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EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT  
Directorate E. Rural development programmes I  
Director

Brussels,  
TF/lvdz/D(2012) 356951

**Subject: Modification of the Rural Development Programme for Denmark, notified to the Commission on 22 December 2011 in accordance with Article 6 (1) (c) and 9 of Regulation (EC) 1974/2006**

**Reference: CCI: 2007 DK 06 RPO 001**

Dear Mr Bonde,

I hereby refer to the receipt via SFC on 22 December 2011 of a proposal for the modification of the Danish Rural Development Programme 2007-2013 in accordance with Article 6 paragraph 1 (c) and 9 of Regulation (EC) No 1974 /2006.

The modification includes the following main elements:

- New measure on compensation for changed watercourse maintenance (213)
- New measure on consultancy services connected to the watercourse initiative (323)
- New measure on establishment of cultivation free buffer zones (213)
- Amendment of measure on grazing or cutting of pastures and natural areas (214)
- Amendment of measure on investments in wetland creation (216)
- New measure on afforestation of publicly owned agricultural land (221)
- Minor changes to the financial table, including a transfer between the axes within the 1 per cent limit referred to in Article 9 of Regulation (EC) No 1974/2006

The Commission services have assessed the modifications proposed as referred to in Article 9 paragraph 6 of Regulation (EC) No 1974 /2006.

In Annex 1 to this letter a number of points are raised with regard to elements of the proposal which either do not comply with the relevant provisions of Regulation (EC) No 1698/2005 and Regulation (EC) No 1974/2006 or for which insufficient information has been provided for the assessment of their compatibility with the said regulations.

Ministeriet for Fødevarer, Landbrug og Fiskeri  
NaturErhvervsstyrelsen  
Att.: Kontorchef Steen BONDE  
Koordinationskontor for landdistrikter og erhvervsudvikling  
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The proposal in its current format is not considered acceptable and should be revised and resubmitted taking into account the comments mentioned.

The four month period for the assessment of the proposed programme modification is suspended until the Commission receives a compliant programme change. Unit E.3 is at your disposal for clarification of any questions you may have.

Yours sincerely,

*(signed)*  
Mihail DUMITRU

Annex 1: Comments on the amendments proposed

### **Measure 213b**

The measure description should explain the pertinence of the measure for the implementation of the WFD and contain a reference to the relevant point in Article 11.3 or to Article 11.4 of that Directive.

It should be specified that only utilised agricultural areas (UAA) are eligible and that only farmers can be beneficiaries of this measure (not other land managers).

With regard to the baseline it should be verified that all other EU legislation for the protection of water has been taken into account.

It is not clear what is meant by a "fixed annual support rate of up to 349 euros". It should be clarified what the level of the payment is.

A single rate has been calculated for all areas without taking into account the previous use of the areas concerned. However, it would be appropriate to consider, if possible, to differentiate the payment. In particular, areas currently kept as grassland would incur a lower income loss than areas used for arable crops.

With regard to the possibility to grant compensation for 1 year and 4 months in one instalment in the first year, controls have to be carried out according to the Regulations in force for the entire period (in this particular case – 1 1/3 year).

It should be explained how permission to cultivate perennial energy crops and previously established other perennial crops on the buffer zones will fit in with (a) the objectives of the measure; and (b) the support calculation.

Presumably, the income loss could be lower for areas on which the cultivation of existing crops continues (however more extensively).

Since one of the environmental objectives of this measure is the protection of biodiversity and the improvement of ecological connectivity in the rural landscape, it should be explained how these objectives can be achieved given the disturbance for wildlife following from the operations related to the management of perennial energy crops.

With regard to the combination of this measure with the Article 68 measure supporting the establishment of energy crops, it should be verified that there is no risk of overcompensation.

The demarcation with regard to existing commitments under measure 214d (border strips) should be clarified. Presumably, existing commitments could be terminated and compensation offered under the new scheme instead, provided they are within the new eligible zones. In any case, any possibility of overlap should be avoided.

With regard to grazing on the areas, it should be clarified how the grazing pressure will be adjusted according to the needs of the areas. It could be recommendable to set limits on the stocking density.

It should be clearly specified in the text that this measure falls under the new challenges referred to in 16a of Regulation (EC) 1698/2005 with a 75 per cent co-financing of public expenditure by the EAFRD. This appears from table 5.3.6 (health check indicators) and indirectly also from table 6.3 (indicative allocation of funds for operations referred to in

article 16a) but it should also be explicitly stated in the measure description. In addition, the relevant entry in table 5.3.6 should refer to measure 213 instead of 214.

#### **Measure 214a**

A minimum stocking rate of animals is introduced as a means of regulating the grazing pressure on the areas, referring to a minimum level of 0.5 LU/ha. It should be confirmed that the proposed rate refers to the definition in Annex V of Regulation (EC) 1974/2006.

It would be appropriate also to ensure that there is no risk of overgrazing, with negative impact on vegetation, for example by way of a maximum stocking rate.

The text states that the farmer chooses each year which of the two definitions to apply and that if the livestock density option is chosen it should be at least 0.5 LU/ha. At the same time, however, it is provided that the managing authority should set the minimum livestock density and that it may set it at a lower level than 0.5 LU/ha. The two statements seem to be conflicting.

It should be ensured that there is no overlapping between this measure and measures under Article 68 of Regulation (EC) No 73/2009.

The discrepancy in approach as regards the inclusion of a stocking rate as an alternative support criterion in this measure and the lack of such an option in the recently notified art 68 measure for extensive management of pastures should be explained.

Could the Danish authorities explain better the reasons for the lower than expected uptake under this measure in the RDP?

#### **Measure 216b**

It should be confirmed that the operations under this measure go beyond the mandatory requirements of the WFD as defined in recently adopted river basin management plans.

#### **Measure 221c**

The proposed standard payments of up to 7,344 euros per hectare are based on average cost estimates and target a 100 per cent compensation of the costs. This creates a risk of overcompensation as per definition some projects will have below average costs.<sup>1</sup> It is not clear how the national authorities plan to deal with this risk. An approach could be to base the compensation on actual costs incurred, supported by invoices, rather than standard rates. The administrative costs would presumably be limited as there are relatively few beneficiaries, and the main beneficiary is the Nature Agency itself.

Related to the above, it is not clear how the Danish authorities will ensure that the maximum limit for the EAFRD contribution (55 per cent of total public expenditure) will be controlled and enforced. Indeed, the proposal suggests that the EU contribution of 55

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<sup>1</sup> The expert statement accompanying the proposed measure asserts that the support rates are well within the likely costs (in fact closer to 50 per cent of the direct costs), but in doing so it clearly refers to different support rates from the ones actually proposed for the measure. For example, the expert statement refers to a rate of 2,150 euros/ha plus 800 euros/ha for fencing equal to 2,950 euros/ha, which is lower than any of the rates actually proposed.