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EUROPEAN COMMISSION

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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Council Regulation (EC) No 1698/2005 on support for rural development by  
the European Agricultural Fund for Rural Development (EAFRD)**

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE PROPOSAL**

#### **1.1. Alignment to the Treaty on the Functioning of the European Union (TFEU)**

The Treaty on the Functioning of the European Union (the Treaty) makes a distinction between the powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act as laid down in Article 290(1) of the Treaty (delegated acts), and the powers conferred upon the Commission to adopt uniform conditions for implementing legally binding Union acts as laid down in Article 291(2) of the Treaty (implementing acts).

In the case of delegated acts, the Legislator delegates to the Commission the power to adopt quasi-legislative acts. In the case of implementing acts, the context is very different. Indeed, Member States are primarily responsible for the implementation of legally binding acts of the European Union. However, if the application of the legislative act requires uniform conditions for its implementation the Commission is authorised to adopt these acts.

The alignment exercise of Regulation (EC) No 1698/2005<sup>1</sup> on new rules of the Treaty is based on a classification on the basis of the new philosophy- a sorting between measures of implementing nature and measures of delegated nature- of the current Commission implementing powers which were adopted on the basis of Regulations (EC) No 1974/2006 and No 1975/2006.

Following this exercise, a draft proposal for amendment of Regulation (EC) No 1698/2005 has been prepared. This project provides the Legislator with the power to define the essentials of the rural development policy. The general guidelines of the policy and the general principles that underlie it are determined by the Legislator. Thus, the objectives of that particular policy and the principles of strategic approach, programming, complementarity, consistency and conformity with other policies of the Union are fixed by the Legislator. Similarly, the Legislator lays down the principles of partnership, subsidiarity and equality between men and women and non-discrimination.

Pursuant to Article 290 of the Treaty, the Legislator gives the Commission the task to complete or modify certain non-essential elements of its scheme. A Commission delegated act may therefore determine the additional elements necessary for the proper functioning of the regime established by the Legislator. Thus, the Commission shall adopt delegated acts in order to adopt exceptions for the rule that no rural development support should be granted to schemes eligible for support under common market organisations (Article 5(6)). Similarly, the Legislator delegates to the Commission the power to adopt detailed conditions concerning all the measures and technical assistance in order to ensure their coherent application in line with the requirements of EU policy, priorities and law (Articles 20, 32, 36, 38, 52, 63 and 66). In addition, the Commission shall adopt delegated acts regarding detailed rules for the reductions and exclusions (Article 51(4)). Furthermore, the Commission shall define a flexibility threshold for each axis (Article 70(1)) and define detailed rules for other forms of support than non-repayable direct assistance (Article 71(5)). The Commission shall fix detailed

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<sup>1</sup> OJ L 277, 21.10.2005, p. 1.

control rules (Article 74(4)). Finally, the Commission shall adopt specific transitional measures (Article 92(1)).

Member States in accordance with Article 291 of the Treaty are responsible for implementing the regime established by the Legislator. However, it seems necessary to ensure uniform implementation of the scheme in the Member States in order to avoid distortions of competition or discrimination between operators. Therefore, the Legislator gives the Commission powers of enforcement, in accordance with Article 291, paragraph 2 of the Treaty, as regards the uniform conditions for the presentation of rural development programmes (Article 18(3)), programme approval (Article 18(4)), approval of revision of programmes (Article 19(2)), determination of changes requiring approval by Commission decision (Article 19(2)), longer commitment periods (Articles 39(3), 40(2) and 47(1)), specific provisions on designation of areas (Article 50(4)), the establishment and operation of the national rural network (Article 66(3)), presentation of specific annual reports (Article 82(4)), a general framework of controls and a common monitoring and evaluation framework that Member states shall implement (Articles 74(4) and 80).

### **1.2. Reduction of the number of summary reports and simplification of their content under strategic monitoring**

As part of the simplification exercise of the CAP Member States requested to reduce the number of reports to the Commission. Under rural development, in addition to annual progress reports, Member States are required to submit to the Commission summary reports setting out the progress made in implementing their national strategy plans and objectives and their contribution to the achievement of the Community strategic guidelines.

Under the current rules, these summary reports are to be submitted each second year, starting from 2010 and ending in 2014, i.e. altogether three reports. The proposal would limit the number of reports to two, the first one to be submitted in 2010 and the second one in 2015, the former in the context of mid-term evaluation and the latter of *ex post* evaluation.

In addition, it is currently required that the report summarises the previous year's annual progress reports. This requirement should be dropped, as it duplicates the work.

As a consequence, also the number of Commission reports summarising the main developments, trends and challenges relating to the implementation of the national strategy plans and the Community strategic guidelines should be reduced to two, one in 2011 and the second one in 2016.

### **1.3. Extension of the coverage of the measure for producer groups**

As a follow up to the Commission Communication on a Better Functioning Food Supply Chain in Europe and the High Level Expert Group on Milk, the current provision to support the setting up and administrative operation of producer groups, which is already available for all sectors in the new Member States, should be extended to also cover EU-15. However, the possibility to support producer groups in the fruit and vegetable sector should not be allowed as possibilities to support their activities are available under Article 103b-103g of the single CMO.

#### **1.4. Facilitating more tailor-made use of the advisory services**

Also as part of the simplification exercise of the CAP, Member States proposed to change the rules for use of advisory services. Currently the rules require that, as a minimum, the advisory service to farmers should cover the statutory management requirements and the good agricultural and environmental conditions under cross-compliance as well as the occupational safety standards based on Union legislation.

In order to facilitate more tailor-made use of the advisory services and to reflect the individual needs of the beneficiary, the advisory service provided would not need to cover all the aspects listed, but one or more of them.

#### **1.5. Continuous linear features and stepping stones**

According to Article 10 of the Habitats Directive, Member States shall endeavour, where they consider it necessary, in their land-use planning and development policies and, in particular, with a view to improving the ecological coherence of the Natura 2000 network, to encourage the management of features of the landscape which are of major importance for wild fauna and flora.

Such features are those which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems for marking field boundaries) or their function as stepping stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild species.

These areas can play an important role for the coherence of Natura 2000 areas and relevant provisions should be included in order to allow Natura 2000 payments for these nationally delimited nature protection areas if sufficient justification is provided linking them to Article 10 of the Habitats Directive. In order to ensure that payments continue to be primarily used for the designated Natura 2000 sites, it seems to be appropriate to limit their proportion compared to the Natura 2000 areas. However, this provision is without prejudice to the endeavours of Member States under the Habitats Directive related to encouraging the management of landscape features which are of major importance for wild fauna and flora and does not prejudice the question as to what constitutes an adequate implementation of Article 10 of the Habitats Directive.

#### **1.6. Follow up of non-compliances of the cross-compliance**

Member State can decide to make use of the option to consider a non-compliance as minor or not to apply a reduction or exclusion where the amount concerned is less than EUR 100. Currently, the competent control authority should, in the following year, ensure that the farmer remedies the findings of the non-compliance concerned. However, in the view of simplification and in order to ease the administrative burden, consideration should be given to simplifying the follow-up checks system.

#### **1.7. Introducing incentive element for measures falling under Article 43 of the Treaty**

In order to be considered compatible with the common market, any aid measure must contain some incentive element or require some counterpart on the part of the beneficiary. Aid which is granted retroactively in respect of activities which have already been undertaken by the beneficiary cannot be considered to contain the necessary incentive element. However, for co-

financed Rural Development measures approved under Article 43 of the Treaty, there is currently no requirement for an incentive effect laid down in the Union legislation, except in the case of top-ups to which, while approved as part of the programming and not needing a separate notification process, agricultural state aid rules apply. Therefore, retroactive granting of aid should be prohibited also for co-financed agricultural measures and a starting date of eligibility should be provided.

## **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

- **Consultation of interested parties**
- **Collection and use of expertise**

There was no need for consultation of interested parties or for external expertise.

- **Impact assessment**

No need of impact assessment.

## **3. LEGAL ELEMENTS OF THE PROPOSAL**

- **Summary of the proposed action**

Identify the delegated and implementing powers of the Commission in Council Regulation (EC) No 1698/2005 and establish the corresponding procedure for adoption of these acts.

Additionally, some elements of simplification are introduced, the coverage of support for setting up of producer groups is enlarged, Natura 2000 support is extended to areas referred to in Article 10 of Habitats Directive (92/43/EEC) and an incentive element is introduced for measures approved under Article 43 of the Treaty.

- **Legal basis**

Article 43 of the Treaty on the Functioning of the European Union.

- **Subsidiarity principle**

The proposal falls under shared competence between the EU and the Member States and complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle.

- **Choice of instruments**

Proposed instrument: Regulation of the European Parliament and of the Council

Other means would not be adequate for the following reason: a Regulation must be amended by a Regulation.

**4. BUDGETARY IMPLICATION**

This measure does not involve any additional Union expenditure.

**5. ADDITIONAL INFORMATION**

- **Simplification**

The amendments concerning cross-compliance, strategic reporting and the use of advisory services represent an important simplification and contribute to ease the administrative burden for the Member States.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)**

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 the first subparagraph of Article 42 and Article 43(2) thereof,

Having regard to the proposal from the European Commission<sup>2</sup>,

After transmission of the proposal to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>3</sup>,

Having regard to the opinion of the Committee of the Regions<sup>4</sup>,

Acting in accordance with the ordinary legislative procedure<sup>5</sup>,

Whereas:

- (1) Council Regulation (EC) No 1698/2005<sup>6</sup> confers powers on the Commission in order to implement some of the provisions of that Regulation.
- (2) As a consequence of the entry into force of the Lisbon Treaty, the powers conferred under Regulation (EC) No 1698/2005 upon the Commission need to be aligned to Articles 290 and 291 of the Treaty on the Functioning of the European Union (the Treaty).
- (3) The Commission should have the power to adopt delegated acts in accordance with Article 290 of the Treaty in order to supplement or amend certain non-essential elements of Regulation (EC) No 1698/2005. The elements for which that power may be exercised should be defined, as well as the conditions to which that delegation is to be subject.
- (4) In order to guarantee a uniform application of Regulation (EC) No 1698/2005 in all Member States, the Commission should be empowered to adopt implementing acts in accordance with Article 291 of the Treaty. Save where explicitly provided otherwise,

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<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> OJ C [...], [...], p. [...].

<sup>5</sup> OJ C [...], [...], p. [...].

<sup>6</sup> OJ L 277, 21.10.2005, p. 1.

the Commission should adopt those implementing acts in accordance with the provisions of Regulation (EU) No XX/XXXX of the European Parliament and the Council on...

- (5) Some of the provisions on rural development that have so far been adopted by the Commission under the powers conferred on it by Regulation (EC) No 1698/2005 are considered of such importance that they should be incorporated in that Regulation.
- (6) In order to ensure a uniform presentation of updates of national strategy plans by Member States, the Commission should be able to set out uniform rules by means of implementing acts.
- (7) Member States and the Commission are required to report on the monitoring of the national and Community strategy. In order to reduce the administrative burden and to avoid duplication of work, the number of strategic summary reports submitted by each Member State should be reduced to two and their content simplified.
- (8) In order to ensure that the assessment of the rural development programmes submitted by the Member States in accordance with Article 18(2) of Regulation (EC) No 1698/2005 may be done in a uniform and comparable manner, the Commission should, by means of implementing acts, adopt uniform rules for the presentation of rural development programmes.
- (9) In the interest of legal certainty, rural development programmes should be approved by the Commission by means of implementing acts.
- (10) In order to ensure transparency and efficiency in the adoption of rural development programmes, the Commission should be able to lay down the relevant procedures by means of implementing acts.
- (11) The Commission should also, by means of implementing acts, adopt decisions on requests to revise rural development programmes after the submission of such requests by Member State.
- (12) In order to ensure transparency and efficiency in the revision of rural development programmes, the Commission should, by means of implementing acts, lay down the relevant procedures.
- (13) The use of advisory services should help farmers to assess the performance of their agricultural holding and identify necessary improvements with regard to the statutory management requirements and the good agricultural and environmental condition as provided for in Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers<sup>7</sup> and the Community standards relating to occupational safety. Taking into account that the support for the use of advisory services has been available already for several years, a more tailor-made use should be facilitated, to better reflect the individual needs of the beneficiary.

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<sup>7</sup> OJ L 30, 31.1.2009, p. 16.

- (14) As a follow up to the Commission Communication on a Better Functioning Food Supply Chain in Europe and the High Level Expert Group on Milk<sup>8</sup>, the current funding possibilities to support the setting up and administrative operation of producer groups should be extended to all Member States. However, in order to avoid cases where support could be granted simultaneously from different sources, support for setting up of producer groups in the fruit and vegetables sector should be excluded.
- (15) Multiannual commitments under certain measures should normally be undertaken as a general rule for a period between five and seven years. Where necessary and justified, the Commission should be able to approve rural development programmes that contain a longer period for particular types of commitments in order to take account of special circumstances in certain areas.
- (16) Member States are required to confirm the delimitation of mountain areas and areas affected by specific handicaps and to delimitate areas affected by significant natural handicaps. The Commission should by means of implementing acts define the specific provisions according to which these areas are confirmed or delimited in order to ensure that this is done in accordance with uniform criteria by all Member States.
- (17) Article 10 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora<sup>9</sup>, requires Member States, with a view to improve the ecological coherence of the Natura 2000 network, to endeavour to encourage the management of features, which, by virtue of their linear and continuous structure or their function as stepping stones, are essential for the migration, dispersal and genetic exchange of wild species. Such areas should be made eligible for Natura 2000 payments. However, in order to ensure that payments continue to be primarily used for the designated Natura 2000 sites, it is appropriate to limit their proportion compared to Natura 2000 areas designated.
- (18) Where a Member State decides to make use of the option to consider non-compliance as minor or not to apply a reduction or exclusion where the amount concerned is less than EUR 100, the competent control authority should, in the following year, verify that the farmer remedies the findings of the non-compliance concerned. However, in order to ease the administrative burden, consideration should be given to simplifying the follow-up checks system.
- (19) Each Member State is required to establish a national rural network. In order to ensure that the various national rural networks are set-up in a coherent and uniform manner, the Commission should, by means of implementing acts, fix details concerning the establishment and the operation of those networks.
- (20) In order to ensure an objective and transparent distribution of commitment appropriations available to the Member States, the Commission should, by means of implementing acts, make an annual breakdown by Member State. Given the special nature of those acts, the Commission should be empowered to adopt them without the assistance of the committee provided for in Regulation (EU) No XX/XXXX.

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<sup>8</sup> COM(2009) 591 of 28.10.2009.

<sup>9</sup> OJ L 206, 22.7.1992, p. 7.

- (21) In order to be considered compatible with the internal market, any aid measure must contain some incentive element or require some counterpart on the part of the beneficiary. Aid which is granted retrospectively cannot be considered to contain the necessary incentive element. Consequently, in respect of measures falling within the scope of Article 42 of the Treaty, it should be provided that support is excluded for activities that have already been undertaken before submission of an application for support.
- (22) Member States should be required to undertake controls in accordance with the rules to be fixed by the Commission by means of delegated acts, notably regarding the type and intensity of controls, adapted to the nature of the different rural development measures. The Commission should further be empowered to fix, by means of implementing acts, uniform conditions for the implementation of controls by the authorities of Member States in order to ensure a coherent execution of controls.
- (23) A common monitoring and evaluation network should be drawn up in cooperation between the Commission and the Member States. In the interest of transparency, it should be adopted by the Commission by means of implementing acts.
- (24) The Member States are required to send to the Commission each year an annual progress report on the implementation of their rural development programmes. Details concerning the annual progress reports for specific programmes for the national rural networks should, by means of implementing acts, be fixed by the Commission, in order to ensure a uniform and comparable content.
- (25) An information system to permit the secure exchange of data of common interest between the Commission and each Member State should be established. The Commission should, by means of implementing acts, adopt uniform conditions for the operation of that system.
- (26) Regulation (EC) No 1698/2005 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

#### Article 1

Regulation (EC) No 1698/2005 is amended as follows:

- (1) Article 5 is amended as follows:
  - (a) paragraph 2 is replaced by the following:

"2. The Commission and the Member States shall ensure that the assistance from the EAFRD and the Member States is consistent with the activities, policies and priorities of the Union. The assistance of the EAFRD shall be consistent with the objectives of Economic and Social Cohesion and those of the Union support instrument for fisheries in particular. In order to ensure that EAFRD assistance is also consistent with other support instruments of the Union, the Commission may, by means of delegated acts, lay down the specific Union measures with which such consistency is to be ensured."

(b) paragraph 6 is replaced by the following:

"6. No support under this Regulation shall be granted to schemes eligible for support under common market organisations. In order to take into account the specific circumstances in programming areas, the Commission may, by means of delegated acts, adopt exceptions from this rule."

(2) In Article 12, the following paragraph is added:

"3. National strategy plans may be updated during the programming period. The Commission may, by means of implementing acts, lay down rules concerning those updates."

(3) In Article 13, paragraphs 1 and 2 are replaced by the following:

"1. Each Member State shall submit to the Commission two summary reports setting out the progress made in implementing its national strategy plan and objectives and its contribution to the achievement of Community strategic guidelines. The first report shall be submitted in 2010 and the second one in 2015, no later than on 1 October.

2. The report shall describe in particular:

(a) the achievements and results of the rural development programmes relative to the indicators set out in the national strategy plan;

(b) the results of the ongoing evaluation activities for each programme."

(4) In Article 14(1), the first sub-paragraph is replaced by the following:

"The Commission shall present two reports summarising the main developments, trends and challenges relating to the implementation of the national strategy plans and the Community strategic guidelines. The first report shall be presented in 2011 and the second in 2016."

(5) Article 18 is amended as follows:

(a) In paragraph 3 the following sub-paragraph is added:

"In view of this assessment the Commission shall, by means of implementing acts, adopt uniform conditions for the presentation of rural development programmes."

(b) Paragraph 4 is replaced by the following:

"4. The Commission shall approve each rural development programme by means of implementing acts.

It may also, by means of implementing acts, lay down the procedure for such approval."

(6) In Article 19, paragraph 2 is replaced by the following:

"2. The Commission shall, by means of implementing acts, adopt decisions on requests to revise rural development programmes after the submission of such requests by the Member States.

In order to enable the Commission to apply efficient and proportionate procedures, the Commission may, by means of delegated acts, lay down the rules concerning the changes that do not require approval by the Commission or require approval without the assistance by the Committee referred to in Article 91c.

Procedural provisions for the submission, assessment and approval of changes shall be adopted by the Commission by means of implementing acts."

(7) In Article 20(d), point (ii) is replaced by the following:

"(ii) Supporting the setting up of producer groups;"

(8) The following Article 20a is inserted before Subsection 1:

*"Article 20a*

*Specific conditions*

In order to ensure an efficient and targeted use of funds and to ensure a coherent approach in the treatment of beneficiaries, the Commission shall, by means of delegated acts, adopt specific conditions concerning the measures provided for in Article 20."

(9) In Article 24(1), the second sub-paragraph is replaced by the following:

"As a minimum, the advisory service to farmers shall cover one or more of the statutory management requirements and good agricultural and environmental conditions provided for in Articles 5 and 6 of and Annexes II and III to Regulation (EC) No 73/2009 and, where relevant, one or more of the occupational safety standards based on Union legislation."

(10) In Article 32(1), point (b) is replaced by the following:

"(b) be for Union food quality schemes, or for those recognised by the Member States which comply with precise criteria defined by the Commission by means of delegated acts in order to ensure coherence of this measure with EU policy and priorities. Schemes whose sole purpose is to provide a higher level of control of respect of obligatory standards under Union or national law shall not be eligible for support;"

(11) In Article 33, the following paragraph is added:

"The support shall be granted to the producer groups consisting of operators actively participating in a food quality scheme as referred to in Article 32. Professional and/or inter-professional organisations representing one or more sectors cannot qualify as 'producer groups'."

(12) In Article 35, paragraph 3 is replaced by the following:

"3. The support shall be granted to producer groups which are officially recognised by the Member State's competent authority by 31 December 2013. However, no support shall be granted for the setting up of producer groups in the fruit and vegetables sector."

(13) The following Article 36a is inserted before Subsection 1:

*"Article 36a*

*Specific conditions*

In order to ensure an efficient and targeted use of funds and to ensure a coherent approach in the treatment of beneficiaries, the Commission shall, by means of delegated acts, adopt specific conditions concerning the measures provided for in Article 36."

(14) In Article 38, paragraph 2 is replaced by the following:

"2. Support shall be limited to the maximum amount laid down in the Annex I to this Regulation. In order to avoid overlapping between support provided for in Article 20(c)(i) and support provided for in Article 36(a)(iii), the Commission shall, by means of delegated acts, lay down the rules concerning the disadvantages related to specific requirements introduced by Directive 2000/60/EC and fix the conditions as regards the amount of annual support for payments linked to that Directive."

(15) In Article 39(3), the second sub-paragraph is replaced by the following:

"These commitments shall be undertaken as a general rule for a period between five and seven years. Where necessary and justified, the Commission may, by means of implementing acts, approve rural development programmes that contain a longer period for particular types of commitments."

(16) In Article 40(2), the second sub-paragraph is replaced by the following:

"These commitments shall be undertaken as a general rule for a period between five and seven years. Where necessary and justified, the Commission may, by means of implementing acts, approve rural development programmes that contain a longer period for particular types of commitments."

(17) In Article 41, the following paragraph is added:

"For benefiting from such support the investments concerned must not lead to any significant increase in the value or profitability of the agricultural or forestry holding."

(18) In Article 43(1), the following sub-paragraph is added:

"For the purposes of point (c) of the first subparagraph, 'farmers' means persons who devote an essential part of their working time to agricultural

activities and derive from them a significant part of their income according to criteria to be defined by the Member State."

(19) In Article 47(1), the second sub-paragraph is replaced by the following:

"These commitments shall be undertaken as a general rule for a period between five and seven years. Where necessary and justified, the Commission may, by means of implementing acts, approve rural development programmes that contain a longer period for particular types of commitments."

(20) In Article 49, the following paragraph is added:

"For benefiting from such support the investments concerned must not lead to any significant increase in the value or profitability of the agricultural or forestry holding."

(21) Article 50 is amended as follows:

(a) Paragraphs 4 and 5 are replaced by the following:

"4. The Commission shall, by means of implementing acts, adopt rules according to which the Member States shall, in their programmes:

(a) confirm the existing delimitation pursuant to paragraphs 2 and 3(b) or amend it, or

(b) delimitate the areas referred to in paragraph 3(a).

5. The following agricultural areas shall be eligible for payments provided for in Article 36(a)(iii):

(a) Natura 2000 agricultural areas designated pursuant to Directives 2009/147/EC and 92/43/EEC;

(b) other delimited nature protection areas with environmental restrictions applicable to farming which contribute to the implementation of Article 10 of Directive 92/43/EEC;

(c) agricultural areas included in river basin management plans according to Directive 2000/60/EC."

(b) Paragraph 7 is replaced by the following:

"7. The following forest areas shall be eligible for payments provided for in Article 36(b)(iv):

(a) Natura 2000 forest areas designated pursuant to Directives 2009/147/EC and 92/43/EEC;

(b) other delimited nature protection areas with environmental restrictions applicable to forests which contribute to the implementation of Article 10 of Directive 92/43/EEC."

(c) The following paragraph is added:

"9. The areas referred to in point (b) of paragraph 5 and in point (b) of paragraph 7 of this Article shall, per rural development programme, not exceed 5% of the Natura 2000 areas covered by its territorial scope."

(22) Article 51 is amended as follows:

(a) In paragraph 2, the third sub-paragraph is replaced by the following:

"Where a Member State decides to make use of the option provided for in the second sub-paragraph, in the following year the competent authority shall take the actions required to verify that the beneficiary remedies the finding of non-compliance concerned. The finding and the obligation to take remedial action shall be notified to the beneficiary."

(b) In paragraph 4, the introductory phrase is replaced by the following:

"In order to ensure the coherent application of reductions and exclusions of payment provided for in this Article, the Commission shall, by means of delegated acts, lay down the relevant rules for the application of the principles of transparency and proportionality. In this context account shall be taken of the severity, extent, permanence and repetition of non-compliance found as well as of the following criteria:"

(23) The following Article 52a is inserted before Subsection 1:

*"Article 52a*

*Specific conditions*

In order to ensure an efficient and targeted use of funds and to ensure a coherent approach in the treatment of beneficiaries, the Commission shall, by means of delegated acts, adopt specific conditions concerning the measures provided for in Article 52."

(24) In Article 53, the following paragraph is added:

"For the purposes of this Article a 'member of the farm household' shall mean a natural or legal person or a group of natural or legal persons, whatever legal status is granted to the group and its members in national law, with the exception of farm workers. Where a member of the farm household is a legal person or a group of legal persons, that member must exercise agricultural activity on the farm at the time of the support application."

(25) The following Article 63a is inserted:

*"Article 63a*

*Specific conditions*

In order to ensure an efficient and targeted use of funds and to ensure a coherent approach in the treatment of beneficiaries, the Commission shall, by means of delegated acts, adopt specific conditions concerning the measures provided for in Article 63."

(26) Article 66 is amended as follows:

(a) In paragraph 2 the following sub-paragraph is added:

"In order to ensure consistency with the requirements of Union policy, priorities and law, the Commission may, by means of delegated acts, adopt conditions on the contribution rate for technical assistance in case of rural development programmes covering both regions eligible under the Convergence Objective and regions not eligible under the Convergence Objective, and conditions on the allocation of funds for establishing and operating the national rural network referred to in Article 68."

(b) In paragraph 3 the third sub-paragraph is replaced by the following:

"The Commission shall, by means of implementing rules, adopt rules concerning the establishment and the operation of the national rural network."

(27) In Article 69, paragraph 4 is replaced by the following:

"The Commission shall, by means of implementing acts without the assistance of the Committee referred to in Article 91c, make an annual breakdown by Member State of the amounts referred to in paragraph 1, after deduction of the amount referred to in paragraph 2, and taking into account:

- (a) the amounts reserved for regions eligible under the Convergence Objective;
- (b) past performance; and
- (c) particular situations and needs based on objective criteria."

(28) In Article 70, paragraph 1 is replaced by the following:

"1. The Decision adopting a rural development programme shall set the maximum contribution from the EAFRD for each axis. In order to allow Member States a certain degree of flexibility with regards to minor shifts of EAFRD funding among axes, a flexibility threshold shall be fixed by the Commission by means of delegated acts. The Decision shall clearly identify, where necessary, the appropriations allocated to the regions eligible under the Convergence Objective."

(29) Article 71 is amended as follows:

(a) In paragraph 1, the second sub-paragraph is replaced by the following second and third sub-paragraphs:

"A new expenditure added at the moment of the modification of a programme referred to in Article 19 shall be eligible from the date of the reception by the

Commission of the request for modification of the programme. Member States shall bear the responsibility for expenditure between the date on which their request for a programme modification is received by the Commission and the date of the decision approving the modification.

In cases of emergency measures due to natural disasters the rural development programmes may provide that eligibility of expenditure relating to programme changes may start from a date earlier than the date referred to in the second sub-paragraph."

- (b) In paragraph 2, the following sub-paragraphs are added:

"Support shall only be granted for expenditure incurred in respect of measures falling within the scope of Article 42 of the Treaty after an application has been submitted to the competent authority.

However, the requirement laid down in the second subparagraph shall not apply in respect of the measures referred to in Article 20(a), Article 20(b)(vi), Article 20(c)(i) and (ii), Article 20(d)(i) to (iii), Article 36(a)(i) to (v) and Article 36(b)(i), with the exception of establishment costs under Article 36(b)(i).

- (c) Paragraph 5 is replaced by the following:

"5. Notwithstanding paragraph 3(b), the contribution from the EAFRD may be made in a form other than a non-repayable direct assistance. In order to ensure the efficient use and coherent implementation of the EAFRD and to secure the Union's financial interests, the Commission shall, by means of delegated acts, adopt specific conditions for the co-financing of interest rate subsidies and of other financial engineering instruments.

- (30) In Article 74, paragraph 4 is replaced by the following:

"4. Member States shall undertake controls in accordance with rules fixed by the Commission, by means of delegated acts, regarding the principles of controls, sanctions, exclusions and the recovery of undue payments, adapted to the nature of the different rural development measures in order to ensure efficiency in their application and equal treatment of all beneficiaries. The Commission shall, by means of implementing acts, lay down uniform conditions for the implementation of controls by the authorities of the Member States."

- (31) In Article 78, the following sub-paragraph is added:

"For the purposes of point (f), 'substantial proposal for changes' shall cover the changes which require approval by the Commission by means of implementing acts, with the exception of the changes referred to in the second subparagraph of Article 19(2), as well as changes of financial breakdown by measure within an axis, changes concerning the introduction of new measures and types of operations and the withdrawal of existing measures and types of operations."

- (32) Article 80 is replaced by the following:

*"Article 80*

*Common monitoring and evaluation framework*

The common monitoring and evaluation framework shall be drawn up in cooperation between the Commission and the Member States and shall be adopted by the Commission by means of implementing acts. The framework shall specify a limited number of common indicators applicable to each programme."

- (33) In Article 82, paragraph 4 is replaced by the following:

"4. The Commission shall, by means of implementing acts, adopt rules concerning annual progress reports for specific programmes pursuant to Article 66(3)."

- (34) In Article 86, the following paragraph is added:

"9. In order to ensure that evaluations are carried out within the time schedule fixed in this Article, the Commission may, by means of delegated acts, lay down the appropriate penalties for the non-respect of these time schedules."

- (35) The following Article 89a is inserted in Title IX:

*"Article 89a*

*Exchange of information and documents*

The Commission, in collaboration with the Member States, shall establish an information system to permit the secure exchange of data of common interest between the Commission and each Member State. The Commission shall, by means of implementing acts, adopt uniform conditions for the operation of that system."

- (36) Articles 90 and 91 are deleted.

- (37) The following Articles 91a, 91b and 91c are inserted:

*"Article 91a*

*Commission powers*

Where competences are conferred on the Commission, it shall act in accordance with the procedure referred to in Article 91b, in the case of delegated acts, and in accordance with the procedure referred to in Article 91c, in the case of implementing acts, save where explicitly provided otherwise in this Regulation."

*Article 91b*

*Delegated acts*

1. The powers to adopt the delegated acts referred to in this Regulation shall be conferred on the Commission for an indeterminate period of time.

As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

2. The delegation of power may be revoked at any time by the European Parliament or by the Council.

The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.

The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.

3. The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification. At the initiative of the European Parliament or the Council this period shall be extended by [two] months.

If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the *Official Journal of the European Union* and shall enter into force at the date stated therein.

The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

If the European Parliament or the Council objects to a delegated act, the act shall not enter into force. The institution that objects to the delegated act shall state the reasons for its objections.

#### *Article 91c*

##### *Implementing acts – Committee*

[To be completed following the adoption of the Regulation laying down the rules and general principles concerning mechanisms for control envisaged in Article 291(2) TFEU, which is currently under discussion before the PE and the Council.]

(38) In Article 92, paragraph 1 is replaced by the following:

"1. Should specific measures be necessary to facilitate the transition from the system in force to that established by this Regulation, such measures shall be adopted by the Commission, by means of delegated acts."

(39) In Annex I, footnote reference (\*\*\*) is replaced by the following:

"(\*\*\*) In order to take account of the special circumstances that exist in Malta, the Commission may , by means of delegated acts, set a minimum amount of aid for sectors of production in which total output is extremely small."

*Article 2*

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

<b>FINANCIAL STATEMENT</b>		AGRI/11/Ares/2010/483446 (JGS/TM)		
		6.20.2010.6		
		DATE: 15/07/2010		
1.	BUDGET HEADING: 05 04 05 01	APPROPRIATIONS 2010: CA: EUR 14 335 536 182 PA: EUR 12 606 200 000		
2.	TITLE: Draft Council Regulation amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)			
3.	LEGAL BASIS: -			
4.	AIMS: To align Regulation 1698/2005 with the Lisbon Treaty and to implement a number simplification proposals as part of the simplification exercise of the CAP.			
5.	FINANCIAL IMPLICATIONS (1)	<del>12 MONTH PERIOD (EUR million)</del>	<del>CURRENT FINANCIAL YEAR 2009 (EUR million)</del>	<del>FOLLOWING FINANCIAL YEAR 2010 (EUR million)</del>
5.0	EXPENDITURE - CHARGED TO THE EC BUDGET (current prices) - NATIONAL AUTHORITIES - OTHER	-	-	-
5.1	REVENUE - OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES) - NATIONAL	-	-	-
		2011	2012	2013
5.0.1	ESTIMATED EXPENDITURE (current prices) CA	-	-	-
	PA	-	-	-
5.1.1	ESTIMATED REVENUE	-	-	-
5.2	METHOD OF CALCULATION:-			
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?		YES <del>NO</del>	
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?		<del>YES</del> NO	
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?		<del>YES</del> NO	
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?		<del>YES</del> NO	
6.4	OTHER		(2)	
OBSERVATIONS:				
<p>(1) As regards commitment appropriations, the modification of Regulation 1698/2005 will not have any financial impact as the global envelope for rural development remains unchanged as well as its annual breakdown. For payment appropriations, the amendment would not have financial impact either given the nature of the main modifications proposed: alignment with the Lisbon Treaty and simplification of the administrative burden for Member States. Only in the case of three modifications (extension of the coverage of support to administrative operations of producer groups, extension of Natura 2000 to certain protection areas and introduction of incentive element for measures under Art. 43 of the Treaty) there might be a minor redistribution of payments in the short term whose relative impact on the evaluation of budget needs is insignificant.</p>				