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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 state of play in informal trilogues

With a view to the Council (Agriculture and Fisheries) on 24-25 June 2013, delegations will find attached in the Annex the Presidency consolidated draft regulation reflecting the state of play in informal trilogues as at 4 June 2013.

Delegations are kindly invited to note that this document will be amended and supplemented as necessary to reflect progress in informal trilogues prior to the session of the Council.

All changes compared to the Commission proposal are marked in **bold underlined** and ~~strikethrough~~.

DRAFT

**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*))**

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 Commission¹,

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

Having regard to the opinion of the European Economic and Social Committee²,

~~Having consulted the European Data Protection Supervisor³,~~

Acting in accordance with the ordinary legislative procedure,

Whereas:

To be completed

¹ OJ C , , p..

² OJ C , , p..

³ ~~OJ C , , p..~~

TITLE I

SCOPE AND DEFINITIONS

Article 1

Scope

This Regulation lays down the rules on:

- (a) the financing of expenditure under the common agricultural policy, including expenditure on rural development;
- (b) the farm advisory system;
- (c) the management and control systems to be put in place by the Member States;
- (d) the cross-compliance system;
- (e) clearance of accounts.

Article 2

Terms used in this Regulation

1. For the purpose of this Regulation:

- a) "farmer", "agricultural activity" **and** "agricultural area" **means a farmer, an agricultural activity and an agricultural area within the meaning of laid-down in** Article 4 of Regulation (EU) xxx/xxx[DP] ~~shall apply for the purpose of this Regulation;~~
- b) **"holding" means holding within the meaning of Article 4 of Regulation (EU) xxx/xxx[DP], save as provided for in Article 91(3) for the purpose of Title VI of this Regulation;**

c) **"direct payments" means direct payments within the meaning of Article 1 of Regulation (EU) xxx/xxx[DP];**

d) **"sectoral agricultural legislation" means any applicable acts adopted on the basis of Article 43 of the Treaty within the framework of the common agricultural policy as well as, where applicable, any delegated or implementing acts adopted on the basis of such acts, and Part Two of Regulation (EU) No [CR/2012] insofar as it applies to the EAFRD;**

e) **"irregularity" means an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95.**

2. "Force majeure" and "exceptional circumstances" as used in this Regulation in relation to Regulation (EU) xxx/xxx[DP], Regulation (EU) xxx/xxx[sCMO] and Regulation (EU) xxx/xxx[RD] may in particular be recognised in cases such as:

- a) the death of the beneficiary;
- b) long-term professional incapacity of beneficiary;
- c) a severe natural disaster gravely affecting the holding;
- d) the accidental destruction of livestock buildings on the holding;
- e) an epizootic **or a plant disease** affecting part or all of the beneficiary's livestock **or crops respectively;**
- f) **expropriation of all or a large part of the holding if that could not have been anticipated on the day of lodging the application.**

TITLE II
GENERAL PROVISIONS ON AGRICULTURAL FUNDS

Chapter I
Agricultural Funds

Article 3

Funds financing agricultural expenditure

1. In order to achieve the objectives of the common agricultural policy defined by the Treaty, the financing of the various measures falling under it, including rural development shall be made by:
 - (a) the European Agricultural Guarantee Fund, hereinafter referred to as the ‘EAGF’;
 - (b) the European Agricultural Fund for Rural Development, hereinafter referred to as the ‘EAFRD’.
2. The EAGF and the EAFRD shall come under the general budget of the European Union.

Article 4

EAGF expenditure

1. The EAGF shall be implemented in shared management between the Member States and the Union and shall finance the following expenditure, which shall be effected in accordance with Union legislation:
 - (a) measures regulating or supporting agricultural markets;
 - (b) direct payments to farmers under the common agricultural policy;

(c) the Union's financial contribution to information and promotion measures for agricultural products on the internal market of the Union and in third countries, undertaken by Member States on the basis of programmes other than those referred to in Article 5 and selected by the Commission;

(d) the Union's financial contribution to the Union School Fruit Scheme and to the measures in relation to animal diseases and loss of consumer confidence referred to in Articles 21 and 155 of Regulation (EU) No xxx/xxx [sCMO] respectively.

2. The EAGF shall finance the following expenditure in a direct manner and in accordance with Union legislation:

(a) promotion of agricultural products, undertaken either directly by the Commission or via international organisations;

(b) measures, undertaken in accordance with Union legislation, to ensure the conservation, characterisation, collection and utilisation of genetic resources in agriculture;

(c) establishment and maintenance of agricultural accounting information systems;

(d) agricultural survey systems, including surveys on the structure of agricultural holdings.

Article 5

EAFRD expenditure

The EAFRD shall be implemented in shared management between the Member States and the Union and shall finance the Union's financial contribution to rural development programmes implemented in accordance with the Union legislation on support for rural development, ~~as well as the expenditure related to the Prize for innovative, local cooperation referred to in Chapter IV of Title III of Regulation (EU) No RD/xxx.~~

Other expenditure, including technical assistance

The EAGF and the EAFRD may each respectively finance on a direct manner, on the initiative of the Commission and/or on its behalf, the preparatory, monitoring, administrative and technical support, as well as evaluation, audit and inspection measures required to implement the common agricultural policy. Those measures shall include in particular:

- (a) measures required for the analysis, management, monitoring, information exchange and implementation of the common agricultural policy, as well as measures relating to the implementation of control systems and technical and administrative assistance;
- (b) the acquisition by the Commission of the satellite images required for the checks in accordance with Article 21;
- (c) the measures taken by the Commission via remote-sensing applications used for the monitoring of agricultural resources in accordance with Article 22;
- (d) measures required to maintain and develop methods and technical means for information, interconnection, monitoring and control of the financial management of the funds used to finance the common agricultural policy;
- (e) provision of information on the common agricultural policy in accordance with Article 47;
- (f) studies on the common agricultural policy and evaluation of measures financed by the EAGF and the EAFRD, including improvement of evaluation methods and exchange of information on practices;

(g) where relevant, executive agencies set up in accordance with Council Regulation (EC) No 58/2003⁴, acting in connection with the common agricultural policy;

(h) measures relating to dissemination of information, raising awareness, promoting cooperation and exchanging experience at Union level, undertaken in the context of rural development, including networking of the parties concerned;

(i) measures required for the development, registration and protection of logos within the framework of the Union quality policies and for the protection of intellectual property rights linked to it, as well as the necessary information technology (IT) developments.

Chapter II

Paying agencies and other bodies

Article 7

Accreditation and withdrawal of accreditation of paying agencies and coordinating bodies

- [1. Paying agencies shall be ~~dedicated~~ departments or bodies of the Member States responsible for the management and control of expenditure referred to in Article 4(1) and Article 5.]

With the exception of payment, the execution of those tasks may be delegated.

⁴ OJ L 11, 16.1.2003, p. 1.

- [2. Member States shall accredit as paying agencies departments or bodies which **have an administrative organisation and a system of internal control which provide sufficient guarantees that payments are legal and regular and properly accounted for. To this end, paying agencies shall comply with minimum conditions for the accreditation with regard to internal environment, control activities, information and communication and** monitoring ~~fulfil the accreditation criteria to be~~ laid down by the Commission pursuant to Article 8(a).]

[Each Member State shall, taking into account its constitutional provisions, restrict the number of its accredited paying agencies to **no more than** one per Member State or one per region, where applicable. **However, Member States may decide to maintain paying agencies which have been accredited at regional level before the entry into force of this Regulation. In addition, Member States may accredit paying agencies at national level for measures regulating or supporting agricultural markets under Regulation xxxx/2013 or for Posei programmes under Regulation xxxx/2013.**]

3. By [15 February] of the year following the financial year concerned, the person in charge of the accredited paying agency shall draw up:
- (a) the annual accounts for the expenditure made in the execution of the tasks entrusted to their accredited paying agencies, accompanied by the requisite information for their clearance in accordance with Article 53;
 - (b) a management declaration ~~of assurance~~ as to the completeness, accuracy and veracity of the accounts **and** the proper functioning of the internal control systems, **based on objective criteria**, as well as to the legality and regularity of the underlying transactions;
 - (c) **an annual** summary of the ~~results of all available final~~ audits reports and ~~of checks controls~~ carried out, including an analysis of ~~systematic or recurrent~~ **the nature and extent of the errors and of** weaknesses **in systems identified**, as well as corrective actions **to be taken or planned**.

The deadline of 15 February may be exceptionally extended by the Commission to 1 March at the latest upon communication by the Member State concerned.

4. [Where more than one paying agency is accredited, the Member State shall designate a **public** body, hereinafter referred to as the "coordinating body", to which it assigns the following tasks:]
- (a) to collect the information to be made available to the Commission and to send that information to the Commission;
- ~~(b) to establish a synthesis report providing an overview at national level of all management declarations of assurance referred to in point (b) of paragraph 3 and the audit opinions thereon referred to in Article 9;~~
- (c) ~~to ensure that remedial~~ **to take or coordinate, as the case may be,** actions **with a view to resolving is taken as regards** any deficiencies of a common nature and **keep that** the Commission is **kept** informed of the follow-up;
- [(d) to promote **and, where possible, ensure** harmonised application of the Union rules.]

The coordinating body shall be subject to specific accreditation by the Member States as regards the processing of the financial information referred to in point (a) of the first subparagraph.

5. Where an accredited paying agency does not meet or no longer meets one or more of the accreditation criteria referred to in paragraph 2, the Member State, **on its own initiative or at the request of the Commission,** shall withdraw its accreditation unless the paying agency makes the necessary changes within a period to be determined according to the severity of the problem.

6. The paying agencies shall manage and ensure control of the operations linked to public intervention for which they are responsible and they shall retain overall responsibility in that field.

Article 8

Commission powers

- [1. To ensure the sound operation of the system provided for in Article 7, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning:
- (a) the minimum conditions for the accreditation of paying agencies and of coordination bodies **as referred to in Article 7(2) and in Article 7(4), respectively;**

(b) the obligations of the paying agencies as regards public intervention, as well as the rules on the content of their management and control responsibilities.

2. The Commission shall lay down, by means of implementing acts, rules on:

(a) the procedures for the issuing, withdrawing and reviewing accreditation of paying agencies and coordination bodies as well as for the supervision of the accreditation of paying agencies;

(b) rules on the work and checks underlying the management declaration of the paying agency;

(c) the functioning of the coordinating body and the notification of information to the Commission as referred to in Article 7(4).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).]

Certification bodies

1. The certification body shall be a public or private audit body designated by the Member State. **Where it is a private audit body, and the applicable Union or national law so requires, it shall be selected** by the Member State **by means of a public tendering procedure**. It shall provide an opinion, **drawn up in accordance with internationally accepted audit standards**, on the completeness, accuracy and veracity of the annual accounts of the paying agency, the proper functioning of **its internal control system** and the legality and regularity of the **expenditure for which reimbursement has been requested from the Commission underlying transactions**, ~~as well as the respect of the principle of sound financial management~~. **The opinion shall also state whether the examination puts in doubt the assertions made in the management declaration.**

It shall be operationally independent from the paying agency and **the coordinating body** concerned as well as from the authority which has accredited that agency **and shall have the necessary technical expertise**.

2. The Commission shall, by means of implementing acts, lay down rules concerning the **status tasks** of the certification bodies, ~~the specific tasks~~, including the checks, ~~which they have to carry out~~ as well as the certificates and the reports, together with the documents accompanying them, to be drawn up by those bodies. ~~Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).~~ **Taking into account the need for maximal efficiency, of transaction testing and professional audit judgment, in respect of an integrated approach, the implementing acts shall also lay down:**

(a) the audit principles on which the opinions of the certification body are based, including an assessment of the risks, internal controls and required level of audit evidence;

(b) the audit methods to be used by the certification bodies, having regard to international standards on auditing, to deliver their opinions, including, where appropriate, use of a single integrated sample for each population and, where appropriate, the possibility to accompany paying agencies' on-the-spot checks.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Article 10

Admissibility of payments made by the paying agencies

The expenditure referred to in Article 4(1) and in Article 5 may be covered by Union financing only if it has been effected by accredited paying agencies.

Article 11

Payment in full to beneficiaries

Save explicitly provided otherwise in the Union legislation, payments relating to the financing provided for in this Regulation shall be disbursed in full to the beneficiaries.

TITLE III

FARM ADVISORY SYSTEM

Article 12

Principle and scope

1. [Member States shall establish a system of advising beneficiaries on land **management, farm management**, and ~~farm risk management~~ ('farm advisory system') **operated by designated public bodies and/or selected private bodies.**]
2. The farm advisory system shall cover at least:
 - [(a) **obligations at farm level deriving from** the statutory management requirements and the standards for good agricultural and environmental condition of land as laid down in Chapter I of Title VI;
 - (b) the agricultural practices beneficial for the climate and the environment as laid down in Chapter 2 of Title III of Regulation (EU) No xxx/xxx [DP] and the maintenance of the agricultural area as referred to in Article 4(1)(c) of Regulation (EU) No xxx/xxx [DP];
 - ~~(c) the requirements or actions related to climate change mitigation and adaptation, biodiversity, protection of water, animal and plant disease notification and innovation at minimum as laid down in Annex I to this Regulation;~~
 - ~~(d) the sustainable development of the economical activity of the small farms as defined by the Member States and at least of the farms participating in the small farmers scheme referred to in Title V of Regulation (EU) No xxx/xxx[DP].~~

(c) the sustainable development of the economic activities of farms with priority being given to measures provided for in rural development programmes, including those for farm modernisation, competitiveness building, sectoral integration, innovation and market orientation as well as the promotion and implementation of principles relating to accounting, entrepreneurship and the sustainable management of economic resources;

(d) requirements at the level of beneficiaries as defined by Member States for implementing Article 11 (3) of Directive 2000/60/EC establishing a framework for Community action in the field of water policy

(e) requirements at the level of beneficiaries as defined by Member States for implementing Article 55 of Regulation (EC) No 1107/2009, in particular the compliance with the general principles of integrated pest management as referred to in Article 14 of Directive 2009/128/EC establishing a framework for Community action to achieve the sustainable use of pesticide.]

3. The farm advisory system may also cover in particular:

~~[(a) the sustainable development of the economical activity of holdings other than those referred to in paragraph (2)(d);~~

(a) the promotion of conversions of farms and the diversification of their economic activity;

(b) risk management and the introduction of appropriate preventive actions to address natural disasters, catastrophic events and animal and plant diseases;

(c) the minimum requirements established by national legislation, as referred to in Article 29(3) and 30(2) of Regulation (EU) No xxx/xxx [RD];

(d) the information related to climate change mitigation and adaptation, biodiversity and protection of water as laid down in Annex I to this Regulation.]

Article 13

Specific requirements relating to the farm advisory system

1. Member States shall ensure that the advisors **working** within the farm advisory system are suitably qualified and regularly trained.
2. Member States shall ensure the separation between advice and control. In ~~this~~ **that** respect and without prejudice to national legislation concerning public access to documents, Member States shall ensure that the designated **[and selected]** bodies referred to in Article 12 do not disclose personal or individual information and data they obtain in **the course** of their advisory activity to persons other than the beneficiary managing the holding concerned, with the exception of any irregularity or infringement found during **the course** of their activity which is covered by an obligation laid down in Union or national law to inform a public authority, in particular in the case of criminal offences.
3. The national authority shall provide the **potential** beneficiary with the appropriate list of **selected and designated bodies as referred in Art. 12 (1) primarily by electronic means.**

Article 14

Access to the farm advisory system

Beneficiaries, whether or not they receive support under the common agricultural policy, including rural development, may use the farm advisory system on a voluntary basis. Member States may determine, however, in accordance with objective criteria, the categories of beneficiaries that have priority access to the farm advisory system, **including:**

(a) farmers participating in the measures intended to ensure carbon, nutrient and/or energy efficiency described in Chapter 2 of Title III of Regulation (EU) No xxx/xxx[DP];

(b) networks operating with limited resources within the meaning of Articles 53, 61 and 62 of Regulation (EU) (EU) No xxx/xxx [RD].

In that case, Member States shall ensure that priority is given to farmers whose access to an advisory service other than the farm advisory system is most limited.

The farm advisory system shall ensure that beneficiaries have access to advice reflecting the specific situation of their holding.

To be completed

Article 15

Commission powers

To be completed

TITLE IV
FINANCIAL MANAGEMENT OF THE FUNDS

Chapter I

EAGF

Section 1

Financing of Expenditure

Article 16

Budget ceiling

1. The annual ceiling for EAGF expenditure shall be constituted by the maximum amounts set for it under Regulation (EU) No xxx/xxx [MFF].
2. In the event that the Union legislation provides for sums **to be reduced from or added to** the amounts referred to in paragraph 1, the Commission shall, by means of implementing acts **adopted without applying the procedure referred to in Article 112**, set the net balance available for EAGF expenditure on the basis of the data referred to in that legislation.

Article 17

Monthly payments

1. The appropriations necessary to finance the expenditure referred to in Article 4(1) shall be made available to Member States by the Commission in the form of monthly payments, on the basis of the expenditure effected by the accredited paying agencies during a reference period.
2. Until transfer of the monthly payments by the Commission, the resources required to undertake expenditure shall be mobilised by the Member States according to the needs of their accredited paying agencies.

Article 18

Procedure for monthly payments

1. Monthly payments shall be made by the Commission, without prejudice to the application of implementing acts referred to in Articles 53 and 54, for expenditure effected by accredited paying agencies during the reference month.
2. Monthly payments shall be made to each Member State at the latest on the third working day of the second month following that in which the expenditure is effected. Expenditure effected by Member States between 1 and 15 October shall count as being made in the month of October. Expenditure effected between 16 and 31 October shall count as being made in the month of November.
3. The Commission shall, by means of implementing acts, determine the monthly payments which it makes, on the basis of a declaration of expenditure from the Member States and the information supplied in accordance with Article 102(1), taking account **of** reductions or suspensions applied under Article 43 or any other corrections. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 112(2).
4. The Commission may, by means of implementing acts **adopted without applying the procedure referred to in Article 112**, decide to make supplementary payments or deductions. In such cases, the Committee referred to in Article 112(1) shall be informed at its next meeting.

Article 19

Administrative and personnel costs

Expenditure relating to administrative and personnel costs incurred by Member States and by beneficiaries of aid from the EAGF shall not be borne by the Fund.

Article 20

Public intervention expenditure

1. Where, within the framework of the common organisation of the markets, a sum per unit is not determined in respect of a public intervention, the EAGF shall finance the measure concerned on the basis of standard amounts uniform throughout the Union, in particular for funds originating in the Member States used for buying-in products, for material operations arising from storage and, where appropriate, for processing of intervention products.
- . In order to ensure the funding by the EAGF of the public intervention expenditure the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning:
 - (a) the type of measures eligible for Union financing and the reimbursement conditions;
 - (b) the eligibility conditions and calculation methods on the basis of the information actually observed by the paying agencies or on the basis of flat-rates determined by the Commission, or on the basis of flat-rate or non-flat-rate amounts provided for by the sectoral agricultural legislation.

3. In order to ensure the proper management of the appropriations entered in the budget of the Union for the EAGF, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 containing rules pertaining to the valuation of operations in connection with public intervention and the measures to be taken in case of loss or deterioration of products under the public intervention and the determination of amounts to be financed.

34. The amounts referred to in ~~the~~ paragraph 1 shall be set by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 112(2).

Article 21

Acquisition of satellite images

The list of the satellite images required for checks shall be agreed by the Commission and the Member States in accordance with the specification prepared by each Member State.

The Commission shall supply those satellite images free of charge to the control bodies or to suppliers of services authorised by those bodies to represent them.

The Commission shall remain the owner of the **satellite** images and shall recover them on completion of the work. It may also provide that work is carried out on enhancing techniques and working methods in connection with the inspection of agricultural areas by remote sensing.

Article 22

Monitoring of agricultural resources

The measures financed pursuant to point (c) of Article 6 shall aim to give the Commission the means to manage Union agricultural markets in a global context, to ensure agri-economic **and agri-environmental** monitoring of agricultural land, **including agro-forestry**, and of the condition of crops so as to enable estimates to be made, in particular as regards yields and agricultural production, to share the access to such estimates in an international context, such as initiatives coordinated by United Nations organisations or other international agencies, to contribute to transparency of world markets, and to ensure technological follow-up of the agri-meteorological system.

The measures financed pursuant to point (c) of Article 6 concern the collection or purchase of data needed to implement and monitor the common agricultural policy, including satellite data and meteorological data, the creation of a spatial data infrastructure and a website, the carrying out of specific studies on climatic conditions, **remote sensing used to assist in the monitoring of soil health** and the updating of agri-meteorological and econometric models. Where necessary, those measures shall be carried out in collaboration with national laboratories and bodies.

Article 23

Implementing powers

The Commission may, by means of implementing acts, adopt rules relating to the financing pursuant to points (b) and (c) of Article 6, the procedure under which the measures referred to in Articles 21 and 22 shall be carried out in order to meet the objectives assigned, the framework governing the acquisition, enhancing and utilisation of satellite images and meteorological data, and the applicable deadlines. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Section 2

Budget discipline

Article 24

Compliance with the ceiling

1. Throughout the budget procedure and the implementation of the budget, appropriations relating to EAGF expenditure shall not exceed the amount referred to in Article 16.
All legislative instruments proposed by the Commission and adopted by the European Parliament and the Council, the Council or the Commission and having an influence on the EAGF budget shall comply with the amount referred to in Article 16.
2. Where Union legislation provides for a financial ceiling in euro for agricultural expenditure in respect of a Member State, such expenditure shall be reimbursed subject to that limit set in euro, with any necessary adjustments being made if Article 43 applies.
3. National ceilings for direct payments referred to in Article 7 of Regulation (EU) No xxx/xxx[DP], corrected by the adjustments laid down in Article 25 of this Regulation, shall be deemed to be financial ceilings in euro.

[Article 24a]

A reserve for crises in the agricultural sector intended to provide additional support for the sector in case of major crises affecting the agricultural production or distribution shall be established by applying at the beginning of each year a reduction to direct payments with the financial discipline mechanism referred to in Article 25.

The total amount of the reserve shall be EUR 2 800 million with equal annual instalments of EUR 400 million (2011 prices) for the period 2014-2020 and shall be included under Heading 2 of the [MFF].

Financial discipline

1. With a view to ensuring that the annual ceilings set out in the Regulation (EU) No xxx/xxx [MFF] for the financing of the market related expenditure and direct payments are respected, an adjustment rate of the direct payments shall be determined when the forecasts for the financing of the measures financed under that *sub-ceiling* for a given financial year indicate that the applicable annual ceilings will be exceeded.
- [2. To be completed.]
- [3. To be completed.]
- [4. To be completed.]
- [4a. To be completed.]**
- [5. To be completed.]**
6. **When** applying this Article, the amount for the reserve for crises in the agricultural sector referred to in Article 24a **shall be included in the determination of the adjustment rate of the direct payments. Any amount not made available for crisis measures by the end of the financial year shall be disbursed in accordance with paragraph 4a.**

Budget discipline procedure

1. The Commission shall present to the European Parliament and to the Council, at the same time as the draft budget for financial year N, its forecasts for financial years N - 1, N and N + 1.
2. If, on drawing up the draft budget for financial year N, there appears to be a risk that the amount referred to in Article 16 for financial year N will be exceeded, the Commission shall propose to the European Parliament and the Council or to the Council the measures necessary to ensure compliance with that amount.
- [3. ~~At any time, if the Commission considers that there is a risk of the amount referred to in Article 16 being exceeded and that it cannot take adequate measures to remedy the situation under its powers, it shall propose other measures to ensure compliance with that amount.~~
These measures shall be are adopted by the Council where the legal basis of the relevant measure is on the basis of Article 43(3) of the Treaty or ~~by~~ the European Parliament and the Council where the legal on the basis of the relevant measure is Article 43(2) of the Treaty.]
4. If, at the end of financial year N, reimbursement requests from the Member States exceed or are likely to exceed the amount referred to in Article 16, the Commission shall:
 - (a) consider the requests presented by Member States pro rata and within the limit of the available budget, and shall, by means of implementing acts, set provisionally the amount of the payments for the month concerned;
 - (b) determine, for all Member States, at the latest by 28 February of the following year, their situation with regard to Union financing for the previous financial year;

(c) set, by means of implementing act the total amount of Union financing broken down by Member State, on the basis of a single rate of Union financing, within the limit of the budget which was available for the monthly payments;

(d) effect, at the latest when the monthly payments are made for March of year N+1, any compensations to be carried out with respect to Member States.

The implementing acts provided for in points (a) and (c) of the first subparagraph shall be adopted in accordance with the advisory procedure referred to in Article 112(2).

Article 27

Early-warning system

In order to ensure that the budget ceiling referred to in Article 16 will not be exceeded, the Commission shall implement a monthly early-warning and monitoring system in respect of EAGF expenditure.

Before the beginning of each financial year, the Commission shall determine for that purpose monthly expenditure profiles based, where appropriate, on average monthly expenditure during the previous three years.

The Commission shall present periodically to the European Parliament and to the Council a report examining the development of expenditure effected in relation to the profiles and containing an assessment of the foreseeable implementation for the current financial year.

Reference exchange rates

1. When adopting the draft budget, or a letter of amendment to the draft budget which concerns agricultural expenditure, the Commission shall use for EAGF budget estimates the average euro/US dollar exchange rate recorded on the market during the latest quarter ending at least 20 days before adoption of the budget document by the Commission.
2. When adopting a draft amending and supplementary budget or a letter of amendment thereto, in so far as those documents concern appropriations relating to the measures referred to in Article 4(1)(a), the Commission shall use:
 - (a) firstly, the average euro/US dollar exchange rate actually recorded on the market from 1 August of the previous financial year until the end of the latest quarter ending at least 20 days before adoption of the budget document by the Commission and at the latest on 31 July of the current financial year, and
 - (b) secondly, as a forecast for the remainder of the financial year, the average exchange rate actually recorded during the latest quarter ending at least 20 days before adoption of the budget document by the Commission.

Chapter II

EAFRD

Section 1

General provisions for EAFRD

[Article 29

No double funding

~~Without prejudice to the eligibility for~~ **Except with regard to** support **provided for** under Articles **29(3) and** 30(2) of Regulation (EU) No RD/xxx, expenditure financed under the EAFRD shall not be subject of any other financing under the EU budget.]

Article 30

Provisions applying to all payments

1. In accordance with Article 67(1) of Regulation (EU) No CR/xxx payments by the Commission of the EAFRD contribution as referred to in Article 5 shall not exceed the budget commitments.

They shall be assigned to the earliest open budget commitment

2. Article [81] of Regulation (EU) No FR/xxx shall apply.

Section 2

Financing of rural development programmes

Article 31

Financial contribution from the EAFRD

The financial contribution from the EAFRD towards expenditure under rural development programmes shall be determined for each programme, within the ceilings established by Union legislation concerning support for rural development by the EAFRD.

Article 32

Budget commitments

As regards the Union's budget commitments for rural development programmes, Article 66 of Regulation (EU) No CR/xxx shall apply.

Section 3

Financial Contribution to rural development programmes

Article 33

Provisions applying to payments for rural development programmes

1. The appropriations necessary to finance the expenditure referred to in Article 5 shall be made available to Member States in the form of prefinancing, interim payments and the payment of a balance, as described in this Section.

2. The combined total of prefinancing and interim payments shall not exceed 95 % of the EAFRD's contribution to each rural development programme.

~~In accordance with Article 70(2) of Regulation (EU) No CR/xxx, w~~When the ceiling of 95 % is reached, the Member States shall continue transmitting request for payments to the Commission.

Article 34

Prefinancing arrangements

- [1. Following the **decision of the** Commission decision approving the **rural development** programme, an initial prefinancing amount for the whole programming period shall be paid by the Commission to the **Member State**. This initial pre-financing amount shall **be paid in instalments as follows: represent [4%] of the EAFRD contribution to the programme concerned. It may be split into a maximum of three instalments depending on budget availability. The first instalment shall represent 2% of the EAFRD contribution to the programme concerned.**
 - (a) **in 2014: 1 % of the amount of support from the EAFRD for the entire programming period to the programme and 1.5 % of the amount of support from the EAFRD for the entire programming period to the programme when a Member State has been receiving financial assistance since 2010, in accordance with articles 122, 143 of the TFEU, or from the EFSF, or is receiving financial assistance on 31 December 2013 in accordance with articles 136 and 143;**

(b) in 2015: 1 % of the amount of support from the EAFRD for the entire programming period to the programme and 1.5% of the amount of support from the EAFRD for the entire programming period to the programme when a Member State has been receiving financial assistance since 2010, in accordance with articles 122, 143 of the TFEU, or from the EFSF, or is receiving financial assistance on 31 December 2014 in accordance with articles 136 and 143;

(c) in 2016: 1 % of the amount of support from the EAFRD for the entire programming period to the programme.

If a rural development programme is adopted in 2015 or later, the earlier instalments will be paid in the year of adoption.]

2. The total amount paid as prefinancing shall be reimbursed to the Commission if no expenditure is incurred and no declaration of expenditure for the rural development programme is sent within 24 months of the date on which the Commission pays the first instalment of the prefinancing amount.
3. Interest generated on the prefinancing shall be posted to the rural development programme concerned and deducted from the amount of public expenditure indicated on the final declaration of expenditure.
4. The total prefinancing amount shall be cleared in accordance with the procedure referred to in Article 53 before the rural development programme is closed.

Interim payments

1. Interim payments shall be made for each rural development programme. They shall be calculated by applying the co-financing rate for each measure to the incurred public expenditure pertaining to it.
2. Subject to resource availability, the Commission shall make interim payments in order to reimburse the expenditure incurred by accredited paying agencies in implementing the programmes.
3. Each interim payment shall be made subject to compliance with the following requirements:
 - (a) transmission to the Commission of a declaration of expenditure signed by the accredited paying agency, in accordance with Article 102(1)(c);
 - (b) no overrun of the total EAFRD contribution to each measure for the entire period covered by the programme concerned;
 - (c) transmission to the Commission of the last annual progress report on the implementation of the rural development programme.
4. If one of the requirements laid down in paragraph 3 is not met, the Commission shall forthwith inform the accredited paying agency or the coordinating body, where one has been appointed. If one of the requirements laid down in point (a) or (c) of paragraph 3 is not respected, the declaration of expenditure shall be inadmissible.
5. The Commission shall make interim payments within 45 days of registering a declaration of expenditure for which the requirements set out in paragraph 3 of this Article are met, without prejudice to the Article 39 and to the implementing acts referred to in application of Articles 53 and 54.

6. Accredited paying agencies shall establish and forward, either directly or via the intermediary of the coordinating body, where one has been appointed, intermediate declarations of expenditure relating to rural development programmes to the Commission, within periods set by the Commission by means of implementing acts adopted in accordance with the examination procedure referred to in Article 112(3).

Declarations of expenditure shall cover expenditure that the paying agencies have incurred during each of the periods concerned. However, in cases where expenditure referred to in Article 55(7) of Regulation (EU) No CR/xxx cannot be declared to the Commission in the period concerned due to pending approval of the programme modification by the Commission, it may be declared in subsequent periods.

Intermediate declarations of expenditure in respect of expenditure incurred from 16 October onwards shall be booked to the following year's budget.

7. Article 74 of Regulation (EU) No CR/xxx shall apply.

Article 36

Payment of the balance and closure of the programme

1. After receiving the last annual progress report on the implementation of a rural development programme, the Commission shall pay the balance, subject to resource availability, on the basis of the financial plan in force, the annual accounts for the last execution year for the relevant rural development programme and of the corresponding clearance decision. Those accounts shall be presented to the Commission no later than 6 months after the final eligibility date of expenditure as referred to in Article 55(2) of Regulation (EU) No xxx/xxx[CR] and shall cover the expenditure incurred by the paying agency up to the last eligibility date of expenditure.
2. The balance shall be paid not later than six months after the information and documents referred to in paragraph 1 of this Article are considered receivable by the Commission and the last annual account have been cleared. The amounts still committed after the balance is paid shall be decommitted by the Commission within a period of six months, without prejudice to Article 37(5).
3. If by the time limit set out in paragraph 1 the Commission has not been sent the last annual progress report and the documents needed for clearance of the accounts of the last execution year for the programme the balance shall be automatically decommitted in accordance with Article 37.

Article 37

Automatic decommitment for rural development programmes

1. The Commission shall automatically decommit any portion of a budget commitment for a rural development programme that has not been used for the purpose of prefinancing or making interim payments or for which no declaration of expenditure fulfilling the requirements laid down in Article 35(3) has been presented to it in relation to expenditure [incurred by 31 December of the ~~second~~ ~~third~~ year following that of the budget commitment.

2. That part of budget commitments still open on the last eligibility date of expenditure as referred to in Article 55(2) of Regulation (EU) No xxx/xxx[CR] for which a declaration of expenditure has not been made by within 6 months after that date shall be automatically decommitted.
3. In the event of any legal proceedings or an administrative appeal having suspensory effect, the period for automatic decommitment referred to in paragraph 1 or paragraph 2 shall be interrupted, in respect of the amount relating to the operations concerned, for the duration of those proceedings or that administrative appeal, provided that the Commission receives substantiated notification from the Member State by 31 December of year N + ~~2~~ 3.
4. The following shall be disregarded in calculating the automatic decommitment:
 - (a) that part of the budget commitments for which a declaration of expenditure has been made but reimbursement of which has been reduced or suspended by the Commission at 31 December of year N + ~~2~~ 3;
 - (b) that part of the budget commitments which a paying agency has been unable to disburse for reasons of *force majeure* seriously affecting implementation of the rural development programme. National authorities claiming *force majeure* must demonstrate the direct consequences on the implementation of all or part of the programme.

The Member State shall send the Commission information on the exceptions referred to in the first subparagraph by 31 January for the amount to be declared by the end of the preceding year.

5. The Commission shall inform Member States in good time if there is a risk of automatic decommitment. It shall inform them of the amount involved as indicated by the information in its possession. The Member States shall have two months from receiving this information to agree to the amount in question or present observations. The Commission shall carry out the automatic decommitment not later than nine months after the last time-limit resulting from the application of paragraphs 1 to 3.
6. In the event of automatic decommitment, the EAFRD contribution to the rural development programme concerned shall be reduced, for the year in question, by the amount automatically decommitted. The Member State shall produce a revised financing plan splitting the reduction of the aid between the measures for approval by the Commission. If it does not do so, the Commission shall reduce the amounts allocated to each measure pro rata.

Section 4

Financing of the Prize for innovative, local cooperation

Article 38

Budget commitments

~~The Commission Decision adopting the list of the projects to which the Prize for innovative, local cooperation is awarded, as referred to in Article 58(4) of Regulation (EU) No RD/xxx shall constitute a financing decision within the meaning of Article [75(2)] of Regulation (EU) No FR/xxx.~~

~~Following the adoption of the Decision referred to in the first paragraph, the Commission shall make a budget commitment by Member State for the total amount of the prizes granted to projects in that Member State within the limit referred to in Article 51(2) of Regulation (EU) No RD/xxx.~~

Article 39

Payments to the Member States

- 1. — Within the framework of the interim payments referred to in Article 35, the Commission shall make payments in order to reimburse the expenditure incurred by accredited paying agencies in awarding the Prizes referred to in this Section in the limits of the available budget commitments for the Member States concerned.**
- 2. — Each payment shall be subject to the transmission to the Commission of a declaration of expenditure signed by the accredited paying agency, in accordance with Article 102(1)(e).**
- 3. — Accredited paying agencies shall establish and forward, either directly or via the intermediary of the coordinating body, where one has been appointed, declarations of expenditure relating to the Prize for innovative, local cooperation to the Commission, within periods set by the Commission by means of implementing acts adopted in accordance with the examination procedure referred to in Article 112(3).**

Declarations of expenditure shall cover expenditure that the paying agencies have incurred during each of the periods concerned.

Article 40

~~Automatic decommitment for the Prize for innovative, local cooperation~~

~~The Commission shall automatically decommit the amounts referred to in the second subparagraph of Article 38 that have not been used for reimbursing the Member States as laid down in Article 39 or for which no declaration of expenditure meeting the conditions laid down in that Article has been presented to it in relation to expenditure incurred by 31 December of the second year following that of the budget commitment. Article 37(3), (4) and (5) shall apply *mutatis mutandis*.~~

Chapter III

Common Provisions

Article 41

Agricultural financial year

Without prejudice to the special provisions on declarations of expenditure and revenue relating to public intervention laid down by the Commission pursuant to Article 48(7)(a), the agricultural financial year shall cover expenditure paid and revenue received and entered in the accounts of the EAGF and EAFRD budget by the paying agencies in respect of financial year «N» beginning on 16 October of year «N-1» and ending on 15 October of year «N».

Compliance with payment deadlines

- [1. Where payment deadlines are laid down by Union legislation, any payment made by the paying agencies to the beneficiaries before the earliest possible date of payment and after the latest possible date of payment shall make the payments ineligible for Union financing, except in the cases, conditions and limits to be determined taking into account the principle of proportionality.]

[In order to make the financial impact proportional to the payment delay observed, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning rules on the reduction of payments in relation to the non-respect of the payment period.]

- [2. Where the latest possible date of payment is not respected by the Member States, they shall pay the beneficiaries default interests, supported from the national budget. This paragraph shall not apply in cases where the payment delay is not the fault of the Member Stat concerned.] ⁵

⁵ **This paragraph could be accompanied by a Commission statement along the following lines:**

"Statement concerning the rules to be adopted by the Commission in relation to late payments made by the paying agencies to beneficiaries

The European Commission declares that when it adopts rules on the reduction of reimbursement to the paying agencies in case of payment made to the beneficiaries after the latest possible date laid down by Union legislation, the scope of the current provisions related to late payments for EAGF will be maintained."

Reduction and suspension of monthly and interim payments

1. Where the declarations of expenditure or the information referred to in Article 102 enable the Commission to establish that expenditure has been effected by bodies which are not accredited paying agencies, that payment periods or financial ceilings set by Union legislation have not been respected or that expenditure has otherwise not been effected in accordance with Union rules, the Commission may reduce or suspend the monthly or interim payments to the Member State concerned under the decision on monthly payments referred to in Article 18(3) or in the framework of the interim payments referred to in Article 35, after giving the Member State an opportunity to submit its comments.

Where the declarations of expenditure or the information referred to in Article 102 do not enable the Commission to establish that the expenditure has been effected in accordance with Union rules, the Commission shall ask the Member State concerned to supply further information and submit its comments within a period which may not be less than 30 days. If the Member State fails to respond to the Commission request within the period determined or if the response is considered unsatisfactory or demonstrates that the expenditure has not been effected in accordance with Union rules, the Commission may reduce or suspend the monthly or interim payments to the Member State concerned under the decision on monthly payments referred to in Article 18(3) or in the framework of the interim payments referred to in Article 35.

- [2. The Commission may, by way of implementing acts, reduce or suspend the monthly or interim payments to a Member State if **one or more of the key components of the national control system in question do not exist or are not effective due to the gravity or persistence of the deficiencies found, or irregular payments are not being recovered with the necessary diligence there are similar serious deficiencies in the system for the recovery of irregular payments and if one** of the following conditions is met:

(b) **either** the deficiencies referred to **above** are of a continuous nature and have been the reason for at least two implementing acts pursuant to Article 54, excluding from Union financing expenditure from the Member State concerned; **or**

(c) the Commission concludes that the Member State concerned is not in a position to implement the necessary **remedial measures in the immediate future, in accordance with an action plan with clear progress indicators, to be established in consultation with the Commission**

The implementing acts provided for in the first subparagraph shall be adopted in accordance with the advisory procedure referred to in Article 112(2).

The reduction or suspension shall be applied to the relevant expenditure effected by the paying agency where the deficiencies exist for a period to be determined in the implementing acts referred to in the first subparagraph, which shall not exceed twelve months but which may be prolonged for further periods not exceeding twelve months if the conditions for the reduction or suspension continue to be met. It shall not be continued if those conditions are no longer met.

Before adopting the implementing acts referred to in the first subparagraph, the Commission shall inform the Member State concerned of its intention and shall ask it to react within a period which may not be less than 30 days.

The decisions on the monthly payments referred to in Article 18(3) or on the interim payments referred to in Article 35 shall take account of the implementing acts adopted under this paragraph.

3. Reductions and suspensions under this Article shall be applied in accordance with the principle of proportionality and are without prejudice to the ~~implementing acts referred to~~ **in application of** Articles 53 and 54.

4. Reductions and suspensions under this Article shall be without prejudice to Articles 17, 20 and 21 of Regulation (EU) No CR/xxx.

The suspensions referred to in Articles 17 and 20 of Regulation (EU) No CR/xxx shall be applied following the procedure laid down in paragraph 2 of this Article.

Article 44

Suspension of payments in case of late submission

[Where sectoral agricultural legislation requires Member States to submit, within a specific period of time, information on the **number** of checks carried out **under Article 61** and their outcome and **where** the Member States overrun that period, the Commission may suspend **the** monthly payments referred to in Article 18 or the interim payments referred to in Article 35 for which the relevant statistical information has not been sent in time **provided that the Commission has made available to the Member States in good time prior to the start of the reference period all the information, forms and explanations they need to compile the relevant statistics. In doing so, the Commission shall act in accordance with the principle of proportionality and the detailed rules it has adopted on the basis of Article 48(5), taking account of the extent of the delay. In particular, the Commission shall clearly distinguish between a situation where the late submission of information places the annual budget discharge mechanism at risk, and a situation where such a risk does not exist. Before suspending the monthly payments the Commission shall notify in writing the Member State concerned.]**

Assignment of revenue

1. The following shall be regarded as assigned revenue within the meaning of Article [18] of Regulation (EU) No FR/:
 - (a) sums which, under Articles 42, Article 53 as regards expenditure under EAGF, 54 and 56, must be paid to the Union budget, including interest thereon;
 - (b) sums which are collected or recovered under **Section III of** Chapter III of Title I of Part II of **Council** Regulation ~~(EU) (EC)~~ No **1234/2007** ~~CMO-align/xxx of European parliament and of the Council~~⁶;
 - (c) sums which have been collected as a consequence of penalties in accordance with the specific rules laid down in sectoral agricultural legislation, save if that legislation explicitly provides that those amounts may be retained by the Member States;
 - (d) amounts corresponding to penalties applied in accordance with the rules on cross-compliance laid down in Chapter II of Title VI, as regards expenditure under EAGF;
 - (e) any security, deposit or guarantee furnished pursuant to Union legislation adopted within the framework of Common Agricultural Policy, excluding rural development, which is forfeited. However, forfeited securities lodged when issuing export or import licences or under a tendering procedure for the sole purpose of ensuring the submission by tenderers of genuine tenders shall be retained by the Member States.
2. The sums referred to in paragraph 1 shall be paid to the Union budget and, in the event of reuse, shall be used exclusively to finance EAGF or EAFRD expenditure.

⁶ OJ L ~~[299]~~, **[16.11.2007]**, p. ~~[1]~~.

3. This Regulation shall apply *mutatis mutandis* to assigned revenue referred to in paragraph 1.
4. As regards the EAGF, Articles [150 and 151] of Regulation (EU) No FR/xxx shall apply *mutatis mutandis* to the keeping of accounts on assigned revenue referred to in this Regulation.

Article 46

Keeping of separate accounts

Each paying agency shall keep a set of separate accounts for the appropriations entered in the budget of the Union for the EAGF and the EAFRD.

Article 47

~~Financing of~~ Information measures

1. The provision of information financed pursuant to point (e) of Article 6 shall aim, in particular, at helping to explain, implement and develop the common agricultural policy and raising public awareness of the content and objectives of that policy, at reinstating consumer confidence following crises through information campaigns, at informing farmers and other parties active in rural areas and promoting the European model of agriculture and helping ~~people~~ **citizens** understand it.

It shall supply coherent, objective and comprehensive information, both inside and outside the Union, in order to give an **accurate** overall picture of that policy.

2. The measures referred to in paragraph 1 may be:
 - (a) annual work programmes or other specific measures presented by third parties;
 - (b) activities implemented at the Commission's initiative.

The measures which are required by law or the measures already receiving financing under another Union action shall be excluded.

In order to implement activities as referred to in point (b) the Commission may be assisted by external experts.

The measures referred to in the first subparagraph shall also contribute to covering the corporate communication of the Union's political priorities provided that they are related to the general objectives of this Regulation.

3. The Commission shall publish by 31 October of each year a call of proposal respecting the conditions laid down in Regulation (EU) No FR/xxx.
4. The Committee referred to in Article 112(1) shall be notified of measures envisaged and taken pursuant to this Article.
5. The Commission shall present a report on the implementation of this Article to the European Parliament and the Council every two years.

Commission powers

1. In order to take account of revenue collected by paying agencies for the Union's budget when making payments on the basis of the expenditure declarations submitted by Member States, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning the conditions under which certain types of expenditure and revenue under the EAGF and the EAFRD are to be compensated.
- ~~2. In order to ensure the proper management of the appropriations entered in the budget of the Union for the EAGF and the EAFRD, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 containing rules pertaining to the valuation of operations in connection with public intervention and the measures to be taken in case of loss or deterioration of products under the public intervention and the determination of amounts to be financed.~~
3. In order to enable the equitable distribution of the appropriations available between the Member States, if the Union's budget has not been adopted by the beginning of the financial year or if the total amount of the commitments scheduled exceeds the threshold laid down in Article [150(3)] of Regulation (EU) No FR/xxx, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 of this Regulation on the provisions for the method applicable to the commitments and the payment of the amounts.

4. [In order to verify the consistency of the data notified by the Member States in relation to the expenditure or other information provided for in this Regulation, ~~and to ensure compliance with the obligation to notify pursuant to Article 102,~~ the Commission shall be empowered to adopt delegated acts in accordance with Article 111 ~~on the conditions governing the reduction and suspension of payment to Member States, with regard to expenditure under the EAGF and the EAFRD respectively on the deferral of monthly payments by the Commission to Member States with regard to expenditure under the EAGF and the conditions governing the reduction or suspension by the Commission of interim payments to Member States under the EAFRD referred to in Article 43, in the case of non-compliance with the obligation to notify the Commission pursuant to Article 102.~~]
5. In order to ensure the respect of the proportionality principle when applying Article 44, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 pertaining to rules on:
- (a) the list of measures which fall under Article 44;
 - (b) the rate and period of suspension of payments referred to in that Article;
 - (c) the conditions for lifting the suspension.
6. The Commission may lay down, by means of implementing acts, further details on the obligation laid down in Article 46 as well as the specific conditions applying to the information to be booked in the accounts kept by the paying agencies. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).
- 6a. The Commission shall be empowered to adopt delegated acts in accordance with Article 111 laying down further rules on the payment by the Member States of default interests to the beneficiaries as referred to in Article 42(2).**

7. The Commission may, by means of implementing acts, adopt rules pertaining to:
- (a) rules on the financing and accounting of intervention measures in the form of public storage, and other expenditure financed by the EAGF and the EAFRD
 - (b) the terms and conditions governing the implementation of the automatic decommitment procedure;
 - ~~(c) rules on the payment by the Member States of default interests to the beneficiaries as referred to in Article 42(2)~~
 - ~~(cd) the deferral of monthly payments by the Commission to Member States with regard to expenditure under the EAGF and the implementation of the conditions governing the reduction or suspension by the Commission of interim payments to Member States under the EAFRD referred to in Article 43, in the case of non-compliance with the obligation to notify the Commission pursuant to Article 102.~~

Those implementing acts ~~provided for in the first subparagraph~~ shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Chapter IV

Clearance of accounts

Section I

General provisions

Article 49

On-the-spot checks by the Commission

1. Without prejudice to the checks carried out by Member States under national laws, regulations and administrative provisions or Article 287 of the Treaty or any check organised under Article 322 of the Treaty or based on Council Regulation (EC) No 2185/96⁷, the Commission may organise on-the-spot checks in Member States with a view to verifying in particular:
 - (a) compliance of administrative practices with Union rules;
 - (b) the existence of the requisite supporting documents and their correlation with the operations financed by the EAGF or the EAFRD;
 - (c) the terms on which the operations financed by the EAGF or the EAFRD have been undertaken and checked.

⁷ OJ L 292, 15.11.1996, p. 2.

(ca) whether a paying agency complies with the accreditation criteria laid down in Article 7(2) and whether the Member State correctly applies the provisions of Article 7(5);

Persons delegated by the Commission to carry out on-the-spot checks or Commission agents acting within the scope of the powers conferred upon them shall have access to the books and all other documents, including documents and metadata drawn up or received and recorded on an electronic medium, relating to expenditure financed by the EAGF or the EAFRD.

The powers to carry out on-the-spot checks shall not affect the application of national provisions which reserve certain acts for agents specifically designated by national legislation. Without prejudice to the specific provisions of Regulations (EC) No 1073/1999⁸ and (EC) No 2185/96, persons delegated by the Commission shall not take part, inter alia, in home visits or the formal questioning of persons on the basis of legislation of the Member State concerned. However, they shall have access to information thus obtained.

2. The Commission shall give sufficient prior notice of an on-the-spot check to the Member State concerned or the Member State within whose territory the check is to take place, **taking into account the administrative impact on paying agencies when organising checks.**

Agents from the Member State concerned may take part in such checks.

At the request of the Commission and with the agreement of the Member State, additional checks or inquiries into the operations covered by this Regulation shall be undertaken by the competent bodies of that Member State. Commission agents or persons delegated by the Commission may take part in such checks.

In order to improve checks, the Commission may, with the agreement of the Member States concerned, request the assistance of the authorities of those Member States for certain checks or inquiries.

⁸ OJ L 136, 31.5.1999, p. 1.

Article 50

Access to information

1. Member States shall make available to the Commission all information necessary for the smooth operation of the EAGF and the EAFRD and shall take all appropriate measures to facilitate the checks which the Commission deems appropriate in connection with the management of Union financing, including on-the-spot checks.
2. Member States shall communicate to the Commission on request the laws, regulations and administrative provisions which they have adopted for implementing the Union acts relating to the common agricultural policy, where those acts have a financial impact on the EAGF or the EAFRD.
3. Member States shall make available to the Commission all information about irregularities **and suspected fraud cases** detected, and about the steps taken to recover undue payments in connection with those irregularities and frauds pursuant to Section III of this Chapter

Article 51

Access to documents

The accredited paying agencies shall keep supporting documents relating to payments made and documents relating to the performance of the administrative and physical checks required by Union legislation, and shall make the documents and information available to the Commission. **Those supporting documents may be kept electronically under the conditions laid down by the Commission on the basis of the second subparagraph of Article 52.**

Where those documents are kept by an authority acting under delegation from a paying agency and responsible for authorising expenditure, that authority shall send reports to the accredited paying agency on the number of checks made, their content and the measures taken in the light of their results.

Implementing powers

[1. In order to ensure correct and efficient application of the provisions relating to on-the-spot checks and access to documents and information set out in this Chapter, the Commission shall be empowered to adopt delegated acts² in accordance with Article 111 supplementing the specific obligations to be complied with by the Member States under this Chapter.

2. The Commission may, by means of implementing acts, lay down rules regarding:

- (a) the procedures relating to the specific obligations which the Member States have to comply with in relation to the checks provided for in this Chapter;
- (b) the procedures relating to the cooperation obligations to be complied with by the Member States for the implementation of Articles 49 and 50;
- (c) the modalities for the reporting obligation referred to in Article 50(3);
- (d) the conditions under which the supporting documents referred to in Article 51 shall be kept, including their form and the time period of their storage.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).]

Section II

Clearance

Article 53

Clearance of accounts

1. Prior to **31 May** ~~30 April~~ of the year following the budget year in question and on the basis of the information transmitted in accordance with Article 102(1)(c), the Commission shall, by means of implementing acts, decide on the clearance of the accounts of the accredited paying agencies. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 112(2).
2. The clearance decision referred to in paragraph 1 shall cover the completeness, accuracy and veracity of the annual accounts submitted. The decision shall be adopted without prejudice to decisions adopted subsequently pursuant to Article 54

Article 54

Conformity clearance

1. The Commission shall, by means of implementing acts, decide on the amounts to be excluded from Union financing when it finds that expenditure as indicated in Article 4(1) and Article 5 has not been incurred in conformity with Union legislation and, for EAFRD, with the applicable Union and national law referred to in Article 77 of Regulation (EU) No CR/xxx. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 112(2).

2. The Commission shall assess the amounts to be excluded on the basis of the gravity of the non-conformity recorded. It shall take due account of the nature of the infringement and of the financial damage caused to the Union. **It shall base the exclusion on the identification of amounts unduly spent and, where these cannot be identified with proportionate effort, may apply extrapolated or flat-rate corrections. Flat rate corrections shall only be applied where it is impossible, due to the nature of the case or because the Member State has not provided the Commission with the necessary information, it is not possible with proportionate effort to either identify more precisely the financial damage caused to the Union extent and amount of the non-conformity recorded or to apply an extrapolated correction.**
3. **Before** the adoption of any decision to refuse financing, the findings from the Commission's inspection and the Member State's replies shall be notified in writing, following which the two parties shall attempt to reach agreement on the action to be taken. **At this point in the procedure In this context the Member States shall be given the opportunity to demonstrate, through an examination of the documentation concerned, that the actual extent of the non-compliance is less than the Commission's assessment.**
- If agreement is not reached, the Member State may request opening of a procedure aimed at reconciling each party's position within four months. A report of the outcome of the procedure shall be given to the Commission, which **shall take into account the report's recommendations** before deciding on any refusal of financing. **The Commission shall give reasons if it does not decide to follow the recommendations in the report.**
4. Financing may not be refused for:
- (a) expenditure as indicated in Article 4(1) which is incurred more than 24 months before the Commission notifies the Member State in writing of its inspection findings;
 - (b) expenditure on multiannual measures falling within the scope of Article 4(1) or within the scope of the programmes as indicated in Article 5, where the final obligation on the recipient occurs more than 24 months before the Commission notifies the Member State in writing of its inspection findings;

(c) expenditure on measures in programmes, as indicated in Article 5, other than those referred to in point (b) of this paragraph, for which the payment or, as the case may be, the final payment, by the paying agency, is made more than 24 months before the Commission notifies the Member State in writing of its inspection findings.

5. Paragraph 4 shall not apply in the case of:

(a) irregularities covered by Section III of this Chapter;

(b) national aids for which the procedure laid down in Article 108(2) TFEU **has been initiated by the Commission or infringements which the Commission has notified to the Member State concerned by a letter of formal notice in accordance with** Article 258 TFEU;

(c) infringements by Member States of their obligations under Chapter III of Title V of this Regulation, provided that the Commission notifies the Member State in writing of its inspection findings within 12 months following receipt of the Member State's report on the results of its checks of the expenditure concerned.

Article 55

Implementing powers

[1. The Commission shall, by means of implementing acts, lay down rules for the implementation of:

(a) the clearance of accounts provided for in Article 53 with regard to the measures to be taken in connection with the adoption of the decision and its implementation, including the information exchange between the Commission and the Member States and the deadlines to be respected;

b) the conformity clearance provided for in Article 54 with regard to the measures to be taken in connection with the adoption of the decision and its implementation, including the information exchange between the Commission and the Member States and the deadlines to be respected as well as the conciliation procedure provided for in that Article, including the establishment, tasks, composition and working arrangements of the conciliation body.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

2. In order to enable the commission to protect the financial interest of the Union and to ensure an efficient application of the provisions relating to the conformity clearance provided for in Article 54, the Commission shall be empowered to adopt delegated act in accordance with Article 111 concerning the criteria and methodology for applying corrections.]

Section III

Irregularities

[Article 56]

Common Provisions

1. For any undue payment following the occurrence of irregularity or negligence, Member States shall request recovery from the beneficiary within **[x]** months after the approval and, where applicable, reception, by the paying agency or body responsible for the recovery, of a control report or similar document, stating that an irregularity has taken place. The corresponding amounts shall be recorded at the time of the recovery request in the debtors' ledger of the paying agency.

2. If recovery has not taken place within four years of the date of the recovery request, or within eight years where recovery is taken in the national courts, **50 % of** the financial consequences of non-recovery shall be borne by the Member State concerned and **50 % by the Union budget**, without prejudice to the requirement that the Member State concerned must pursue recovery procedures in compliance with Article 60.

Where, in the context of the recovery procedure, the absence of any irregularity is recorded by an administrative or legal instrument of a definitive nature, the Member State concerned shall declare as expenditure to the EAGF and EAFRD the financial burden borne by it under the first subparagraph.

However, if for reasons not attributable to the Member State concerned, recovery could not take place within the time-limits specified in the first subparagraph, and the amount to be recovered exceeds EUR 1 million, the Commission may, at the request of the Member State, extend the time limits by a maximum of 50 % of the initial time limits.

3. On duly justified grounds, Member States may decide not to pursue recovery. A decision to this effect may be taken only in the following cases:
- (a) if the costs already and likely to be incurred total more than the amount to be recovered,
or
 - (b) if recovery proves impossible owing to the insolvency, recorded and recognised under national law, of the debtor or the persons legally responsible for the irregularity.

Where the decision referred to in the first subparagraph of this paragraph is taken before the outstanding amount has been subject to the rules referred to in paragraph 2, the financial consequence of non-recovery is borne by the the **budget of the** Union ~~budget~~.

4. Member States shall enter in the annual accounts to be sent to the Commission under Article 102(1)(c)(iv) the amounts to be borne by them under paragraph 2 of this Article. The Commission shall check that this has been done and make any adjustments needed as part of the implementing act specified in Article 53(1).
5. The Commission may, by means of implementing acts, decide to exclude from Union financing sums charged to the Union budget in the following cases:
 - (a) if the Member State has not respected the time limits referred to in paragraph 1;
 - (b) if it considers that the decision not to pursue recovery taken by a Member State pursuant to paragraph 3 is not justified;
 - (c) if it considers that the irregularity or lack of recovery is the outcome of irregularity or negligence attributable to the administrative authorities or another official body of the Member State.

The ~~ose~~ implementing acts ~~provided for in the first subparagraph~~ shall be adopted in accordance with the advisory procedure referred to in Article 112(2). Before the adoption of such implementing acts, the procedure laid down in Article 54(3) shall apply.

Article 57

Provisions specific to the EAGF

Sums recovered following the occurrence of irregularity or negligence and the interest thereon shall be made over to the paying agency and booked by it as revenue assigned to the EAGF in the month in which the money is actually received.

When the Union budget is credited as referred in the first paragraph, the Member State may retain **20** % of the corresponding amounts as flat rate recovery costs, except in cases of irregularity or negligence attributable to its administrative authorities or other official bodies.

Provisions specific to the EAFRD

Member States shall make financial adjustments where irregularities or negligence are detected in rural development operations or programmes by totally or partially cancelling the Union financing concerned. Member States shall take into consideration the nature and gravity of the irregularities detected and the level of the financial loss to the EAFRD.

Amounts of the **financing of the** Union ~~financing~~ under the EAFRD which are cancelled and amounts recovered, as well as the interest thereon, shall be reallocated to the programme concerned. However, the cancelled or recovered Union funds may be reused by Member States only for an operation under the same rural development programme and provided the funds are not reallocated to operations which have been the subject of a financial adjustment. After the closure of a rural development programme, the Member State shall refund the sums recovered to the Union budget.

[Article 59

Commission powers]

- [1. In order to ensure correct and efficient application of the provisions relating to the conditions for the recovery of undue payments and interest thereon, the Commission shall be empowered to adopt delegated act in accordance with Article 111 concerning specific obligations to be complied with by the Member States.
2. The Commission shall, by means of implementing acts, lay down rules on:
 - (a) the procedures for the recovery of undue payments and interest as set out in this Section and for keeping the Commission apprised of pending recoveries;

- b) the forms of notification and communication to be made by the Member States to the Commission in relation to the obligations set out in this Section.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).]

TITLE V

CONTROL SYSTEMS AND PENALTIES

Chapter I

General rules

Article 60

Protection of the financial interests of the Union

1. Member States shall within the framework of the common agricultural policy, adopt all legislative, regulatory and administrative provisions and take any other measures necessary to ensure effective protection of the financial interests of the Union and particularly to:
 - (a) check the legality and regularity of operations financed by the EAGF and the EAFRD;
 - (b) **ensure** effective prevention against fraud, especially as regards the areas with a higher level of risk, and which shall act as a deterrent, having regard to the costs and benefits as well as the proportionality of the measures;
 - (c) prevent, detect and correct irregularities and fraud;
 - (d) impose penalties which are effective, dissuasive and proportionate in accordance with Union legislation, or failing this, national law, and bring legal proceedings to that effect, as necessary;

(e) recover undue payments plus interest, and bring legal proceedings to that effect as necessary.

Member States shall set up efficient management and control systems in order to ensure compliance with the legislation governing Union support schemes **aiming to minimise the risk of financial damage to the Union.**

3. Member States shall inform the Commission of the provisions adopted and measures taken under paragraphs 1 and 2.

Any conditions which the Member States establish to supplement the conditions laid down by Union rules for receiving support financed by the EAGF or the EAFRD shall be verifiable.

- [4. The Commission may, by means of implementing acts, adopt the necessary rules aiming at reaching a uniform application of this Article. **Those rules may relate to the following:**

(a) the procedures, deadlines, exchange of information in relation to the obligations set out in paragraphs 1 and 2;

(b) the notification and communication to be made by the Member States to the Commission in relation to the obligation set out in paragraph 3.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

General principles of checks

1. The system set up by the Member States in accordance with Article 60(2) shall include, except where otherwise provided, systematic administrative checking of all aid applications and **payment claims and shall be supplemented by on-the-spot checks.**
2. As regards the on-the-spot checks, the authority responsible shall draw its check sample from the entire population of applicants comprising, where appropriate, a random part **in order to obtain a representative error rate** and a risk-based part ~~in order to obtain a representative error rate,~~ **which shall while targeting also targeting the areas where highest the risk of errors is the highest.**
3. The authority responsible shall draw up a report on each on-the-spot check.
4. Where appropriate, all on-the-spot checks provided for in Union rules regarding agricultural subsidies and rural development support shall be carried out at the same time.
- 5. Member State shall ensure a minimum level of on-the-spot checks needed for an effective management of the risks and shall increase that level, when necessary, or may reduce it where the management and control systems function properly and the error rates remain at an acceptable level.]**
- 6. In cases to be provided for by the Commission on the basis of point (x) of Article 64(2), aid applications and payment claims or any other communications, claims or requests may be corrected and adjusted after their submission in cases of obvious errors recognised by the competent authority.]**

17. An aid application or payment claim shall be rejected if the beneficiary or his representative prevents an on-the-spot check from being carried out, except in cases of force majeure and exceptional circumstances]

Article 62

Circumvention clause

Without prejudice to specific provisions, no advantage provided for under the sectoral agricultural legislation shall be granted in favour of a natural or legal person in respect of whom it is established that the conditions required for obtaining such advantages were created artificially, contrary to the objectives of that legislation.

Article 63

Compatibility of support schemes for the purposes of checks in the wine sector

For the purposes of applying the support schemes in the wine sector as referred to in Regulation (EU) No xxx/xxx[sCMO], Member States shall ensure that the administration and control procedures applied to those schemes are compatible with the integrated system referred to in Chapter II of this Title as regards the following elements:

- (a) the computerised database;
- (b) the identification systems for agricultural parcels;

- (c) the administrative checks.

The procedures shall allow a common functioning or the exchange of data with the integrated system.

Article 64

Commission powers as regards checks

To be completed

Article 65

Under payments and administrative penalties

To be completed

Article 66

~~Commission powers as regards~~ **Application of administrative penalties**

To be completed

Article 67

Securities

To be completed

Chapter II

Integrated Administration and Control System

To be completed

Chapter III

Scrutiny of transactions

Article 79

Scope and definitions

1. This Chapter sets specific rules on the scrutiny of the commercial documents of those entities receiving or making payments relating directly or indirectly to the system of financing by the EAGF, or their representatives, hereinafter ‘undertakings’, in order to ascertain whether transactions forming part of the system of financing by the EAGF have actually been carried out and have been executed correctly.

2. This Chapter shall not apply to measures covered by the integrated system referred to in Chapter II of this Title. In order to respond to changes in the agricultural legislation and to ensure the efficiency of the system of ex-post controls established by this Chapter, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 establishing a list of measures which, due to their design and control requirements, are unsuited for additional ex-post controls by way of scrutiny of commercial documents and, therefore, shall not be subject to such scrutiny under this Chapter.

3. For the purposes of this Chapter the following definitions shall apply:

(a) 'commercial documents' means all books, registers, vouchers and supporting documents, accounts, production and quality records, and correspondence relating to the undertaking's business activity, as well as commercial data, in whatever form they may take, including electronically stored data, in so far as these documents or data relate directly or indirectly to the transactions referred to in paragraph 1;

(b) 'third party' means any natural or legal person directly or indirectly connected with transactions carried out within the financing system by the EAGF.

Article 80

Scrutiny by Member States

1. Member States shall carry out systematic scrutiny of the commercial documents of undertakings taking account of the nature of the transactions to be scrutinised. Member States shall ensure that the selection of undertakings for scrutiny gives the best possible assurance of the effectiveness of the measures for preventing and detecting irregularities. The selection shall take account *inter alia* of the financial importance of the undertakings in that system and other risk factors.
2. In appropriate cases, the scrutiny provided for in paragraph 1 shall be extended to natural and legal persons with whom undertakings are associated and to such other natural or legal persons as may be relevant for the pursuit of the objectives set out in Article 81.
3. The scrutiny carried out pursuant to this Chapter shall not prejudice the checks undertaken pursuant to Articles 49 and 50.

Article 81

Objectives of the scrutiny

1. The accuracy of primary data under scrutiny shall be verified by a number of cross-checks, including, where necessary, the commercial documents of third parties, appropriate to the degree of risk presented, including:
 - (a) comparisons with the commercial documents of suppliers, customers, carriers and other third parties;
 - (b) physical checks, where appropriate, upon the quantity and nature of stocks;

(c) comparison with the records of financial flows leading to or consequent upon the transactions carried out within the financing system by the EAGF; and

(d) checks, in relation to bookkeeping, or records of financial movements showing, at the time of the scrutiny, that the documents held by the paying agency as justification for the payment of aid to the beneficiary are accurate.

2. In particular, where undertakings are required to keep particular book records of stock in accordance with Union or national provisions, scrutiny of those records shall in appropriate cases include a comparison with the commercial documents and, where appropriate, with the actual quantities in stock.
3. In the selection of transactions to be checked, full account shall be taken of the degree of risk presented.

Article 82

Access to commercial documents

1. The persons responsible for the undertaking, or a third party, shall ensure that all commercial documents and additional information are supplied to the officials responsible for the scrutiny or to the persons empowered for that purpose. Electronically stored data shall be provided on an appropriate data support medium.
2. The officials responsible for the scrutiny or the persons empowered for that purpose may require that extracts or copies of the documents referred to in paragraph 1 be supplied to them.

3. Where, during scrutiny carried out pursuant to this Chapter, the commercial documents maintained by the undertaking are considered inadequate for scrutiny purposes, the undertaking shall be directed to maintain in future such records as are required by the Member State responsible for the scrutiny, without prejudice to obligations laid down in other Regulations relating to the sector concerned.

Member States shall determine the date as of which such records are to be established.

Where all or part of the commercial documents required to be scrutinised pursuant to this Chapter are located with an undertaking in the same commercial group, partnership or association of undertakings managed on a unified basis as the undertaking scrutinised, whether located inside or outside Union territory, the undertaking shall make those commercial documents available to officials responsible for the scrutiny, at a place and time to be determined by the Member States responsible for carrying out the scrutiny.

4. Member States shall ensure that officials responsible for scrutiny are entitled to seize commercial documents, or have them seized. This right shall be exercised with due regard to the relevant national provisions and shall not affect the application of rules governing proceedings in criminal matters concerning the seizure of documents.

Article 83

Mutual assistance

1. Member States shall assist each other for the purposes of carrying out the scrutiny provided for in this Chapter in the following cases:
 - (a) where an undertaking or third party is established in a Member State other than that in which payment of the amount in question has or should have been made or received;
 - (b) where an undertaking or third party is established in a Member State other than that in which the documents and information required for scrutiny are to be found.

The Commission may coordinate joint actions involving mutual assistance between two or more Member States.

2. During the first three months following the EAGF financial year of payment, Member States shall send the Commission a list of undertakings established in a third country for which payment of the amount in question has or should have been made or received in that Member State.
4. If additional information is required in another Member State as part of the scrutiny of an undertaking in accordance with Article 80, and in particular cross-checks in accordance with Article 81, specific scrutiny requests may be made indicating the reasons for the request. An overview of such specific requests shall be sent to the Commission on a quarterly basis within one month after the end of each quarter. The Commission may demand that a copy of individual requests be provided.

The scrutiny request shall be met not later than six months after its receipt; the results of the scrutiny shall be communicated without delay to the requesting Member State and to the Commission. The communication to the Commission shall be on a quarterly basis within one month after the end of each quarter.

Article 84

Programming

1. Member States shall draw up programmes for scrutinies to be carried out pursuant to Article 80 during the subsequent scrutiny period.

2. Each year, before 15 April, the Member States shall send the Commission their programme as referred to in paragraph 1 and shall specify:
 - (a) the number of undertakings to be scrutinised and their breakdown by sector on the basis of the amounts relating to them;
 - (b) the criteria adopted for drawing up the programme.
3. The programmes established by the Member States and forwarded to the Commission shall be implemented by the Member States, if, within eight weeks, the Commission has not made known its comments.
4. Paragraph 3 shall apply *mutatis mutandis* to the amendments to the programme made by the Member States.
5. At any stage, the Commission may request the inclusion of a particular category of undertaking in the programme of a Member States.
6. Undertakings for which the sum of the receipts or payments amounted to less than EUR 40000 shall be scrutinised in accordance with this Chapter only for specific reasons to be indicated by the Member States in their annual programme referred to in paragraph 1 or by the Commission in any proposed amendment to that programme. **In order to take into account economic developments, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 modifying the threshold of EUR 40000.**

Special departments

1. In each Member State a special department shall be responsible for monitoring the application of this Chapter. Those departments shall in particular be responsible for:
 - (a) the performance of the scrutiny provided for in this Chapter by officials employed directly by that special department; or
 - (b) the coordination and general surveillance of the scrutiny carried out by officials belonging to other departments.

Member States may also provide that scrutiny to be carried out pursuant to this Chapter is allocated between the special departments and other national departments, provided that the former is responsible for their coordination.

2. The department or departments responsible for the application of this Chapter shall be organised in such a way as to be independent of the departments or branches of departments responsible for the payments and the scrutiny carried out prior to payment
3. In order to ensure that this Chapter is properly applied, the special department referred to in paragraph 1 shall take all the measures necessary and it shall be entrusted by the Member State concerned with all the powers necessary to perform the tasks referred to in this Chapter.
4. Member States shall adopt appropriate measures to penalise natural or legal persons who fail to fulfil their obligations under this Chapter.

Article 86

Reports

1. Before 1 January following the scrutiny period Member States shall send the Commission a detailed report on the application of this Chapter.
2. The Member States and the Commission shall have regular exchanges of views on the application of this Chapter.

Article 87

Access to information and ~~on-the-spot checks~~ scrutinies by the Commission

1. In accordance with the relevant national laws, Commission officials shall have access to all documents prepared either with a view to or following the scrutiny organised under this Chapter and to the data held, including those stored in the data-processing systems. ~~Those~~ **That** data shall be provided upon request on an appropriate data support medium.
2. The scrutinies referred to in Article 80 shall be carried out by the officials of the Member States. Officials of the Commission may participate in those scrutinies. They may not themselves exercise the powers of scrutiny accorded to national officials. However, they shall have access to the same premises and to the same documents as the officials of the Member States.
3. In the case of scrutinies taking place under Article 83, officials of the requesting Member State may be present, with the agreement of the requested Member State, at the scrutiny in the requested Member State and have access to the same premises and the same documents as the officials of that Member State.

Officials of the requesting Member State present at scrutinies in the requested Member State shall at all time be able to furnish proof of their official capacity. The scrutinies shall at all times be carried out by officials of the requested Member State.

4. Without prejudice to the provisions of Regulations (EC) No 1073/99 and (EC) No 2185/96, where national provisions concerning criminal procedure reserve certain acts for officials specifically designated by the national law, neither the officials of the Commission, nor the officials of the Member State referred to in paragraph 3, shall take part in these acts. In any event, they shall not take part in, in particular, visits to the home or the formal interrogation of persons in the context of the criminal law of the Member State. They shall, however have access to information thus obtained.

Article 88

Commission powers

- ~~1. In order to exclude from the application of this Chapter those measures which are by their nature unsuited for ex post checks by way of scrutiny of commercial documents, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 establishing a list of other measures to which this Chapter does not apply, and modifying the threshold of 40000 euros referred to in Article 84(6).~~
2. The Commission shall, where necessary, by means of implementing acts adopt the provisions aiming at reaching a uniform application of this Regulation **Chapter** in the Union, in particular relating to the following:
- (a) the performance of the scrutiny referred to in Article 80 as regards the selection of undertakings, rate and calendar of scrutiny;
 - (b) conservation of commercial documents and the types of documents to maintain or data to record;
 - (c) the performance and coordination of joint actions referred to in Article 83(1);
 - (d) details and specifications regarding the content, form and way of submission of requests, the content, form and way of notification, submission and exchange of information required in the framework of this Chapter;

- (e) conditions and means of publication or specific rules and conditions for the diffusion or making available by the Commission to the competent authorities of the Member States of the information needed in the framework of this Regulation;
- (f) responsibilities of the special department referred to in Article 85;
- (g) the content of reports referred to in Article 86.

Those implementing acts ~~provided for in the first subparagraph~~ shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Chapter IV

Other provisions on checks and penalties

Article 89

Other checks and penalties related to marketing rules measures

1. Member States shall take measures to ensure that the products referred to in in **Annex I to Article 96(1) of** Regulation (EU) xxx/xxx [sCMO] which are not labelled in conformity with the provisions of that Regulation are not placed on, or ~~is~~ **are** withdrawn from, the market.
2. Without prejudice to any specific provisions which may be adopted by the Commission, imports into the Union of the products specified in paragraph 1(a) and (b) of Article 129 of Regulation (EU) No xxx/xxx [sCMO] shall be subject to checks to determine whether the conditions provided for in paragraph 1 of that Article are met.

3. Member States shall carry out checks, based on a risk analysis, in order to verify whether products referred to in Annex I to Regulation (EU) xxx/xxx [sCMO] conform to the rules laid down in Section I of Chapter I of Title II of Part II of Regulation (EU) No xxx/xxx[sCMO] and in the event of infringement of those rules, shall apply **proportionate, effective and dissuasive** administrative penalties ~~as appropriate~~

[3a. In the event of infringement of Union rules in the wine sector, Member States shall apply proportionate, effective and dissuasive administrative penalties. Such penalties shall not apply in cases of *force majeure* or exceptional circumstances.]

To be completed.

Article 90

Checks related to designation of origin and geographical indications and protected traditional terms

1. Member States shall take the necessary steps to stop unlawful use of protected designations of origin, ~~and~~ protected geographical indication **and protected traditional terms** referred to in Regulation (EU) No xxx/xxx[sCMO].
2. Member State shall designate the competent authority responsible for checks in respect of the obligations laid down in Section II of Chapter I of Title II of Part 2 of Regulation (EU) No xxx/xxx[sCMO] in accordance with the criteria laid down in Article 4 of Regulation (EC) No 882/2004 of the European parliament and of the Council⁹ and shall ensure that any operator complying with those obligations is entitled to be covered by a system of checks.

⁹ OJ L 165, 30.4.2004, p.1.

3. Within the Union, annual verification of compliance with the product specification, during the production and during or after conditioning of the wine shall be ensured by the competent authority referred to in paragraph 2 or by one or more control bodies within the meaning of point 5 of the second subparagraph of Article 2 of Regulation (EC) No 882/2004 operating as a product certification body in accordance with the criteria laid down in Article 5 of that Regulation.

[4. The Commission shall, by means of implementing acts, adopt the following:

- (a) the communications to be made by the Member States to the Commission;
- (b) rules on the authority responsible for the verification of compliance with the product specification, including where the geographical area is in a third country;
- (c) the actions to be implemented by the Member States to prevent the unlawful use of protected designations of origin, and protected geographical indications and protected traditional terms;
- (d) checks and verification to be carried out by the Member States, including testing

Those implementing acts ~~provided for in the first subparagraph~~ shall be adopted in accordance with the examination procedure referred to in Article 112(3) or, where they relate solely to the common organisation of markets, in the corresponding Article xxx of Regulation (EU) No xxx/xxx[sCMO].]

TITLE VI

CROSS COMPLIANCE

Chapter I

Scope

Article 91

General principle

1. When a beneficiary referred to in Article 92 does not comply ~~on the holding~~, with the rules on cross-compliance as laid down in Article 93, an administrative penalty shall be ~~applied to imposed on~~ that beneficiary.
2. The administrative penalty referred to in paragraph 1 shall only apply ~~only in so far as~~ where
 - (a) the non-compliance is the result of an act or omission directly attributable to the beneficiary concerned; and where one, or both, of the following additional conditions are met:
 - (b) the non-compliance is related to the agricultural activity of the beneficiary; and or
 - (c) the area of the holding of the beneficiary is concerned.

However, With regard to ~~for~~ forest areas, however, this penalty shall not apply in so far as no support is claimed for the area concerned ~~area~~ in accordance with Articles 22(1)(a), 31 and 35 of Regulation (EU) No xxx/xxx[RD].

3. For the purpose of this Title:

a) 'holding' means all the production units and areas managed by the beneficiary referred to in Article 92 situated within the territory of the same Member State;

b) **"requirement" means each individual statutory management requirement under Union legislation referred to in Annex II within a given act, differing in substance from any other requirements of the same act.**

Article 92

Beneficiaries concerned

Article 91 shall apply to beneficiaries receiving direct payments under Regulation (EU) No xxx/xxx[DP], payments under Articles 44 and 45 of Regulation (EU) No xxx/xxx[sCMO] and the annual premia under Articles 22(1)(a) and (b), 29 to 32, 34 and 35 of Regulation (EU) No xxx/xxx[RDs].

However, Article 91 shall not apply to beneficiaries participating in the small farmers scheme **as** referred to in Title V of Regulation (EU) No xxx/xxx[DP]. **and The penalty provided for in that Article shall also not apply to the support to the beneficiaries receiving aid under as referred to in** Article 29(9) of Regulation (EU) No RD/xxx.

Article 93

Rules on cross-compliance

The rules on cross-compliance shall be the statutory management requirements under Union legislation and the standards for good agricultural and environmental condition of land established at national level as listed in Annex II, relating to the following areas:

- (a) environment, climate change and good agricultural condition of land;
- (b) public, animal and plant health;

The acts referred to in Annex II in relation to the statutory management requirements shall apply as in force and, in case of Directives, as implemented by the Member States.

To be completed

Article 94

Obligations of Member States relating to good agricultural and environmental condition

Member States shall ensure that all agricultural area, including land which is no longer used for production purposes, is maintained in good agricultural and environmental condition. Member States shall define, at national or regional level, minimum standards for beneficiaries for good agricultural and environmental condition of land on the basis of Annex II, taking into account the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, crop rotation, farming practices, and farm structures. Member States shall not define minimum requirements which are not established in Annex II.

Article 95

Information to beneficiaries

Member States shall provide the beneficiaries concerned, where appropriate by the use of electronic means, with the list of, **and clear and precise information on, the requirements and standards to be applied at farm level.**

Chapter II

Control system and administrative penalties in relation to cross-compliance

Article 96

Checks of cross-compliance

1. Member States shall make use, where appropriate, of the integrated system laid down in Chapter II of Title V and in particular of elements referred to in Article 69(1) points (a), (b), (d), (e) and (f).

Member States may make use of their existing administration and control systems to ensure compliance with the rules on cross compliance.

Those systems, and notably the system for the identification and registration of animals set up in accordance with Council Directive 2008/71/EC of 15 July 2008 on the identification and registration of pigs¹⁰ and Regulations (EC) No 1760/2000 and (EC) No 21/2004, shall be compatible with the integrated system referred to in Chapter II of Title V of this Regulation.

2. Depending on the requirements, standards, acts or areas of cross-compliance in question, Member States may decide to carry out administrative checks, in particular those already provided for under the control systems applicable to the respective requirement, standard, act or area of cross compliance.
3. Member States shall carry out on-the-spot checks to verify whether a beneficiary complies with the obligations laid down in this Title.

To be completed.

¹⁰ OJ L 213, 8.8.2008, p. 31.

Application of the administrative penalty

1. The administrative penalty provided for in Article 91 shall be applied when the rules on cross-compliance are not complied with at any time in a given calendar year (~~hereinafter referred to as~~ 'the calendar year concerned'), and the non-compliance in question is directly attributable to the beneficiary who submitted the aid application or the payment claim in the calendar year concerned.

The first subparagraph shall apply *mutatis mutandis* to beneficiaries which are found not to have complied with the rules on cross-compliance, at any time during three years from 1 January of the year following the calendar year in which the first payment was granted under the support programmes for restructuring and conversion or at any time during one year from 1 January of the year following the calendar year in which the payment was granted under the support programmes for green harvesting referred to in Regulation (EU) No [SCMO] (~~hereinafter referred to as~~ 'the years concerned').

2. In cases where the land is transferred during the calendar year concerned or the years concerned, paragraph 1 shall also apply where the non-compliance in question is the result of an act or omission directly attributable to the person to whom or from whom the agricultural land was transferred. By way of derogation, where the person to whom the act or omission is directly attributable has submitted an aid application or a payment claim in the calendar year concerned or the years concerned, the administrative penalty shall be applied on the basis of the total amounts of the payments referred to in Article 92 granted or to be granted to that person.

For the purpose of this paragraph, 'transfer' shall mean any type of transaction whereby the agricultural land ceases to be at the disposal of the transferor.

3. Notwithstanding paragraph 1, Member States may decide not to apply an **administrative** penalty per beneficiary and per calendar year when the amount of the penalty is EUR 100 or less subject to the rules to be adopted pursuant to Article 101.

Where a Member State decides to make use of the option provided for in the first subparagraph, the competent authority shall, for a sample of beneficiaries, take in the following year the actions necessary to verify that the beneficiary has remedied the findings of non-compliance concerned. The finding and the obligation to take remedial action shall be notified to the beneficiary.

4. The **administrative** penalty does not affect the legality and regularity of the payments on which the reduction or exclusion applies.

Article 98

Application of the administrative penalty in Bulgaria, ~~and Croatia~~ and Romania

For Bulgaria and Romania, the **administrative** penalties referred to in Article 91 shall be applied at the latest from 1 January 2016 as regards the statutory management requirements in the area of animal welfare referred to in Annex II.

For Croatia, the penalties referred to in Article 91 shall be applied in accordance with the following time schedule as regards the statutory management requirements (SMR) referred to in Annex II:

- (a) from 1 January 2014 for SMR 1 to SMR 3 **and SMR 6 to SMR 8**;
- (b) from 1 January 2016 for SMR 4, **SMR 5, SMR 9 and** ~~to~~ SMR 10;
- (c) from 1 January 2018 for SMR 11 to SMR 13.

Article 99

Calculation of the administrative penalty

1. The administrative penalty provided for in Article 91 shall be applied by means of reduction or exclusion of the total amount of the payments listed in Article 92 granted or to be granted to that beneficiary **in respect of aid applications he has submitted or will submit in the course of the calendar year of the finding.**

1.

2. In the case of non compliance due to negligence, the percentage of reduction shall not exceed 5 % and, in the case of ~~repeated non-compliance~~ **reoccurrence**, 15 %.

To be completed

3. In the case of *intentional* non-compliance, the percentage of reduction shall in principle not be less than 20 % and may go as far as total exclusion from one or several aid schemes and apply for one or more calendar years.
4. In any case, the total amount of reductions and exclusions for one calendar year shall not be more than the total amount referred to in the first subparagraph of paragraph 1.

Article 100

Amounts resulting from cross-compliance

To be completed

Implementing ~~Delegated~~ powers

To be completed

**TITLE VII
COMMON PROVISIONS**

**Chapter I
Communication**

Communication of information

1. In addition to the provisions laid down in the sectoral Regulations, Member States shall send to the Commission the following information, declarations and documents:
 - (a) for accredited paying agencies and accredited coordinating bodies:
 - (i) their accreditation document;
 - (ii) their function (accredited paying agency or accredited coordinating body);
 - (iii) where relevant, the withdrawal of their accreditation,

- (b) for certification bodies:
 - (i) their name;
 - (ii) their address details,
- (c) for measures relating to operations financed by the EAGF and the EAFRD:
 - (i) declarations of expenditure, which also act as payment requests, signed by the accredited paying agency or the accredited coordinating body and accompanied by the requisite information;
 - (ii) estimates of their financial requirements, with regard to the EAGF and, with regard to the EAFRD, an update of estimated declarations of expenditure which will be submitted during the year and estimated declarations of expenditure in respect of the following financial year;
 - ~~(iii) by 15 February of the year following the financial year concerned, when a Member State has accredited more than one paying agency, a synthesis report consisting of an overview at national level of all management declarations of assurances and the audit opinions thereon from the certification bodies;~~
 - (iv) the management declaration ~~of assurance~~ and the annual accounts of the accredited paying agencies;
 - (v) an **annual** summary of the results of all available audits and checks carried out in accordance with the schedule and detailed provisions laid down in the sector specific rules.

The annual accounts of accredited paying agencies relating to EAFRD expenditure shall be submitted at the level of each programme.

2. Member States shall inform the Commission in detail of the measures taken to implement the good agricultural and environmental condition referred to in Article 94 and the details of the farm advisory system referred to in Title III.
3. Member State shall inform the Commission regularly of the application of the integrated system referred to in Chapter II of Title V. The Commission shall organise exchanges of views on this subject with the Member States.

Article 103

Confidentiality

1. Member States and the Commission shall take all necessary steps to ensure the confidentiality of the information communicated or obtained under inspection and clearance of accounts measures implemented under this Regulation.

The rules laid down in Article 8 of Council Regulation (Euratom, EC) No 2185/96¹¹ shall apply to that information.

2. Without prejudice to national provisions relating to legal proceedings, information collected in the course of scrutiny as provided for in Chapter III of Title V shall be protected by professional secrecy. It may not be communicated to any persons other than those who, by reason of their duties in the Member States or in the institutions of the Union, are required to have knowledge thereof for the purposes of performing those duties.

¹¹ OJ L 292, 15.11.1996, p. 2.

Commission powers

The Commission may, by means of implementing acts, adopt rules pertaining to:

- (a) the form, content, intervals, deadlines and arrangements for transmitting or making available to the Commission:
 - (i) declarations of expenditure and estimates of expenditure and their updates, including assigned revenue;
 - (ii) management declaration ~~of assurance~~ and annual accounts of the paying agencies, as well as the results of all available audits and controls carried out;
 - (iii) the account certification reports;
 - (iv) the names and particulars of accredited paying agencies, accredited coordinating bodies and certification bodies;
 - (v) arrangements for taking account of and paying expenditure financed by the EAGF and the EAFRD;
 - (vi) notifications of financial adjustments made by Member States in connection with rural development operations or programmes, and summary reports on the recovery procedures undertaken by the Member States in response to irregularities;
 - (vii) information on the measures taken pursuant to Article 60.
- (b) the arrangements governing exchanges of information and documents between the Commission and the Member States, and the implementation of information systems, including the type, format and content of data to be processed by these systems and the corresponding data storage rules;

- (c) the notification to the Commission by Member States of information, documents, statistics and reports, as well as the deadlines and methods for their notification.

Those implementing acts **provided for in the first subparagraph** shall be adopted in accordance with the examination procedure referred to in Article 112(3).

CHAPTER II

Use of the euro

Article 105

General principles

1. The amounts given in the Commission decisions adopting rural development programmes, the amounts of commitments and payments by the Commission and the amounts of expenditure attested or certified and amounts in declarations of expenditure by the Member States shall be expressed and paid in euro.
2. The prices and amounts fixed in the sectoral agricultural legislation shall be expressed in euro. They shall be granted or collected in euro in the Member States which have adopted the euro and in the national currency in the Member States which have not.

Article 106

Exchange rate and operative event

1. The prices and amounts referred to in Article 105(2) shall be converted in the Member States which have not adopted the euro into the national currency by means of an exchange rate.

2. The operative event for the exchange rate shall be:
- (a) the completion of customs import or export formalities in the case of amounts collected or granted in trade with third countries;
 - (b) the event whereby the economic objective of the operation is attained in all other cases.

To be completed

4. As regards EAGF, when drawing up their declarations of expenditure, Member States which have not adopted the euro shall apply the same exchange rate as that which they used to make payments to beneficiaries or receive revenue, in accordance with the provisions of this Chapter.
5. In order to specify the operative event referred to in paragraph 2 or to fix it for reasons peculiar to the market organisation or the amount in question, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 containing rules on those operative events and the exchange rate to be used. The specific operative event shall be determined taking account of the following criteria:
- (a) actual applicability as soon as possible of adjustments to the exchange rate;
 - (b) similarity of the operative events for analogous operations carried out under the market organisation;
 - (c) coherence in the operative events for the various prices and amounts relating to the market organisation.
 - (d) practicability and effectiveness of checks on the application of suitable exchange rates.

6. In order to avoid the application by the Member States which have not adopted the euro of different exchange rates in accounts of revenue received or aid paid to beneficiaries in a currency other than the euro, on the one hand, and in the establishment of the declaration of expenditure drawn up by the paying agency, on the other, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 containing rules on the exchange rate applicable when declarations of expenditure are drawn up and public storage operations recorded in the accounts of the paying agency.

Article 107

Safeguard measures and derogations

1. The Commission may, by means of implementing acts, adopt measures in order to safeguard the application of Union legislation if exceptional monetary practices related to national currency are likely to jeopardise it. Those measures may, where necessary, derogate from the existing **rules for a period of time which is strictly necessary to safeguard the application of Union legislation**.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

The European Parliament and the Council and the Member States shall be notified forthwith of the measures referred to in the first subparagraph.

2. Where exceptional monetary practices concerning a national currency are liable to jeopardise the application of Union legislation, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 derogating from this Section, in particular in the following cases:
 - (a) where a country uses abnormal exchange techniques such as multiple exchange rates or operates barter agreements;

- (b) where countries have currencies which are not quoted on official foreign exchange markets or where the trend in such currencies is likely to create distortion in trade.

Article 108

Use of the euro by non-euro Member States

1. If a Member State which has not adopted the euro decides to pay the expenditure resulting from sectoral agricultural legislation in euro rather than in its national currency, the Member State shall take measures to ensure that the use of the euro does not provide a systematic advantage compared with the use of national currency.
2. The Member State shall notify the Commission of the measures planned before they come into effect. The measures may not take effect until the Commission has notified its agreement thereto.

CHAPTER III

Report and evaluation

Article 109

Annual financial report

By end September of each year following the budget year, the Commission shall draw up a financial report on the administration of the EAGF and the EAFRD during the previous financial year and shall submit it to the European Parliament and the Council.

Monitoring and evaluation of common agricultural policy

[1. A common monitoring and evaluation framework shall be established with a view to measuring the performance of the common agricultural policy, and in particular of:

a) the direct payments provided for in Regulation (EU) No .../[DP],

(b) the market measures provided for in Regulation (EU) No

(c) the rural development measures provided for in Regulation (EU) No .../[RD] and of,

(d) the ~~application of the cross compliance provided for in~~ provisions of this Regulation.

The Commission shall monitor these policy measures on the basis of reporting by Member States in accordance with the rules laid down in this- these Regulations. The Commission shall establish a multi-annual evaluation plan with periodic evaluations of specific instruments which it will carry out.]

[In order to ensure an effective performance measurement the Commission shall be empowered to adopt delegated acts in accordance with Article 111 regarding the content and construction of that framework.]

2. The ~~impact~~ **performance** of the common agricultural policy measures referred to in paragraph 1 shall be measured in relation to the following objectives:

(a) viable food production, with a focus on agricultural income, agricultural productivity and price stability;

(b) sustainable management of natural resources and climate action, with a focus on greenhouse gas emissions, biodiversity, soil and water;

(c) balanced territorial development, with a focus on rural employment, growth and poverty in rural areas.

The Commission shall define, by means of implementing acts, the set of indicators specific to the objectives referred to in the first subparagraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

3. The monitoring and evaluation framework shall reflect the structure of the common agricultural policy in the following way:

(a) For the direct payments provided for in Regulation (EU) No DP/xxx, the market measures provided for in Regulation (EU) No CMO/xxx, and of the application of the cross compliance provided for in this Regulation, the Commission shall monitor these instruments based on reporting by Member States in accordance with the rules laid down in this regulation. The Commission shall establish a multi-annual evaluation plan with periodic evaluations of specific instruments to be carried out under Commission responsibility. Evaluations shall be carried out timely and by independent evaluators.

(b) The monitoring and evaluation of rural development policy intervention will be carried out according to Articles 74 to 86 of Regulation (EU) No RD/xxx.

The Commission shall ensure that the combined impact of all common agricultural policy instruments referred to in paragraph 1 will be measured and assessed in relation to the common objectives referred to in paragraph 2. The performance of the common agricultural policy in achieving its common objectives shall be measured and assessed on the basis of common impact indicators, and the underlying specific objectives on the basis of result indicators. Based on evidence provided in evaluations on the common agricultural policy, including evaluations on rural development programmes, as well as other relevant information sources, reports on measuring and assessing the joint performance of all common agricultural policy instruments shall be prepared by the Commission.

3. Member States shall provide the Commission with all the information necessary to permit the monitoring and evaluation of the measures concerned. **As far as possible, such information shall be based on established sources of data, such as the Farm Accountancy Data Network and Eurostat.** The Commission shall take into account the data needs and synergies between potential data sources, in particular their use for statistical purposes when appropriate.

The Commission shall adopt, by means of implementing acts, rules on the information to be sent by the Member States, **taking into account the need to avoid any undue administrative burden**, as well as on the data needs and synergies between potential data sources. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

- ~~45.~~ The Commission shall present a **first** report on the implementation of this Article, **including first results on the performance of the common agricultural policy**, to the European Parliament and the Council **not later than 31 December 2018. A second report including an assessment of the performance of the common agricultural policy shall be presented not later than 31 December 2021.**~~every four years. The first report shall be presented not later than 31 December 2017.~~

Chapter IV

Transparency

Article 110a

Publication of beneficiaries

1. Member States shall ensure annual ex post publication of the beneficiaries of the EAGF and the EAFRD. The publication shall contain:
 - (a) without prejudice to the first paragraph of Article 110b of this Regulation, the name of the beneficiaries, as follows:
 - (i) the first name and the surname where the beneficiaries are natural persons;
 - (ii) the full legal name as registered where the beneficiaries are legal persons with the autonomous legal personality pursuant to the legislation of the Member State concerned;
 - (iii) the full name of the association as registered or otherwise officially recognised where the beneficiaries are associations without an own legal personality;
 - (b) the municipality where the beneficiary resides or is registered and, where available, the postal code or the part thereof identifying the municipality;
 - (c) the amounts of payment corresponding to each measure financed by the EAGF and the EAFRD received by each beneficiary in the financial year concerned;

(d) the nature and the description of the measures financed by the EAGF or the EAFRD and under which the payment referred to in point (c) is awarded.

The information referred to in the first subparagraph shall be made available on a single website per Member State. It shall remain available for two years from the date of the initial publication.

2. As regards the payments corresponding to the measures financed by the EAFRD as referred to in point (c) of the first subparagraph of paragraph 1, the amounts to be published shall correspond to the total public funding, including both the Union and the national contribution.

[Article 110b]

Threshold

Where the amount of aid received in one year by a beneficiary is equal or less than the amount fixed by a Member State pursuant to Article 49 of Regulation (EU) No DP/xxx that Member State shall not publish the name of that beneficiary as provided for in point (a) of the first subparagraph of Article 110a(1) of this Regulation.

The amounts fixed by a Member State pursuant to Article 49 of Regulation (EU) No DP/xxx and notified to the Commission under that Regulation shall be made public by the Commission in accordance with the rules adopted under Article 110d.

Where the first paragraph of this Article applies the Member States shall publish the information referred to in points (b), (c) and (d) of the first subparagraph of Article 110a(1) and the beneficiary shall be identified by a code. Member States shall decide on the form of that code.]

Article 110c

Information of the beneficiaries

Member States shall inform the beneficiaries that their data will be made public in accordance with Article 110a and that the data may be processed by auditing and investigating bodies of the Union and the Member States for the purpose of safeguarding the Union's financial interests.

In accordance with the requirements of Directive 95/46/EC, where personal data is concerned, the Member States shall inform the beneficiaries of their rights under the data protection rules and of the procedures applicable for exercising those rights.

Article 110d

Commission powers

The Commission shall, by means of implementing acts, lay down rules:

- (a) on the form, including the way of presentation by measure, and the calendar of the publication foreseen in Articles 110a and 110b;
- (b) for the uniform application of Article 110c;
- (c) on the cooperation between the Commission and Member States.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).

Article 111

Exercise of the delegation

To be completed

Article 112

Committee procedure

To be completed

Article 112a

Processing and protection of personal data

To be completed

Article 112b

To be completed

Article 113

Repeal

To be completed

Article 114

Transitional measures

To be completed

Article 115

Entry into force and application

To be completed
