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NOTE

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to:	Council
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Subject:	CAP reform: Presidency Progress Report

I. INTRODUCTION

1. The Presidency hereby submits its report on the progress achieved during the first half of 2012 on the CAP reform proposals[1]. This report has been drawn up under the responsibility of the Presidency and on the basis of the positions expressed within the Council and its preparatory bodies. The report is based on the principle that nothing is agreed until everything is agreed.

[1] The reform package was submitted by the Commission on 12 October 2012 and consists of Proposals for Regulations on Direct Payments (15396/11), Single CMO (15397/11), Rural Development (15425/11), Financing, management and monitoring of the CAP "Horizontal Regulation" (15426/11), Article 43(3) TFEU (15400/11), Transitional Direct Payments Scheme (15398/11) and 'Wine Adaptation Package' (15399/11).

2. The Commission has contributed in a constructive manner to the discussions in the Council's working parties, the Special Committee on Agriculture and in the Council (Agriculture and Fisheries) by providing extensive oral written explanations in the form of working documents on the CAP reform proposals (see Annex) including some proposals to adjust its proposals on "greening" of direct payments. The Commission and the Presidency have also actively worked on improving the definition of 'active farmer' and the definition of permanent grassland.

3. The report indicates the main amendments suggested by the Presidency to the Commission proposals and on which the Presidency has noted broad support from delegations. The Presidency's suggested amendments aim to resolve a number of substantive issues raised by delegations, particularly with a view to ensuring that future CAP legislation is workable in practice and can be implemented in a cost-effective manner. The Council has made clear its determination that the reform delivers real simplification. The Presidency's suggested amendments thus take into account, where relevant, the concrete suggestions for simplification submitted by delegations.

4. This report also identifies for each of the proposals the key issues which remain outstanding as at June 2012, including issues contained in the Negotiating Box for Heading 2 of the Multiannual Financial Framework (MFF).

II. DIRECT PAYMENTS PROPOSAL

5. The proposal aims to establish a new CAP direct payments scheme to replace Council Regulation (EC) No 73/2009.[2]

[2] OJ L30, 31.01.2009, p. 16.

6. The Council (Agriculture and Fisheries) held debates on the proposal on 26 April 2012, 14 May 2012 and, in the context of CAP simplification, on 19 March 2012. In the light of these debates and building upon discussions in the Special Committee on Agriculture and extensive technical work in the Working Party, the Presidency has drawn up the Presidency revised text (set out in doc 10890/12), for which it has noted broad support from delegations on the suggested amendments discussed to date.

7. The key issues raised on the proposal are convergence of direct payments between Member States, better targeting and 'greening' of direct payments, simplification of direct payments for small farmers, the establishment of a new basic payments scheme, reaching a uniform level of direct payments within Member States and the possibility of transfers of funding between pillars.

8. With regard to the definition of permanent grassland/eligible area, recognising established local grazing practices where grasses and other herbaceous forage are not predominant and providing flexibility by a reduction coefficient on the calculation of the size of eligible area was considered by delegations as a step in the right direction.

9. The issue of **convergence of direct payments between Member States** is included in the Negotiating Box for Heading 2 of the Multiannual Financial Framework (MFF). The Presidency has noted broad support for the principle of some convergence. Delegations' views however differ on the model of convergence. Some delegations support the model proposed, others find the model too limited and others consider the model goes too far suggesting ceilings on losses, linear financing etc. Several delegations considered that this issue should be seen together with the future allocation of rural development funds, while others take the opposite view.

10. The Commission proposes a number of measures to **better target direct payments**: special schemes for **young farmers, small farmers** and **farmers in areas with natural constraints**, limiting direct payments to **'active farmers', capping** of direct payments for large farms and granting **voluntary coupled support** under certain conditions.

11. While the special scheme for **young farmers** is broadly welcomed, a majority of delegations want a voluntary scheme, leaving Member States to decide whether to operate the scheme and how to shape it according to their needs, while other delegations could support the proposed mandatory scheme. There is broad support for the Presidency's suggested amendments allowing further criteria reflecting those in Pillar II to be set at national level, providing more flexibility with regard to the calculation of the payment, on increased possibilities to review the percentage of the national ceiling earmarked for young farmers, while still considering how to apply the financial provisions of the scheme in the most simple way. On the maximum eligible surface area many delegations support the suggested increase while others still have concerns about the partly differentiated approach.

12. Delegations support the proposed voluntary scheme for support to **farmers in areas with natural constraints**. Nonetheless, a number of delegations have doubts about its coherence with the existing Pillar II Less Favoured Areas scheme or would rather use the available funds under the Pillar II scheme, without national co-financing.

13. On the definition of '**active farmer'**, there is broad support to focus eligibility more on the land than on the applicant. Applicants should carry out the minimum activity on their areas which are naturally kept in a state suitable for grazing or cultivation to qualify for direct payments. There is also broad support to allow Member States to go further in order to exclude those applicants who are economically only marginally engaged in agricultural activity either on the basis of a negative list partly decided at EU level or to use their own objective and non-discriminatory criteria. Nevertheless, a few delegations prefer mandatory EU criteria to be established.

14. The principle of **capping** of direct payments for large farms is included in the Negotiating Box for Heading 2 of the Multiannual Financial Framework (MFF). Some delegations oppose the principle of capping.

15. Without prejudice to their positions on the principle of capping, many delegations consider a simpler approach is needed, with several suggesting that labour costs be taken into account at the outset. On the circumvention clause some delegations still have concerns about how this could be enforced.

16. As regards the scope of the proposed **voluntary coupled support**, the Presidency has noted a wide variety of views. On the proposed list of sectors, some delegations have expressed support; others find it either too long or too short. On the proposed maximum percentages, some can agree whereas others consider them either too high or too low or that the same maximum should apply to all. In view of the diverging views expressed, the Presidency takes the view that the Commission proposal has struck a balance.

17. While the special scheme in favour of **small farmers is** broadly welcomed as a major simplification, a clear majority of delegations want a voluntary scheme, leaving Member States to decide whether to operate it and how to shape it according to their needs. A few delegations find the allocation of 10 % to the scheme insufficient. A number of delegations question whether small farmers should be completely exempt from cross compliance requirements.

18. The principle of "**greening"** and the proposed 30 % proportion of direct payments subject to greening is included the Negotiating Box for Heading 2 of the Multiannual Financial Framework (MFF). Some delegations asked for a lower level than 30 %.

19. All delegations have called for a flexible and cost-effective approach to greening, so as to achieve maximum environmental benefits while preserving the economic viability of holdings and keeping the administrative burden and control requirements to a minimum, and to respond to different environmental and agronomic circumstances in individual Member States.

20. A large number of delegations consider 7 % ecological focus area too high. A number of delegations requested to widen the scope of the ecological focus area for example by taking landscape features on permanent grassland into account. Generally, there is broad support that most of the Presidency's suggested amendments are a step in the right direction towards improving the Commission's proposed approach on greening, while some of the suggested amendments require further discussion. Delegations also welcomed as a step in the right direction the additional flexibility envisaged by the Commission with regard to the application of greening in the "Concept Paper"[3].

21. On recognising certain farmers as "green by definition" a very large number of delegations consider the Presidency suggested amendments to include farmers holding a high proportion of grassland; farmers participating in rural development agri-environment/climate schemes as well as farmers participating in national or regional certification schemes, as a step in the right direction. A few delegations argue that this would make the fulfilment of greening too easy.

22. The greening concept still requires to be further elaborated. On the proposed 3 mandatory greening practices (crop diversification, retention of permanent grassland and a minimum proportion of ecological focus areas); the Presidency suggested amendments to increase flexibility are considered as a step in the right direction. These include:
   i) on crop diversification : adjusting the criteria to exempt smaller farms and special types of farms, include the definition of crops and adjusting the calculation of the proportion of the minimum 3 crops,

[3] Commission services Concept Paper on Greening (doc 9891/12).

(ii) on the retention of permanent grassland : introducing flexibility to allow Member States to widen the definition of permanent grassland and to decide on how to apply the measure; as well as combining the current regional/national approach with the individual greening approach,

(iii) on ecological focus area : widening the scope of areas to be included, introducing a possibility for partial regional implementation and exempting the smaller farms.

23. As an alternative to the proposed practices, some delegations prefer a "menu" approach where Member States could choose green practices equivalent to the 3 proposed greening practices, while other delegations favour greening via Pillar II including a transfer of 10 % from Pillar I to Pillar II with full EU-financing, and others consider that greening should cover all direct payments and be included in the framework of cross compliance.

24. The Presidency has noted broad support for its suggested amendments concerning the **basic payment scheme**, particularly those giving Member States flexibility on the reference year and thus eligibility for farmers to participate in the scheme and those aiming to allow Member States with a regional model to continue with existing payment entitlements, to exclude certain surface areas and to limit the risk of unused funds and flexibility in the use of the national reserve.

25. A few delegations with concerns about the impact of the end of the special payment entitlements on livestock farmers, request a transitional arrangement. Some delegations request to exclude more areas from the basic payment scheme. A few delegations applying the historic model have requested a possibility to continue with the present entitlements. Several delegations with continued concerns about the potentially unused funds generated in the new system from the different layers of direct support consider the Presidency text does not go far enough.

26. Most delegations from Member States applying the **Single Area Payment Scheme (SAPS)** want to continue with this system after 2013. In case of a shift to a new direct payments scheme, most of these delegations would like to have the possibility to establish differentiated payment entitlements on the basis of their coupled payments, specific support payments, separate payments and national top-up payments in their future payments.

27. On the proposed aim to reach a **uniform level (or value) of payment entitlements under the basic payment scheme** at national or regional level by 2019, a number of delegations question the overall objective of the proposal in an almost fully decoupled system and request flexibility.

28. Several delegations have concerns about the impact of reallocation of decoupled funds on individual farms as well as on sectors and regions and suggest a mechanism limiting the extent of gains and losses to individual farms. Some delegations want a possibility to differentiate the value of payment entitlements based on arable land and permanent grassland. Most delegations applying a historic or hybrid model want a much more gradual and back-loaded adjustment process and a later end date than 2019.

29. The issue of **flexibility between pillars** is included in the Negotiating Box for Heading 2 of the Multiannual Financial Framework (MFF). This instrument is broadly welcomed by delegations. Several delegations want the funds transferred from Pillar I to Pillar II to be without national co-financing with some Member States considering the possibility of an annual transfer. Some Member States with low direct payments reject the possibility to transfer from Pillar II to Pillar I.

30. The Presidency has noted general support for its suggested amendments to reflect the Council's position on **Lisbon alignment**, particularly as regards including definitions in the basic act, and the criteria to be established by implementing acts and those to be established by the Commission in delegated acts.

III. SINGLE CMO PROPOSAL

31. The proposal aims to lay down rules for the common organisation of agricultural markets to replace Council Regulation (EC) No 1234/2007[4].

32. The Council (Agriculture and Fisheries) held a debate on the proposal on 23 January 2012 and, in the context of CAP simplification, on 19 March 2012. In the light of these debates and building upon discussions in the Special Committee on Agriculture and extensive technical work in the Working Party, the Presidency has drawn up the Presidency revised text (set out in doc. 10889/12), for which it has noted broad support from delegations.

33. The key issues raised on the proposal are the scope of the future market management measures, the exceptional support measures, the reserve for crises in the agricultural sector, the future of the sugar quota regime and the system of vine planting rights, measures to improve the functioning of the food supply chain, and Lisbon alignment.

34. Delegations generally support the safety net function of the **market management measures** proposed by the Commission. Delegations also broadly support the amendments included in the Presidency text to resolve issues relating to carcase classification, apiculture, the provisions on school fruit and school milk; wine; trade; state aid rules; competition; sugar sector agreements; communication and reporting; market and exceptional measures, reserve for crisis as well as the provisions on the sectors of olive oil and tables olives, fruit and vegetables, wine. Delegations also broadly support the intention of incorporating the milk package as adopted into the main body of the text.

4 OJ L 299, 16.11.2007, p.1.

35. A number of delegations call for further adjustments, particularly the introduction of a mechanism to update the level of **reference prices** on which other delegations support the proposal. Some delegations also request to keep **public intervention** for durum wheat and sorghum, and keep mandatory private storage aid for butter. Several delegations want to change the proposed definition of adult bovine by increasing the age. Some delegations call for the phasing-out of **export refunds** irrespective of the outcome of WTO discussions, but others consider export refunds as a useful and justified tool, which should be used as long as the EU's international obligations allow so.

36. There is broad support for the proposed extension of **exceptional support measures** to all sectors.

37. The issue of the **reserve for crises in the agricultural sector** is included in the Negotiating Box of the Multiannual Financial Framework (MFF).

38. The proposal does not provide for a prolongation of the current **sugar quota regime** due to expire on 30 September 2015. A majority of delegations oppose the end of this regime, and would like it extended, while some support the planned expiry.

39. A large number of delegations call for the continuation of the existing system of **vine planting rights** beyond 2015. Other delegations have reserves on this request recalling that the expiry of the regime was an integral part of the 2008 wine sector reform. The Commission has set up a High Level Group to examine this issue, which is expected to present its recommendations in November 2012.

40. To strengthen the **bargaining power of farmers and the functioning of the food supply chain** the Commission proposes to extend current provisions for the fruit and vegetables sector to producer organisations (POs) and inter-branch organisations (IBOs) in all sectors. A majority of delegations oppose the proposed obligatory recognition of these organisations in all sectors, and hence support the Presidency suggested amendment whereby recognition is voluntary. Several delegations though support obligatory recognition. Some delegations suggest considering the solutions agreed upon for the milk sector as a way forward.

41. On the possibility for Member States to extend PO rules and the requirement to pay financial contributions to non-members of POs in all sectors, some supported the proposal, others opposed.

42. The proposed balance between application of general competition rules and an exemption for POs, is supported by most delegations. Some delegations consider the requirement that POs should not hold a dominant position is too broad, as focus should rather be on the abuse of that dominant position. Some delegations question the scope of the exemption from competition law set out in Article 144.

43. The Presidency has noted general support for its suggested amendments to reflect the Council's position on **Lisbon** alignment and delegations noted the incorporation of the Council's partial position from November 2011 on **marketing standards** and of the agreed texts in the SCA in February and April 2012. The two outstanding issues on marketing standards are the extension of the Commission power to extend specific marketing standards to all agricultural sectors and products by delegated acts and to impose mandatory labelling of "place of farming and/or origin" for all sectors. The issue of **Article 43(3)** including the related Commission proposal (doc. 15400/11) will be discussed at a later stage.

IV. RURAL DEVELOPMENT REGULATION

44. This Regulation will replace Council Regulation (EC) No 1698/2005 for the programming period 2014-2020.

45. The Council (Agriculture and Fisheries) discussed the rural development proposal on 18 June 2012, in the context of the debate on CAP simplification on 19 March 2012 and in the context of the debate on greening on 15 May 2012. In the light of these debates and building upon discussions in the SCA and extensive technical work in the Working Party, the Presidency has drawn up a Presidency revised text (set out in doc. 10878/12) , for which it has noted broad support from delegations.

46. In the Presidency text the **mission, the objectives and the priorities have been further defined and clarified.** The aim for a **competitive** Union agricultural sector is added to the mission, while **food production and forestry** is mentioned in relation to the objectives. In the priorities **animal welfare is added** and farms not facing major structural problems are included as eligible for support aimed at enhancing competitiveness.

47. As regards **programming a** considerable number of aspects have been simplified, including a simpler programme amendment procedure. The Member States are on the basis of a SWOT analysis given the discretion to address only the most appropriate priorities under their national programmes, and to include additional EU focus areas. The application of *ex-ante* conditionalities are limited only to be applied when they are directly linked to the specific interventions of the programme.

48. Concerning **monitoring and evaluation** the rules have been considerably simplified, reducing reporting requirements and data collection.

49. The scope of the provisions on **knowledge exchange, advisory services and quality schemes** has been enlarged. The scope of eligible beneficiaries has been widened, and support for **information and promotion activities for quality products** has been reintroduced.

50. With regard to **investments**, the provisions have been amended to allow greater flexibility for both Member States and beneficiaries and the obligation to limit the size of agricultural holdings eligible for investments for restructuring which has been deleted. Furthermore the requirements for reduction of water use in relation to investments in irrigation have been modified.

51. On **environment related actions**, support for permanent conversion of agricultural or forest area for environmental reasons has been introduced as a one-off payment (flat-rate). Many delegations support introducing the option of shorter agri-environment-climate commitments. Concerning the **interplay between the "greening requirements" for Pillar I and the baseline of Pillar II measures**, most delegations have taken the view that the greening requirements in pillar I should not affect the **baseline** of agri-environment-climate measures in Pillar II. A few delegations have expressed support for a raised baseline, referring to the need of avoiding double payments. To align the Water Framework Directive payments with the Natura 2000 payments the greening requirements have been removed from the baseline. Some delegations have asked for the requirement in recital 28 to spend a **minimum of 25 %** on environment, climate and ANC to be given legal effect, while others would like to see it removed from the proposal or just to be kept in the recital. On **forestry**, many delegations supported the widening of the scope of eligible beneficiaries, to include public entities and tenants, while others were against.

52. With regard to risk management many delegations supported the extension to cover adverse climatic events and pest infestations while others expressed reservations on whether it is opportune to move **risk management** measures into Pillar II.

53. With regard to **areas with natural constraints,** a broad majority of delegations recognise the need for a new common framework for their delimitation and to move away from the status quo, although many have requested more flexibility than envisaged in the proposal. In this respect, delegations generally welcomed the flexibility introduced by the Presidency to use an alternative local administrative unit for the designation of the areas with natural constraints to reduce of the threshold for area coverage per administrative unit (60%). However some delegations requested a further reduction (50%) while several delegations objected to the reduction as it will enlarge the scope of eligible areas. Also more national flexibility was introduced when performing the fine tuning. A number of delegations requested greater flexibility in this area. Lastly prolongation of the transition and phasing-out periods was proposed. Some delegations wish to take this proposal further, while others are concerned by the extension of the transition and phasing out periods.

54. As regards **financial provisions**, many delegations support that total eligible expenditure has been provided for as the basis for the calculation of EU contribution at the request of delegations. Furthermore, the revised text allows for full flexibility for Member States on the use of the funds generated by capping.

55. The principles for **distribution of rural development support** and **co-financing rates for rural development** support are included in the Negotiating Box for Heading 2 of the Multiannual Financial Framework (MFF). On the allocation of rural development support many delegations have requested more information about the criteria of past performance and objective criteria linked to the objectives of rural development as proposed by the Commission. In general, delegations request more information on the respective allocation key and the precise objective criteria to be applied. Concerning co-financing rates, some delegations question the complexity of the proposal and ask for simplification. Higher co-financing rates are requested, especially concerning environment and climate, transition regions, risk management and innovation. Concerning funds transferred from Pillar 1 to Pillar 2 some delegations ask for these funds to have a co-financing rate at 100 %.

56. All delegations have, with the aim of simplification, requested the Commission to apply a single coordinated administrative procedure (**"one window approach"**) for the approval of the Rural Development Programmes including the approval of state aid within the programme but outside the scope of Article 42 and Annex I to the Treaty.

V. HORIZONTAL REGULATION

57. The aim of the proposal is to lay down, in one single regulation to replace Council Regulation (EC) No 1290/2005[5], the CAP financing provisions and other rules relevant for all CAP instruments, such as provisions on cross-compliance, checks and penalties and the farm advisory system.

58. The Council (Agriculture and Fisheries) discussed the proposal for a horizontal regulation in the context of the debate on CAP simplification on 19 March 2012 and in the context of the debate on greening on 15 May 2012. In the light of these debates and building upon discussions in the SCA and extensive technical work in the Working Party, the Presidency has drawn up a Presidency revised text (set out in doc. 10819 /12) for which it has noted broad support from delegations.

59. The Presidency has noted almost unanimous support to delete the delegated power conferred on the Commission to include the Water Framework Directive (2000/60/EC) in the scope of cross-compliance. Instead, the Presidency has suggested inviting the Commission to present a legislative proposal with a view to including the relevant parts of that Directive once it has been implemented.

5 OJ L 209, 11.8.2005, p. 1.

60. A number of delegations have opposed the future inclusion of the Pesticides Directive 2009/128/EC in the scope of the cross-compliance by means of delegated acts and have taken the view that this should be contained in the basic act, and if not possible the Commission should submit a new legislative proposal to this effect. However, some delegations also note the connection between the Directive 2009/128/EC and the Pesticide Regulation No 1107/2009 in the current rules of cross compliance.

61. A majority of delegations have also supported the Presidency suggested amendments brought to Annex II which clarify the ban on burning arable stubble stemming from GAEC 6 and the ban on first ploughing set out in GAEC 7. Delegations are also favourably disposed to the suggested amendments specifying the administrative nature of the penalties to be imposed on those beneficiaries of CAP funds who have breached cross-compliance requirements. Many delegations supported the Presidency texts with the aim to limit the obligation in GAEC 8 to avoid unwanted vegetation.

62. In the light of the views expressed by a broad majority of delegations, the classification of the Commission powers as delegated or implementing has been amended by the Presidency, except as regards **administrative penalties**.[6]

63. Most delegations support the reintroduction of the current set-up **of paying agencies** by the Presidency thus providing for the possibility of having more than one paying agency per Member State/per region and allowing paying agencies to specialise in certain support schemes. There is broad support for the deletion of the requirement to pay default interest to farmers in case of late payments as well as for the deletion of the possibility for the Commission to suspend payments in case of late submission of control statistics. Furthermore delegations support the introduction of the possibility to keep supporting documents electronically in line with a recent Commission regulation[7].

[6] The Presidency will be working on the issue classification of Commission powers with regards to the issue of administrative penalties till the end of June 2012.

[7] Commission implementing Regulation (EU) No 375/2012 of 2 May 2012 (OJ L 118, 3.5.2012, p.4-5).

64. On **recoveries**, the moment the recovery procedure starts has been clarified in the Presidency text and the deadline by which Member States must request recovery from the beneficiary concerned has been extended as requested by a very large majority of delegations. The Presidency has reinstated the current 50/50 rule according to which Member States are charged for 50 % of amounts not recovered four years after the date when the debt was recognised, or eight years if the recovery process is being pursued in the courts, since the Commission proposal to charge Member States for 100% of such amounts was met by almost unanimous opposition by delegations.

65. Many delegations have expressed concerns about the possible administrative burdens arising from the **common monitoring and evaluation framework** of the common agricultural policy. It has therefore been specified in the Presidency text that, to the extent possible, the information to be provided by the Member States shall be based on established sources of data. It has further been specified that it is the Commission's responsibility in accordance with the Horizontal Regulation to monitor direct payments, market measures and the application of cross compliance based on the reporting by Member States. Monitoring and evaluation of the rural development policy interventions shall be carried out in accordance with Articles 74-86 of Regulation (EU) No RD/xx. It has also been made clear that reports on measuring and assessing the joint performance of all CAP instruments shall be prepared by the Commission. Finally, many delegations support the suggestion that the rules on the information to be sent by the Member States shall take into account the need to avoid any undue administrative burden.

66. As regards the **farm advisory system**, a majority of delegations support the Presidency suggested amendments that limit the extension of the compulsory requirements to cross compliance requirements (SMR and GAEC), greening practices, and the maintenance of the agricultural area.

67. As regards the **integrated administration and control system**, a large majority of delegations oppose the Commission proposal that the computerised database should contain data starting from 2000. Many delegations support the suggestion that only data relating to the previous ten years needs to be stored. A transition period has been provided in the Presidency text for Member States to comply with the 1:10.000 scale cartography requirements for the identification system for agricultural parcels. However some delegations oppose to change the scale. Many delegations support the Presidency text providing the possibility of paying advance payments even prior to 16 October, subject to an authorisation by the Commission, and the possibility to make advances after all checks relating to those applications for which the advances are made have been carried out. However such an option still needs to be checked with its compatibility with the set-up of the MFF. Many delegations support the suggestion that agricultural parcels with landscape features or buffer strips need not to be geographically located/mapped, but shall be declared with their total area in the application.

68. The **rate of the pre-financing** of rural development programmes and the possible maintenance of a **safety margin** triggering the financial discipline are included in the Negotiating Box for Heading 2 of the Multiannual Financial Framework (MFF).

69. Concerning **administrative penalties** relating to the greening payments most delegations raised concerns and requested the Commission to reconsider the scope and the level of sanctions applicable should the greening objectives not be met. Most delegations find that the administrative penalties concerning the greening payment should not go beyond the greening payment. Furthermore, some aspects of the classification of the Commission powers concerning penalties relating to the greening payments will require further fine-tuning.

70. <u>A number of delegations</u> has expressed concerns about **flat-rate financial corrections** applied by the Commission in cases where calculating the amount of the financial correction on the basis of individual irregular payments or on the basis of an extrapolation of the results of examination of a representative sample of transactions is impossible or not cost-effective. Delegations have taken the view that it should be made clear in the horizontal regulation , rather than in guidelines to be issued by the Commission, that flat-rate corrections shall only be used as a last resort and that the calculation of any correction should be based on an assessment of the risk of losses to the EAFG and the EAFRD. However, the Presidency has decided to postpone possible redrafting to a later date, with a view to reflecting possible developments in this area in the context of the ongoing negotiations on the draft financial regulation.

71. Concerning the **deadline for transmission of annual accounts** of the EAFRD and EAGF and new terminology compared to the Council Regulation (EC) No 1290/2005 <u>a number of delegations</u> prefer that the deadline be postponed until 1 March and have expressed misgivings about the new scope of the obligations of the person in charge of the accredited paying agency. This new terminology is also employed in Article 56 of the draft financial regulation currently negotiated between Council and Parliament. The horizontal regulation will eventually be aligned with the final outcome of those negotiations.

72. <u>A number of delegations</u> has taken the view that **Pillar II area based support** should be exempt from cross-compliance.

73. Most delegations have raised serious concerns as regards the possible increase in administrative burden and costs related to the **new tasks for the certification bodies** proposed by the Commission concerning certifying the legality and regularity of the underlying transactions and the respect of the principle of sound financial management. Most delegations remain unconvinced of the possible advantages (a reduction of on-the-spot-controls and more targeted calculation of the financial corrections) to compensate for the additional administrative burden. Possible amendments should also be seen in the light of the financial regulation. The issue will also be discussed at the conference of the directors of the paying agencies.

74. Most delegations take the view that Member States should be able to keep 20 % of the sums recovered following the occurrence of irregularity or negligence and the 25 % of the amounts resulting from the application of reductions and exclusions for breach of cross-compliance requirements, rather than 10% as proposed by the Commission.

VI. TRANSITIONAL SCHEME ON DIRECT PAYMENTS

75. The proposal aims to establish an adjustment mechanism for the calendar year 2013, so as to bridge the gap between the current system of modulation set to expire at the end of 2012, and the new CAP due to enter into force on 1 January 2014, while taking into account the phasing-in of direct payments in the New Member States.

76. The EP Committee on Agriculture adopted its opinion on 8 May 2012. At the informal trilogue on 24 May 2012 the representatives of the three institutions reached an agreement on a number of amendments including the possibility in 2013 to apply a voluntary adjustment as a continuation of the voluntary modulation mechanism, to continue the mechanism of transfer of unused funds to pillar II for Member States having opted for this mechanism in 2009, for Member States applying the Single Area Payment Scheme as well as Cyprus to pay state aid and transitional national direct payments, as well as for Member States to review the specific support arrangements for 2013. The EP Plenary vote is scheduled for July 2012.

VII. WINE ADAPTATION PACKAGE

77. The proposal aims to amend the current Single CMO Regulation by providing for the definite transfer of the support measures to vine-growers to the Single Payment Scheme.

78. The EP Committee on Agriculture is expected to adopt its report on 18 June 2012. The position reached in the Special Committee on Agriculture includes amendments providing for a one-year measure applicable in 2014 and the possibility to operate a one-off transfer as from 2015.

VIII. CONCLUSION

79. The Presidency invites:

- the Council to take note of this report;

- the Cypriot Presidency to continue to work on those issues identified in this report as outstanding, with a view to preparing negotiations with the European Parliament on the basis of a partial general approach.

<u>**ANNEX**</u>

Working documents provided by the Commission

1.Direct Payments		
Fiche No 3	System of withdrawals and penalties in relation to the payment for agricultural practices beneficial for the climate and the environment	8180/12
Fiche No 4	Financing of the Small Farmers Scheme	7971/12
Fiche No 5	Regional allocation of the national ceilings	7972/12
Fiche No 6	Calculation method as regards progressive reduction and capping of the payment	7973/12
Fiche No 7	Implementation of transition and internal convergence of direct payments	7974/12
Fiche No 14	Calculation method for young farmers' scheme	8465/12
Fiche No 15	Definition of a "crop" for the purpose of crop diversification	8792/12
Fiche No 16	Definition of Ecological Focus Area	8791/12
Fiche No 17	Linkages between Pillar I and Pillar II and new baseline for agri-environmental-climate measures	9206/12

2. Single CMO		
Fiche No 18	SCMO- Exceptional measures	9347/12+COR 1
Fiche No 19	SCMO- Contracts in the sugar sector	9346/12
Fiche No 24	Safety net instruments in the single CMO and Risk management instruments under the first and second pillar of the CAP	10275/12

3. Rural Development		
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