



Council of the European Union
General Secretariat

**Interinstitutional files:
2018/0217(COD)**

Brussels, 01 December 2020

WK 12770/2020 ADD 3

LIMITE

**AGRI
AGRIFIN
AGRIORG
AGRISTR
CODEC
CADREFIN**

WORKING PAPER

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Financial Agricultural Questions
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 - Comments from the Swedish delegation

Delegations will find attached comments from the Swedish delegation on the voted EP amendments on the proposed Horizontal Regulation.

Proposed Horizontal Regulation:
views of delegations on EP's amendments (doc. 12146/20)

Comments from Member State: Sweden

General comment on the new delivery model

Sweden supports the principles of the new delivery model. Many of the amendments from the European Parliament, e.g. articles 35 and 52, however, seem to be undermining the new model which we cannot support. Sweden opposes a system that combines the current and the new model and thus creates unnecessary administrative burden. We believe a good balance between assurance and administrative burden was struck in the Council position and we find it difficult to on a short notice analyse exactly how the EP proposals would affect this balance. Our preliminary view is, however, that the EP proposals would imply less assurance and more administrative burden.

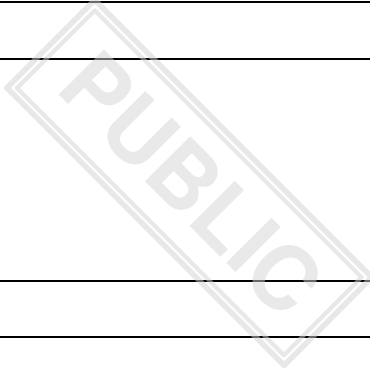
General comment on implementing and delegated acts

A lot of the proposed amendments concern transforming implementing acts into delegated acts. Sweden is generally not in favor of this.

AM	Article	Acceptable	Not acceptable (explain why not)	Possibly acceptable subject to re-drafting (provide drafting suggestions)	Comments
272	2(1)b				
272	2(1)c & ca- cf		Sweden is skeptical to the amendment as the introduction of		



			the notion “union requirements” (ca) does not seem to be compatible with the principles of the new delivery model. For the same reason we would like to delete the reference to the public procurement directive (c).		
39	3(1) -a (new)		Sweden would like to ensure that the additions proposed by the EP regarding force majeure, does not impede the flexibility of Member States when designing their own force majeure provisions		
40	3(1)a				
41	3(1)a point a (new)				
42	3(1)a point b (new)		Not acceptable. European agriculture should be competitive, this risks undermining agricultural competitiveness.		
43	3(1)b				



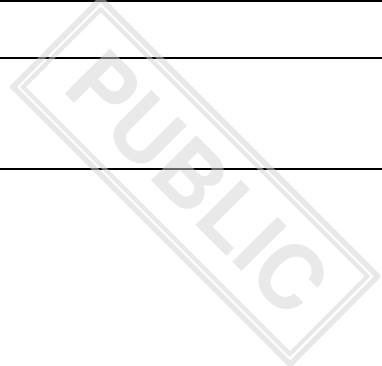
44	3(1)c				
45	3(1)a (new)		Sweden believes the necessity of this article should be analyzed by the legal service		
46	6(1)				
47	7(1)				
48	7(1)f				
49	7(1)h				
50	7 a (new)				
273/rev	8		Not acceptable – this would burden national administrations more than necessary (3b and EP amendment on page 40 3.a).		
63	9				
222	10 a (new)				
274	11				
74	12(1)				
75	12 a (new)				
76	14(1) sub 1		The CION:s proposal is more fit for purpose formulation and is more in line with the political		



			guidance on the agricultural reserve given by the EUCO conclusions from July.		
77	14(1) sub 2		We are skeptical regarding suggestions that permit an accumulation of funds in the agricultural reserve. We believe this would not be in line with the financial provisions as explained by the CION. We are hesitant when it comes to allowing further measures to be funded by the reserve.		
78	14(1) sub 2 a (new)		We do not find the empowerment appropriate		
79 & 242	14(1) sub 3		See comment for 14(1) sub 2		
80	14(2) sub -1 (new)		Not acceptable – the CION:s formulation is more in line with the political guidance from the EUCO, and is also more fit for purpose.		



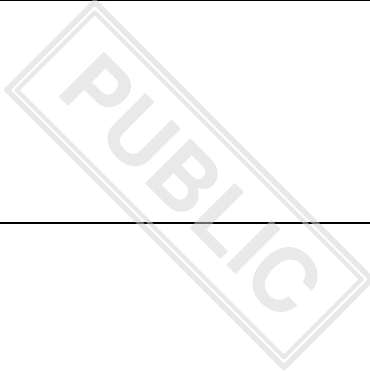
81	14(2) sub 1		<p>Not acceptable. The EUCO conclusions of June this year stipulates that the reserve maximal can be 450 million euros each year in current prices. The EUCO does not prejudice the necessity of increases. Instead the EUCO foresees the need to be no larger than 450 million euros in current prices each year. The EUCO also states that the crisis reserve should be finances <i>within</i> the ceilings (i.e., the commitment appropriations and margins of this specific budget line). This is a red line for Sweden, we cannot accept such a clear deviation from the EUCO-conclusions on this matter.</p>		
82 & 244	14(2) sub 1		<p>See comment for paragraph 1 amendment 81</p>		



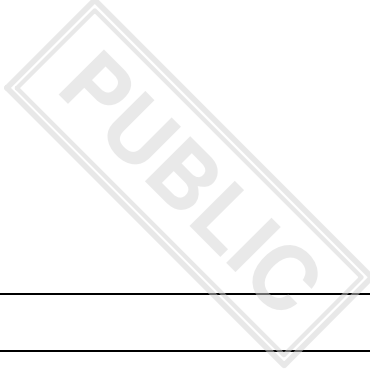
	a (new)				
83	14(2) sub 2		Not acceptable, it is an agricultural reserve.		
84 & 247	14(2) sub 3		Not acceptable. The EUCO conclusions from July 2020 give clear guidance on this matter (se article 91). This is a red line for Sweden, the EUCO should be followed, especially where clear guidance is given.		
85	15(1) sub 1				
86	15(1) sub 1 a (new)				
87	19(6)		Not acceptable as we believe the CION proposal would avoid unnecessary administrative burden.		
88	22(2)		Not acceptable		We would like to underline the importance of not making controls through the area monitoring system (AMS) mandatory as we still see the risk of having to carry out a large amount of complementary on the spot checks due to unsatisfactory



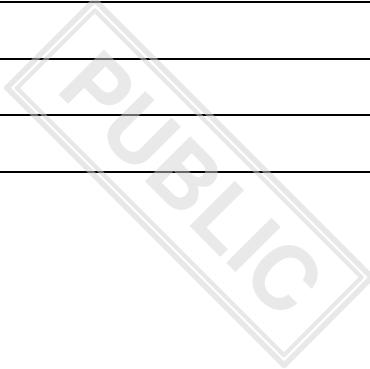
					quality of satellite images. All requirements in our support schemes are, at this stage, not suitable for control through AMS and our semi-natural pastures contain trees and cannot be controlled by AMS in a correct way.
89	22(4)		Not acceptable		See AM 88
90	23(1) point b				
91	23(1) point d				
92	23(2)		We are hesitant as regards the widening the scope for the employment of the AMS at this early stage of its development		
93	29(1) sub 1 point a		Not acceptable. The EUCO conclusions from July 2020 give clear guidance on this matter (se article 95). This is a red line for Sweden, the EUCO should be followed, especially where clear guidance is given.		



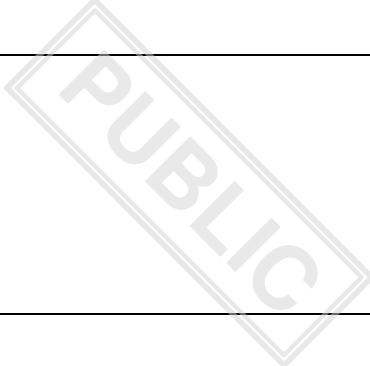
94	29(1) sub 1 point b		This is a red line for Sweden, the EUCO should be followed, especially where clear guidance is given.		
95	29(3)		Not acceptable – the EUCO does not prejudge that prefinancing should be higher than stated in article 95 in the EUCO conclusions from June.		
96	29(4)		Not acceptable. Income from interest rates from prefinancing in CAP should finance CAP. This is only orderly budgeting. Also “regional” should be eliminated. CAP is not a regional fund.		
97	30(1)		Not acceptable. Means allocated under heading 3 for the CAP should finance CAP. Means cannot be reshuffled to programs under another heading, as this must breach the EUCO conclusions who have set the		



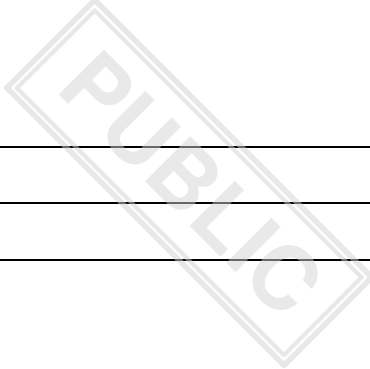
			heading ceilings clearly? As such, “for each Regional Intervention Programme” should be delegated. The CAP is not cohesion policy.		
98	30(4) point				



	a				
99	31(1)				
100	31(3)				
101	32(1)		Not acceptable. The EUCO conclusions state the second year. This is a red line for Sweden, the EUCO should be followed, especially where clear guidance is given (se article 97).		
102	32(3)		Not acceptable. The EUCO gives guidance that the time periods should be as short as possible (se eg article 97 in EUCO conclusions). Therefore N+3 is a more correct interpretation of the EUCO:s guidance.		
103	32(4) sub 1 point a		The EUCO conclusions state the second year. This is a red line for Sweden, the EUCO should be followed, especially where clear guidance is given (se article 97).		



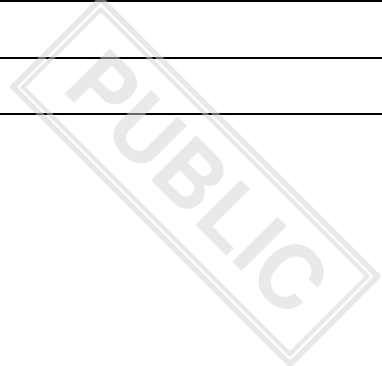
104	34(2)				
275	35		Sweden is skeptical regarding the proposal as it does not seem to be in line with the principles of the new delivery model		
109	37(2)				
110	37(3)				
276	38		Sweden supports the general principles of the NDM and would like to limit the scope of what should be reported on the 15 th of February.		
277	38 a (new)		The reporting exercise prescribed by the EP-amendment is far too zealous and would likely lead to unnecessary administrative burden for both the CION and the MS. While SE sympathizes with the EP:s ambition to ensure a sound financial management thorough control over		



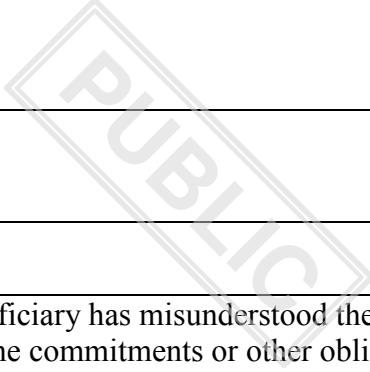
			the implementation of the cap – the control needs to be in proportion to the risk.		
278	39		See AM 277		
279	39 a (new)		See AM 277		
224	40		While Sweden sympathizes with the EP:s ambition to create a robust system for suspension of payments, Sweden cannot understand the purpose of the highly detailed governance the EP suggests..		
121	42(2) sub 2 point a		Further prefinancing should be avoided. The need for prefinancing suggests substandard budgeting principles. The funds requested each year should be inside the annual ceiling. Prefinancing is not required if requirements are well-specified.		
122	42(3)		See AM 121		
123	43(2)		Sweden is acceptable with this as long as it		

			does not stand in conflict with what the EUCO conclusions stipulate.		
124	44(1) sub 1				
125	44(1) sub 2				

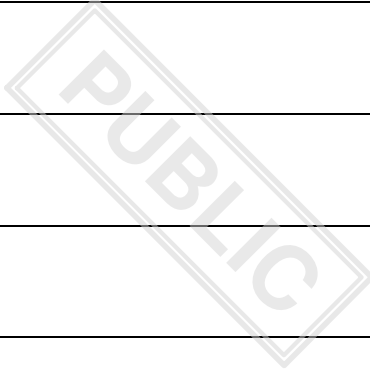
PUBLIC



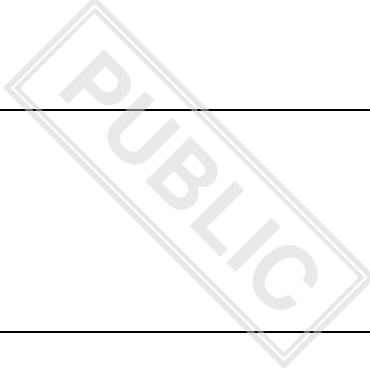
126	45(1) sub 1				
127	46(1)		Not acceptable		
282	47		Not acceptable. We do not believe the suggested set-up for audits from the CION is in line with the principles of the new delivery model.		
132	48(3)				
280	51				Beror på ställningstagande I art 52 (ändring 141)?
141	52		Sweden is skeptical as the amendment does not seem to be in line with the principles of the new delivery model		
281	53		Sweden is skeptical as the amendment does not seem to be in line with the principles of the new delivery model		
146	53 a (new				
147	54(1)				
148	54(1 a) (new)				
149	55(1) sub 1				
150	55(1) sub 2				



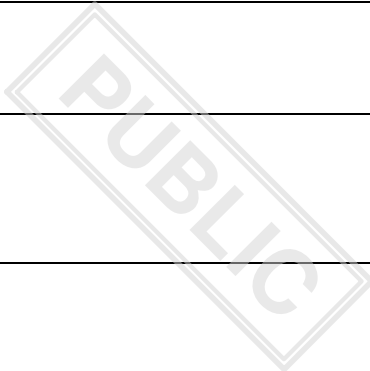
151	55(1) sub 2 a (new)				
152	55(1) sub 2 b (new)				
226	57				
159	57 a (new)			“the beneficiary has misunderstood the eligibility criteria, the commitments or other obligations concerning the allocation of aid or support with regard to their situation” should be delegated and Sweden can accept as a compromise. Very hard to judge if the misunderstanding indeed was real, and such a judgement would indeed be arbitrary. Could easily be misused.	
160	58(1) sub 2	Sweden supports the amendment as it seems to facilitate the work of the relevant authorities			
161	58(4) sub 1 point e				



162	62(3) point a				
163-179	IACS: Arts. 63-73				
164	63(4) point f	Sweden supports this clarification			
165			Not acceptable		We would like to underline the importance of not making controls through the area monitoring system (AMS) mandatory as we still see the risk of having to carry out a large amount of complementary on the spot checks due to unsatisfactory quality of satellite images. All requirements in our support schemes are, at this stage, not suitable for control through AMS and our semi-natural pastures contain trees and cannot be controlled by AMS in a correct way .
167	64(3)	Sweden supports the proposal as we believe that the Commission should always seek the assistance of speicalised bodies or persons when			

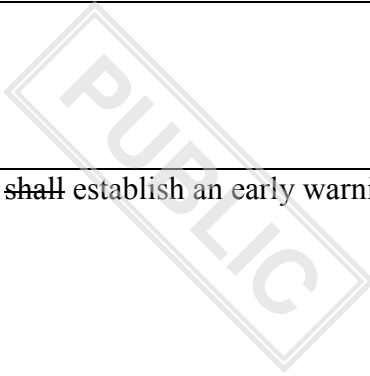


		monitoring the IACS of Member States			
168	65(1) sub 2	Sweden supports the proposal as summaries of data would be easier for administrations to handle.			
169	65(5) a (new)		Sweden is hesitant to the amendment as the definition of “reference data and attribute data” is unclear		
172	68(1)		Not acceptable		We would like to underline the importance of not making controls through the area monitoring system (AMS) mandatory as we still see the risk of having to carry out a large amount of complementary on the spot checks due to unsatisfactory quality of satellite images. All requirements in our support schemes are, at this stage, not suitable for control through AMS and our semi-natural pastures contain trees and cannot be controlled by AMS in a correct way.



173	68(2) sub 1		Not acceptable		See AM 172
175	70(1) a (new)		Not acceptable		Sweden believes it is necessary with greater flexibility as regards control samples.
176	70(2)		Sweden does not understand the intent of the amendment		
180	78(2)				
181	79	Sweden supports the deletion as we want to simplify the provisions related to scrutiny of transactions			
182-202	Controls / penalties: Arts. 84-87	See comments below			
	84				
183, 211cpl and 283cpl	84(1) sub 1		Not acceptable	<i>Proposed redrafting:</i> In order to ensure <u>there are no grave consequences for the achievement of</u> the applicable working and employment conditions resulting from relevant collective labour agreements and social and labour law at national, Union and international levels, Member States shall ensure <u>that a non-compliance shall be deemed to be</u> <u>'determined'</u> after having been brought to the	SE finds the working and employment conditions and/or the employer obligations under law are very important. There are several possibilities to strengthen the working conditions within CAP

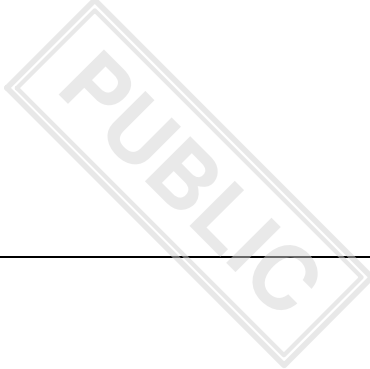
				<p><u>attention of the competent control authority for the control system referred to in the first subparagraph, by national authorities responsible for labour inspections.</u> cooperation between competent national authorities responsible for labour inspections and the control system referred to in the first subparagraph. In cross-border situations, coordination and cooperation shall also be ensured with the European Labour Authority (ELA) the functioning of which is regulated by Regulation (EU) 2019/1149 of the European Parliament and of the Council.</p>	<p>through knowledge and advisory services and through projects to prevent accidents. An inclusion in the conditionality would add to the complexity and might not be the right path. However, if included we suggest focusing only on the grave consequences of this new area of the legislation. Further, we suggest Member States should set up a system where certain grave non-compliances should be reported by national authorities responsible for labour inspections and based on their inspections. This way the administrative burden stemming for the inclusion could be minimized.</p>
184, 211cp3 and 283cp3	84.2 sub 2 point b a (new)		Not acceptable	<p>(ba) ‘reoccurrence of a non-compliance’ means the non-compliance with the same requirement or standard determined more than once <u>within a consecutive period of three calendar years</u>, provided that the beneficiary has been informed of a previous noncompliance and, as the case may be, has had the possibility to take the necessary measures to remedy that previous non-compliance</p>	<p>The definition corresponds to today’s application of reoccurrence. However, it needs to be clarified when it comes to what interval should be considered for a reoccurrence. In current rules it is within three years, in article 38.1 in (EU) 640/2014. Else, a reoccurrence would be for unlimited time and</p>



					that would be very burdensome for beneficiaries and for authorities.
187, 211cp3 and 283cp3	Art 84.3. ca) new		Not acceptable	(ca) shall <i>may</i> establish an early warning system;	SE find that the inclusion is unclear. If the Early Warning System is the same as used for minor non-compliances today it should not be mandatory for Member States.
188, 211cp3 and 283cp3	Art 84.3.d		Not acceptable		The council position should be reintroduced and a control sample of 1 % maintained.
291	Art 84.3.a) new		Not acceptable		SE strongly rejects the suggestion to introduce a 5 % control sample for on the spot checks.
191 and 211cp6	Art 84.3.c)		Not acceptable		In today's rules it is voluntary for Member States (EU 809/2014 art 69.1) to apply a risk analysis, and we find it could be useful. However, SE does not support to make the rules mandatory.
212cp2 and 294	Art 85.1 sub 2 point, b a new			Under that system, the administrative penalties referred to in the first subparagraph shall only apply where the non-compliance is the result of an act or omission directly attributable to the beneficiary concerned; and where <i>a) or b) are met, alternatively ba) combined with a) or b) one, two</i>	



				<i>or all of the following conditions</i> are met	
	Art 85				“the non-compliance affects the working and employment conditions of the workers employed by the beneficiary” should be delegated. Not relevant to CAP and not in fact entirely the competency of the EU. Employment standards are a national competence.
229	86		Not acceptable		SE finds it extremely important to keep to council position of 86.2, 2.a and 3. Further the use of Early Warnings system should be voluntary for Member States. SE finds the use of “as a general 3 % very problematic, in 86.2 and if introduced in 86.3 with a “as a general rule 10 %” would be interpreted in a way that most reoccurrences should have a penalty of 10 %, this would be contrary to make individual assessments.



					SE does not support to reintroduce “as a general rule 15 %” in 86.4, as it could lead to 100 % penalty irrespective of the severity of the non-compliances.
230	96(1)		Sweden is sceptical to the amendment as we want to avoid unnecessary administrative burden for beneficiaries.		
203	100 a (new)			Unnecessary clarification? But acceptable.	
204	102(1) sub 2 point a				
205	103		We find the rationale behind the proposed deletion unclear.		