Council of the
European Union

Brussels, 23 January 2019
(OR. en)

5627/19

Interinstitutional Files:
2018/0216(COD)
2018/0217(COD)

AGRI 31
AGRILEG 13
AGRIFIN 3
AGRISTR 2
AGRIORG 4
CODEC 155
CADREFIN 33

NOTE

From:	Presidency
To:	Council
No. Cion doc.:	9645/18 + COR 1 + ADD 1 9634/18 + COR 1 + ADD 1
Subject:	Post-2020 CAP reform package (CAP Strategic Plans Regulation and Horizontal Regulation) *- Presidency background note*

With a view to the "Agriculture and Fisheries" Council on 28 January 2019, delegations will find attached a Presidency background note to steer the ministerial debate.

ANNEX

1. On 1 June 2018, the Commission published a package of three legislative proposals for the Common Agricultural Policy (CAP) in the period 2021-2027. Among them, the Regulation on CAP Strategic Plans and the Regulation on the financing, management and monitoring of the CAP (hereinafter referred to as "Horizontal Regulation") present significant interconnections, particularly with regard to the performance aspects of the "new delivery model" of the future CAP.

2. The abovementioned proposals were examined in the responsible Working Parties, i.e. the Working Party on Horizontal Agricultural Questions (CAP Reform) for the Regulation on CAP Strategic Plans and the Working Party on Financial Agricultural Questions for the Horizontal Regulation. The two Regulations were also examined by the Special Committee on Agriculture on several occasions and by the "Agriculture and Fisheries" Council at all its meetings from June to December 2018.

3. Under the Austrian Presidency, a first read-through of the proposals was completed in the Working Parties and a "Progress Report" was presented to the "Agriculture and Fisheries" Council in December 2018 (doc. 15027/18). That report referred to the drafting suggestions proposed by the Presidency for both Regulations, which were considered by delegations as a valuable starting point for further work.

4. From the outset, the **"new delivery model"** has emerged as one of the main topics of discussion, in particular with regard to the administrative burden it could imply, the risk of financial corrections and the appropriate level of subsidiarity in the implementation of the policy. To ensure a switch to a performance-based approach the Commission proposes that Member States set annual milestones in their CAP Strategic Plans and report on their achievement each year by 15 February in an annual performance report, providing both financial data and information on performance. If the reported values of one or more result indicators diverge from the respective milestones by more than a certain tolerance margin the Commission could request that Member States submit an action plan as a remedial action.

5. The tolerance margin of 25% proposed by the Commission was considered by several delegations as too restrictive. In addition, annual milestones were regarded as a potential source of difficulties for Member States, both as regards their setting (particularly with regard to non-area/animal-based measures in pillar II) and their monitoring (due to the administrative burden it would imply and the possible large deviations in case of measures such as investments). In this regard, several options were explored by both the Austrian and Romanian Presidencies, including biennial milestones, a higher tolerance margin of 35% and a "progressive approach", with a higher tolerance margin in the first years of implementation. The deadline of 15 February for the submission of the annual performance report was considered as a difficulty by many delegations, due to the quantity of information to be provided not only on expenditure, but also on performance, with regard to the previous financial year (ending on 15 October).

6. At the SCA on 21 January 2019, delegations reiterated their openness to the proposed performance orientation but highlighted the need to move towards a model that suits Member States' needs. They broadly agreed on the need to increase the tolerance margin proposed by the Commission and repeated their concerns about annual milestones for certain types of interventions. Different options were supported, such as checking the achievement of milestones every second year (or only twice during the policy implementation) or avoiding setting milestones for the first years. Concerns were also expressed on whether the 15 February deadline for the submission of the annual performance report could be met. Delegations requested either to postpone the deadline or to include in the report only basic information, particularly on financial data, and to give Member States the possibility to provide further information on performance at a later stage.

Question 1:

As a public policy, the Common Agricultural Policy (CAP) has always been driven by considerations for economy, efficiency and effectiveness. The Commission proposed to further foster these considerations through a performance-oriented "new delivery model", to which Member States agreed in principle. A key aspect within this framework is the deadline of 15 February, by which Member States would need to submit essential information in an annual performance report to ensure the link between the EU funds and the achievements of the performance targets.

- Given that, in the first two years of implementation, results would probably be limited, do you consider that a progressive approach would be necessary, whereby a certain level of deviation from the targets would be allowed and then gradually decreased to the [25%] proposed by the Commission, to better support Member States in their implementation efforts?
- In your view, what type of information would need to be provided obligatorily by 15 February to guarantee accountability and assurance?

7. The Horizontal Regulation proposes to establish an **agricultural reserve** for the 2021-2027 period, replacing the crisis reserve currently laid down in the Horizontal Regulation. The Commission proposes a carry-over of unused amounts of the current crisis reserve from 2020 to establish the new agricultural reserve (at least EURO 400 million) in 2021, for reasons of simplification and to avoid a financial discipline exercise at the beginning of the new period.

8. However, this mechanism of setting the reserve has emerged as a key discussion point. Some delegations agree with the Commission's proposal, while others argue that the unused amounts from 2020 should be returned to farmers, in line with the current rules. The new agricultural reserve for the 2021-2027 period would then instead be funded by using assigned revenue or other EAGF availabilities. At the SCA on 21 January 2019, delegations expressed divergent views, with each of the two options being supported by a similar number of delegations. Delegations shared, however, the view that financial discipline should be used in the 2021-2027 period only as a last resort to finance the agricultural reserve.

9. In the new CAP, the Commission expects that financial discipline will be used only as a last resort, i.e. in exceptional circumstances when no other, or insufficient, budgetary resources are available. In addition to this, there are reasons of simplification, which led the Commission to abolish the current provision in the Direct Payments Regulation that the adjustment rate should only apply to direct payments to farmers *in excess of EUR 2000*. However, a number of Member States wish to maintain the EUR 2000 threshold in the new legislation in order to exempt in particular small farmers from financial discipline, although, according to the Commission, Member States are in any case free to put such a threshold if they so wish.

Question 2:

Currently, the main aspects related to the agricultural reserve and the financial discipline are part of the MFF Negotiating Box. The Presidency considers that the new carry-over mechanism and the replenishing of the agricultural reserve should also be discussed at the level of the Ministers of agriculture, given the importance of the subject for the future CAP. Consequently, the Presidency invites the Ministers to address the following aspects in their interventions:

- Do you agree on the proposed carry-over mechanism of unused amounts in the year 2020 to the following years for setting up the agricultural reserve in 2021?
- Should the unused amounts of the crisis reserve from the year 2020 be reimbursed to beneficiaries?
- Do you consider that the EUR 2000 threshold should be maintained for the application of the financial discipline?