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WORKING PAPER

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From:	General Secretariat of the Council
To:	Working Party on Horizontal Agricultural Questions (CAP Reform)
N° Cion doc.:	9634/18 + COR 1 + ADD 1
Subject:	Proposal for a Regulation on the financing, management and monitoring of the CAP (Presidency drafting suggestions on Articles 63-73 and 84-87) - Comments from the Swedish delegation

Delegations will find attached the comments from the Swedish delegation on the Presidency's drafting suggestions on the abovementioned Articles, issued on 27 November 2019 as part of the consolidated Presidency drafting suggestions on the Horizontal Regulation (14465/19).

Comments from the Swedish delegation on the Presidency text on the Proposal for a Regulation on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 (14465/19)

Horizontal regulation art 86 Application and calculation of the penalty

Sweden appreciate the work of the Presidency and the support given by the Commission for the change in para 2a. It is an important step in the right direction to shift focus from applying administrative penalties for minor non-compliances to applying administrative penalties for non-compliances of greater severity.

However, to ensure simplification, we also find that the consequences of application of higher administrative penalties for reoccurrence in para 3 should be reserved for non-compliances that are of a more substantial character, for example non-compliances giving rise to a penalty higher than 3 % according to para 2, or at least higher than 1 %.

The unpredictable consequences from higher penalty rates from reoccurrence make farmers worried. It also causes an administrative burden for the authorities, as the German delegation showed on the technical work shop on the 25th of September in the expert group for cross compliance and FAS. The German delegation suggested a change in calculation method. However, Sweden finds that it would be better only to apply the rules of reoccurrence on non-compliances that are of a more substantial character.

Sweden suggest the following change:

86.3 In case of reoccurrence, **where the original non-compliance has resulted in a penalty higher than [1 alternatively 3] %**, the percentage reduction shall be higher than the one to be applied in case of non-compliance due to negligence and sanctioned for the first time **accordance with paragraph 2.**

Sweden finds that Member States should be given the subsidiarity of handling minor non-compliances, and thus the Commission's delegated powers in 86.5 should be limited to non-compliances of greater severity resulting in a penalty higher than 1 %.

86.54. In order to ensure a level-playing field between Member States and the effectiveness and dissuasive effect of the penalty system, **where the non-compliance has resulted in a penalty higher than 1 %** the Commission shall be empowered to adopt delegated acts in accordance with Article 100 supplementing this Regulation with further detailed rules on the application and calculation of penalties.