regulation (EU) No [...] [RD], paragraphs 4 and 5 are replaced by the following:

"4. The Commission shall, by means of an implementing act, make an annual breakdown by Member State of the amounts referred to in paragraph 1, after deduction of the amount referred to in paragraph 2 and taking into account the transfers of funds referred to in Article 136a(2) of Regulation (EC) No 73/2009*.

In making the annual breakdown the Commission shall take into account:

- (a) objective criteria linked to the objectives referred to in Article 4; and
- (b) past performance.

5. In addition to the amounts referred to in paragraph 4, the implementing act referred to in that paragraph shall also include the funds transferred to the EAFRD in application of Article 136a(1) of Regulation (EC) No 73/2009 and Article 7(2) of Regulation (EU) No [DP] and the funds transferred to the EAFRD in application of Articles 10b, 136 and 136aa of Regulation (EC) No 73/2009 in respect of calendar years 2013 and 2014."

CHAPTER 3

Final provisions

Article 10

Entry into force and application

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.

However:

- points (9) and (10) of Article 5 shall apply from the date of entry into force of this Regulation;
- point (11) of Article 5 of this Regulation ~~as regards Annexes II and III to Regulation (EC) No 73/2009~~ shall apply from 22 December 2013; and
- Article 6 of this Regulation shall apply from the date of entry into force of Regulation (EU) No [...] [DP].

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

Correspondence of Articles in animal and area related measures under the 2007-2013 and the 2014-2020 programming periods

Regulation (EC) No 1698/2005	Regulation (EU) No [...] [RD]
Article 20(a)(ii) - young farmers	Article 20(1)(a)(i) - business start-up aid for young farmers
Article 20(b)(i)- modernisation of agricultural holdings	Article 18(1)(a) – Investments in physical assets
Article 20(b)(iii) - adding value to agricultural and forestry products	Article 18(1)(b) – Investments in physical assets and Article 27 – Investments in new forestry methods and in the processing and marketing of forestry products
Article 20(b)(v) - improving and developing infrastructure related to the development and adaptation of agriculture and forestry	Article 18(1)(c) – Investments in physical assets and Article 27 – Investments in new forestry methods and in the processing and marketing of forestry products
Article 36(a)(i) and (ii) - Natural handicap payments to farmers in mountain areas and Payments to farmers in areas with handicaps other than mountain areas	Article 32 - Payments to areas facing natural or other specific constraints
Article 36(a)(iii) - Natura 2000 payments and payments linked to Directive 2000/60/EC	Article 31 - Natura 2000 and Water framework directive payments
Article 36(a)(iv) - Agri-environment payments	Article 29 - Agri-environment-climate Article 30 - Organic farming
Article 36(v) - Animal welfare payments	Article 34 - Animal welfare
Article 36(b)(i) and (iii) - First afforestation	Article 22(1)(a) - Afforestation and creation

of agricultural land and First afforestation of non-agricultural land	of woodland
Article 36(b)(iv) - Natura 2000 payments	Article 31 - Natura 2000 and Water framework directive payments
Article 36(b)(v) - Forest-environment payments	Article 35 - Forest-environmental and climate services and forest conservation

The Annexes ~~II, III, VIII and XVIIa~~ to Regulation (EC) No 73/2009 are amended and a new Annex VIIa added as follows:

(1) In Annex II, Point A. 'Environment' is replaced by the following:

"1	Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1)	Article 3(1), Article 3(2)(b), Article 4(1), (2) and (4) and Article 5(a), (b) and (d)
2	-	-
3	Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture (OJ L 181, 4.7.1986, p. 6)	Article 3
4	Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1)	Articles 4 and 5
5	Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna (OJ L 206, 22.7.1992, p. 7)	Article 6 and Article 13(1)(a)"

(1a) In Annex II, ~~P~~point 9 of Point B. 'Public, animal and plant health' is replaced by the following:

9	Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p.1)	Article 55, first and second sentence
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(2) Annex III is amended as follows:

~~(a)~~—The entry for "Protection and management of water" is replaced by the following:

"Protection and management of water:	- Establishment of buffer strips along water courses ⁽¹⁾	
Protect water against pollution and run-off, and manage the use of water	- Where use of water for irrigation is subject to authorisation, compliance with authorisation procedures	
	<i>The measures laid down in the Appendix, Protection of ground water against pollution: prohibition of direct discharge into groundwater and measures to prevent indirect pollution of groundwater through discharge on the ground and percolation through the soil of dangerous substances, as listed in the Annex to the Directive 80/68/EEC in its version in force on the last day of its validity, as far as it relates to agricultural activity</i>	

⁽¹⁾ Note: The GAEC buffer strips must respect, both within and outside vulnerable zones designated pursuant to Article 3(2) of Directive 91/676/EEC, at least the requirements relating to the conditions for land application of fertiliser near water courses, referred to in point A.4 of Annex II to Directive 91/676/EEC to be applied in accordance with the action programmes of Member States established under Article 5(4) of Directive 91/676/EEC."

~~(b)~~—~~The following Appendix is added:~~

"APPENDIX

~~A. Measures relating to list I~~

~~Member States:~~

- ~~— shall prohibit all direct discharge of substances in list I, shall subject to prior investigation any disposal or tipping for the purpose of disposal of these substances which might lead to indirect discharge. In the light of that investigation, Member States shall prohibit such activity or shall grant authorisation provided that all the technical precautions necessary to prevent such discharge are observed,~~

- ~~shall take all appropriate measures they deem necessary to prevent any indirect discharge of substances in list I due to activities on or in the ground other than those mentioned in the second indent.~~

~~However, should prior investigation reveal that the groundwater into which the discharge of substances in list I is envisaged is permanently unsuitable for other uses, especially domestic or agricultural, the Member States may authorise the discharge of these substances provided that their presence does not impede exploitation of ground resources.~~

~~These authorisations may be granted only if all technical precautions have been taken to ensure that these substances cannot reach other aquatic systems or harm other ecosystems.~~

~~Member States may, after prior investigation, authorise discharges due to re-injection into the same aquifer of water used for geothermal purposes, water pumped out of mines and quarries or water pumped out for civil engineering works.~~

B. — Measures relating to list II

~~Member States shall make subject to prior investigation:~~

- ~~all direct discharge of substances in list II, so as to limit such discharges,~~
- ~~the disposal or tipping for the purpose of disposal of these substances which might lead to indirect discharge.~~

~~In the light of that investigation, Member States may grant an authorisation, provided that all the technical precautions for preventing groundwater pollution by these substances are observed.~~

~~Furthermore, Member States shall take the appropriate measures they deem necessary to limit all indirect discharge of substances in list II, due to activities on or in the ground other than those mentioned in the first paragraph.~~

~~LIST I OF FAMILIES AND GROUPS OF SUBSTANCES REFERRED TO IN SECTION A~~

~~List I contains the individual substances which belong to the families and groups of substances enumerated below, with the exception of those which are considered inappropriate to list I on the basis of a low risk of toxicity, persistence and bioaccumulation.~~

~~Such substances which with regard to toxicity, persistence and bioaccumulation are appropriate to list II are to be classed in list II.~~

- ~~1. — Organohalogen compounds and substances which may form such compounds in the aquatic environment~~
- ~~2. — Organophosphorus compounds~~
- ~~3. — Organotin compounds~~
- ~~4. — Substances which possess carcinogenic mutagenic or teratogenic properties in or via the aquatic environment (*)~~
- ~~5. — Mercury and its compounds~~
- ~~6. — Cadmium and its compounds~~
- ~~7. — Mineral oils and hydrocarbons~~
- ~~8. — Cyanides.~~

~~LIST II OF FAMILIES AND GROUPS OF SUBSTANCES REFERRED TO IN SECTION B~~

**~~List II contains the individual substances and the categories of substances
belonging to the families and groups of substances listed below which could
have a harmful effect on groundwater.~~**

~~1. The following metalloids and metals and their compounds:~~

- ~~1. Zinc~~**
- ~~2. Copper~~**
- ~~3. Nickel~~**
- ~~4. Chrome~~**
- ~~5. Lead~~**
- ~~6. Selenium~~**
- ~~7. Arsenic~~**
- ~~8. Antimony~~**
- ~~9. Molybdenum~~**
- ~~10. Titanium~~**
- ~~11. Tin~~**
- ~~12. Barium~~**
- ~~13. Beryllium~~**
- ~~14. Boron~~**
- ~~15. Uranium~~**
- ~~16. Vanadium~~**
- ~~17. Cobalt~~**
- ~~18. Thallium~~**
- ~~19. Tellurium~~**
- ~~20. Silver.~~**

- ~~2. — Biocides and their derivatives not appearing in list I.~~
- ~~3. — Substances which have a deleterious effect on the taste and/or odour of groundwater, and compounds liable to cause the formation of such substances in such water and to render it unfit for human consumption.~~
- ~~4. — Toxic or persistent organic compounds of silicon, and substances which may cause the formation of such compounds in water, excluding those which are biologically harmless or are rapidly converted in water into harmless substances.~~
- ~~5. — Inorganic compounds of phosphorus and elemental phosphorus.~~
- ~~6. — Fluorides.~~
- ~~7. — Ammonia and nitrites~~
- ~~(*) — Where certain substances in list II are carcinogenic, mutagenic or teratogenic, they are included in category 4 of this list."~~

- (3) In Annex VIII, the column for the year 2014 in tables 1 and 2 is replaced by the following:

Table 1
(EUR 1000)

Member State	2014
Belgium	[544 047]
Denmark	[926 075]
Germany	[5 178 178]
Greece	[2 063 187]
Spain	[4 833 647]
France	[7 586 341]
Ireland	[1 216 547]
Italy	[3 953 394]
Luxembourg	[33 661]
Netherlands	[793 319]
Austria	[693 716]
Portugal	[557 667]
Finland	[523 247]
Sweden	[696 487]
United Kingdom	[3 548 576]

Table 2(*)
(EUR 1000)

Bulgaria	[642 103]
Czech Republic	[875 305]
Estonia	[110 018]
Cyprus	[51 344]
Latvia	[168 886]
Lithuania	[393 226]
Hungary	[1 272 786]
Malta	[5 239]
Poland	[2 970 020]
Romania	[1 428 531]
Slovenia	[138 980]
Slovakia	[377 419]
(*) Ceilings calculated taking into account of the schedule of increments provided for in Article 121."	

(4) The following Annex is added after Annex VIII:

Annex VIIIa
(EUR 1000)

Member State	2014
Germany	[42 600]
Sweden	[9 000]

(5) Annex XVIIa is replaced by the following:

"Annex XVIIa
Transitional national aid in Cyprus
(EUR)

Sector	2013	2014
Cereals (durum wheat excluded)	141 439	113 151
Durum wheat	905 191	724 153
Milk and dairy	3 419 585	2 735 668
Beef	4 608 945	3 687 156
Sheep and goats	10 572 527	8 458 022
Pig sector	170 788	136 630
Poultry and eggs	71 399	57 119
Wine	269 250	215 400
Olive oil	3 949 554	3 159 643
Table grapes	66 181	52 945
Dried grapes	129 404	103 523
Processed tomatoes	7 341	5 873
Bananas	4 285 696	3 428 556
Tobacco	1 027 775	822 220
Deciduous fruit including stone fruit	173 390	138 712
Total	29 798 462	23 838 770