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WORKING PAPER

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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 Croatian delegation

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

ANNEX

Proposed Horizontal Regulation:

views of delegations on EP's amendments (doc. 12146/20)

Comments from Member State: [*CROATIA*]

AM	**Article**	**Acceptable**	**Not acceptable (explain why not)**	**Possibly acceptable subject to re-drafting (provide drafting suggestions)**	**Comments**
272	2(1)b		Not acceptable – addition of the text referring to Article 57 and MS obligations regarding the effective protection of the financial interests of the Union is		

			unnecessary, it is understandable covered when it comes to the definition of governance system.		
272	2(1)c & ca-cf		Not acceptable – referring to Financial regulation and Public Procurement Directive, we consider it to detailed and absolutely unnecessary. What is more, definitions of “union requirements”, “output and result indicators” and action plan are all comprised with the term “basic Union		We strongly support the text of Council’s “general approach”– compared to the Commission proposal only addition of definition for “serious deficiency” is acceptable.

			requirements, so it can be said that the whole point is missed here. And the point is also missing with the definition of “intermediate body” because EAFRD and EAGF governance structure does not include it.		
39	3(1) -a (new)	YES			Already included in the Council’s text
40	3(1)a	YES			
41	3(1)a point a (new)	YES			Already included in the Council’s text
42	3(1)a point b (new)	YES			Acceptable, but more clarity is needed on the nature of “market

					circumstances ”, i.e. which specific circumstances ?
43	3(1)b		Not acceptable – the word “accidental” needs to stay in point “b”		
44	3(1)c	YES			
45	3(1)a (new)		This amendment should be analysed furtherly.		By the moment, we are not against neither in favour.
46	6(1)	YES			
47	7(1)		Not acceptable – the word “increasing”, if added, could mean financing those activities only in that case (larger amount of those activities) and in that		

			sense we are strongly against. What is more, when referring to Article 86(3), we consider proposed additional text also unnecessary while financing administrations and building it's capacities is already implied in EAFRD contribution for technical assistance.		
48	7(1)f		Not acceptable – there is not clear purpose of this amendment		
49	7(1)h				The term „exchanging experiences" is covering

					also “with relevant stakeholders”
50	7 a (new)		Not acceptable- the role of competent authority is described and regulated in Art. 9 - the text of the Council’s “general approach is clearer and preferable		
273/rev	8		Not acceptable – Art. 3b could cause additional burden for national administrations and on the other hand all listed activities in par. 3b regarding audit reports and controls are already	*Possibly acceptable part of EP amendment**:*** ***The accreditation of paying agencies for the period 2014-2020 shall be carried over to the programming period 2021-2027, provided that they have informed the competent authority ~~that they are in compliance with the accreditation criteria~~, ~~and unless a review carried out pursuant to point (a) of Article 7a(2) shows that this is not the case.~~*** that they had adapted the administrative organization and a system of internal control to the CAP reform. Competent authority will confirm, based on review carried out, that paying agency is in compliance with accreditation criteria.	The task of the competent authority is to determine compliance with the accreditation criteria in accordance with Article 7a

			envisaged in Financial regulation and in other relevant regulations. Furtherly, text (in paragraph 2b) on accreditation of new paying agencies is unclear in term of meaning of the expression "the new paying agencies are appointed pursuant to an administrative reorganisation in the Member State concerned" and date 31 December		

			2019 for retaining the same number of paying agencies seems to be unlogic. With regard to all provisions in this amendment, we consider the text of Council "general approach" more appropriate and clearer.		
63	9		Not acceptable – see explanation for amendment 273/rev (Art. 8.)		
222	10 a (new)		Not acceptable – there is no need for separate article on		

			Coordination body. We prefer the text of Council "general approach".		
274	11		Not acceptable – Appointment of coordinating certification body is possibility for Member States that have more than one CB, in our opinion EP amendment imposes this possibility as an obligation. Art. 11(1)c i d; 11(2) – those provisions could require even more competence and work for certification	Comment / drafting suggestion on the Council's text: For the purposes of the first subparagraph of Article 63(7) of the Financial Regulation, the certification body shall provide an opinion, drawn up in accordance with internationally accepted audit standards, which shall establish whether: (a) the accounts give a true and fair view; (b) the ~~Member States~~ Paying Agency' governance systems put in place function properly Or For the purposes of the first subparagraph of Article 63(7) of the Financial Regulation, the certification body shall provide an opinion, drawn up in accordance with internationally accepted audit standards, which shall establish whether: (b) the Member States' governance systems put in place ~~function~~ properly	General comment from Croatian CA: the CB cannot give an opinion on the functioning of a system in a Member State as it is part of that system. Nor may it give an opinion on the Competent Authority which appoints and recalls it

			bodies than it envisaged in line with principles of NDM (new delivery model) and for performance of clearance of accounts		
74	12(1)		Not acceptable – the current text is clear enough		
75	12 a (new)		Not acceptable – For most of the list that comprises conditions, obligations, procedures, principles, methods, …etc for which Commission needs to be empowered to adopt delegated acts, it is		

			already agreed within the Council that IA would be more appropriate then DA.		
76	14(1) sub 1	YES			This amendment is acceptable, substance of proposed text remains unchanged but we still prefer Commission's proposal
77	14(1) sub 2	YES			
78	14(1) sub 2 a (new)		Not acceptable – necessity of del. act is questionable, threshold is commonly in basic act.		
79 & 242	14(1) sub 3	YES			Considering amendment Nr. 77 acceptable we can also

					accept this one .
80	14(2) sub -1 (new)		Not acceptable – text agreed within the Council is more preferable. EP proposal is not in with EUCO.		
81	14(2) sub 1		Not acceptable – there is no need for setting up exact maximum amount and it is not in line with EUCO.		
82 & 244	14(2) sub 1 a (new)		Not acceptable - it is not in line with EUCO.		
83	14(2) sub 2		Not acceptable – agricultural reserve is common term.		

84 & 247	14(2) sub 3		Not acceptable – roll-over of unused amount in CY 2020 to fund “agricultural reserve” in CY 2021 is agreed within the Council, moreover it is a part of EUCO.		
85	15(1) sub 1				
86	15(1) sub 1 a (new)	YES			Croatia is in favour the threshold of 2.000 EUR for application of FD.
87	19(6)		Not acceptable – Commission’ s text goes towards simplificatio n and reduction of administrativ e burden.		

88	22(2)		Not acceptable – we are more prone to the “area monitoring system”, it’s usage is a separate topic.		
89	22(4)		See the comment above		
90	23(1) point b	YES			
91	23(1) point d		Not acceptable – more clarity in Commission’s text		
92	23(2)	YES			
93	29(1) sub 1 point a		Not acceptable – no pre-financing in transitional years		EUCO from July this year should be followed.
94	29(1) sub 1 point b		Not acceptable – no pre-financing in transitional years		EUCO from July this year should be followed

95	29(3)		Not acceptable - EUCO should be followed		
96	29(4)		Not acceptable – only CAP should be financed from interest (pre-financing)		
97	30(1)		Not acceptable – funds that are in VFO provided for the financing of CAP can not be transferred to another programmes.		
98	30(4) point a		Not acceptable – the term “contribution” is more appropriate.		
99	31(1)		Not acceptable – Council’s text of		

			"general approach" provides more clarity.		
100	31(3)		Not acceptable – Council's text of "general approach" provides more clarity.		
101	32(1)	YES			During discussions on HoR, Croatia was in favour of retaining "status quo" regarding n+3 rule, so that we could accept EP amendment. However, according to EUCO conclusions on MFF n+2 is set out for the next period and we respect that as a factual.

102	32(3)	YES			See the comment on AM 101
103	32(4) sub 1 point a	YES			See the comment on AM 101
104	34(2)				
275	35		Not acceptable – the text of Council's "general approach" is clearer and provisions related to the NDM are missing in EP proposal.		
109	37(2)	YES			
110	37(3)	YES			
276	38		Not acceptable – there is more clarity in the text of Council's "general approach" and what is more, we can't accept the text in this article		

			without provisions related to NDM ("new delivery model")		
277	38 a (new)		Not acceptable – EP proposal provides for less favourable provision for benefiviary (difference between the expenditure declared and the amount correspondin g to the relevant reported output is **more than 35 %.** It is not clear what is the purpose of using the term "annual performance **monitoring**" instead of		

			“annual performance *clearance*”		
278	39		Not acceptable – the Council’s text of “general approach” Is clearer and more preferable. No need for such details in basic act, possible additional administrativ e burden.		
279	39 a (new)		Not acceptable – it is not in line with other provisions on “performance reserve”. It is unclear what is the meaning of “Such funds may be attributed to Member		

			States ***at the end of the CAP Strategic Plans …" i.e in which period those funds would need to be spent.***		
224	40		Not acceptable - to detailed description on handling deficiencies in MS governance system leads to less clarity.		
121	42(2) sub 2 point a		Council's text is more preferable, payments of advances is well regulated as it is in HoR proposal.		
122	42(3)		See above comment on AM 121		
123	43(2)	YES			

124	44(1) sub 1	YES			
125	44(1) sub 2		Not acceptable – the Council's text is clearer and simpler.		
126	45(1) sub 1		Not acceptable – we can't see necessity for this amendment.		
127	46(1)		Not acceptable – we can't see necessity for this amendment.		
282	47		Not acceptable – because provisions in line with new delivery model (NDM) have been removed, other additional provisions are unnecessary.		

132	48(3)				No comment.
280	51		Not acceptable – there must be reference to Article 52 in the context of performance clearance.		
141	52		Not acceptable - Croatia doesn’t support deletion of Art. 52 on Annual performance clearance.		
281	53		Not acceptable – Amendment is not in line with the principle of new delivery model		
146	53 a (new		Not acceptable – the 50:50 rule is abolished in new HoR proposal, the		

			text is to detailed. Croatia prefers the Council's text.		
147	54(1)	YES			We can accept this amendment, although it is implied.
148	54(1 a) (new)	YES			
149	55(1) sub 1		Not acceptable – The text of the Council's "general approach" is more appropriate.		
150	55(1) sub 2		Not acceptable – The text of the Council's "general approach" is more appropriate and provides more clarity.		
151	55(1) sub 2 a (new)	YES		Suggestion from our side would be to add "if applicable", because it could be the case that there is no future payments	

152	55(1) sub 2 b (new)				We don't understand the purpose of this amendment. The text proposed by EP is already existing in the Commission's proposal and in the Council's text
226	57		Not acceptable – for Croatia the text of Commission's proposal and Council's text of "general approach" is more appropriate. What is more, in paragraph 1 point a inclusion of checks of legality and regularity at		

			the level of beneficiary is not in line with the principle of new delivery model and the principle of subsidiarity.		
159	57 a (new)		Not acceptable – We consider it difficult (if possible at all) to determine that incompliance is made "in good faith". It could cause many legal proceedings when imposing administrative penalties.		
160	58(1) sub 2		Not acceptable – What is important here is that		

			Member States shall ensure proportionate level of checks, other details as stated in the EP proposal are not needed.		
161	58(4) sub 1 point e				
162	62(3) point a				
163-179	IACS: Arts. 63-73	AM 163 – added clarification is acceptable AM 168 - acceptable	AM 164 – Not acceptable – “a prefilled system” could mean additional burden for administrations AM 165 – no need for this amendment, area monitoring system is part of IACS.		

			AM 167 – there is no need for the term “shall”.		
180	78(2)		Not acceptable – We support the text agreed in the Council, i.e. retaining only necessary and simplified controls.		
181	79				Croatia supports the text as agreed in the Council, i.e. maximum simplification of those controls.
182-202	Controls / penalties: Arts. 84-87		AM 187 – not acceptable, early warning system will not be in place in the next		

			programming period as it was agreed during discussions. AM 291 (Art. 84.3a – Not acceptable - redline for us, increasing of originally proposed control sample rate of 1% to 5 % is absolutely unacceptable since it is not in line with the principle of reduction of administrative burden for administration as well as for farmers. It also will substantially increase control rate if		

			compared with current period, thus increasing administrative burden for administration as well as for farmers. AM 229 (Art. 86(4) – Not acceptable - the concept of intentionality is to difficult to apply in practice.		
230	96(1)		Not acceptable – it could only cause more complexity.		We support the text agreed in the Council.
203	100 a (new)		Not acceptable - We can't see the point of this clarification, shouldn't be in the basic act.		

204	102(1) sub 2 point a				
205	103		Not acceptable – EP proposal of deletion of article 103 is not clear.		