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- Environmental and climate-related aspects of the CAP – a common, ambitious and flexible green architecture

In preparation for the "Agriculture and Fisheries" Council on 18 November 2019, delegations will find in the Annex a Presidency discussion paper on "environmental and climate-related aspects of the CAP - a common, ambitious and flexible green architecture", including questions to steer the ministerial debate.

Delegation will be requested, at the Special Committee on Agriculture on 12 November 2019, to endorse the questions.

PRESIDENCY DISCUSSION PAPER
ON ENVIRONMENTAL AND CLIMATE-RELATED ASPECTS OF THE CAP –
A COMMON, AMBITIOUS AND FLEXIBLE GREEN ARCHITECTURE

At the ‘Agriculture and Fisheries’ Council on 15 July 2019, Ministers exchanged views on the environmental and climate-related aspects of the post-2020 Common Agricultural Policy (CAP). Prior to the meeting, the Presidency had prepared a discussion paper (10622/19) and had asked Ministers to express their views on the most essential elements in the Commission proposal and to reflect on possible improvements necessary to achieve the desired higher level of environmental and climate ambition.

Many delegations expressed their support, although to a different degree, for a higher level of environmental and climate ambition of the future CAP compared to the current one. Delegations also emphasized that it was important to: i) secure adequate funding to support more demanding environmental conditions, ii) reduce the administrative burden for both farmers and authorities, including in the controls of conditionality, and iii) allow Member States to take account of their local needs in the implementation of the requirements, thus ensuring more flexibility as well as simpler and more understandable provisions.

Many Ministers also mentioned the need for further technical work, and the Council instructed the Special Committee on Agriculture (SCA) to continue discussions with a view to further developing the proposals relating to this topic. Technical work has also continued in the Working Party on Horizontal Agricultural Questions (WP HAQ) during the autumn.

1. Results achieved so far in improving the environmental and climate ambition of the CAP

Conditionality (Articles 11-12 and Annex III of the Strategic Plans Regulation) represents a common EU baseline, from the environmental and climate-related viewpoint, for receiving support. The Commission proposal integrates many of existing greening requirements and cross-compliance into the new enhanced conditionality, which will be the baseline for receiving payments under the CAP Strategic Plan.

The enhanced conditionality will be translated by Member States into national standards taking into account their specificities and needs. The work done over successive Presidencies (Austria, Romania, Finland) has aimed to clarify the requirements of conditionality and to provide for the necessary flexibility in order to take different local conditions and circumstances across Europe into account.

It is important that conditionality as a baseline would cover as large a share as possible of the agricultural land of the EU. However, it is also important to strike a balance between the administrative burden associated with controls of conditionality and the environmental impact of **small-scale farming**. Therefore, concerning small farms, a simpler regime for controls and certain exemptions for penalties of conditionality seem to be justified.

In the Presidency's view, the draft text under discussion for conditionality with its new elements of standards of Good Agricultural and Environmental Conditions of land (GAEC) and Statutory Management Requirements (SMR) reaches a higher environmental and climate level than the current baseline. At the same time, it ensures a level playing field while providing Member States with the flexibility needed to adapt standards and requirements to local situations and needs.

For the sake of simplification, Member States would be given the necessary leeway in implementing the **controls and penalties on conditionality (Articles 84-87 of the Horizontal Regulation)**. In cases of non-compliances, penalties would be more proportionate with regard to the consequences for the achievement of the objective of the standard or requirement concerned.

The Presidency has also worked on further amending and consolidating the draft legal texts of the CAP in particular as regards the following elements, which are important for managing the Member States' Strategic Plans and for contributing to achieving environmental and climate ambition:

- The **eligibility of land (Article 4(c) of the Strategic Plans Regulation)**: the Presidency has proposed amendments to the rules governing the eligibility of land to direct payments to ensure these rules do not hamper the environmental ambition of the future CAP. This approach avoids that farmers lose support because of enhanced conditionality requirements and gives them incentives to commit to eco-schemes, thus increasing their contribution to the achievement of environmental and climate purposes;
- The **financial flexibility (Articles 88 and 89 of the Strategic Plans Regulation)**: the drafting suggestions proposed by the Presidency would decrease significantly the risk of losing funds when the uptake in certain interventions, in particular the eco-schemes, is lower than expected. Within certain limits justified by Member States in their Strategic Plan, flexibility would also allow shifting funds to, for example, eco-schemes from other direct payments interventions, if the uptake of eco-schemes is higher than expected. This would ensure that eco-schemes remain attractive and that valuable projects receive appropriate funding even if the uptake is different than originally planned, which is a risk, given that eco-schemes are new instruments without prior experience in their planning/execution.

The Presidency has also discussed in detail the legislative proposal as regards several **types of interventions contributing to environmental and climate objectives**. The drafting of, in particular, Article 28 (eco-schemes), Article 65 (management commitments), Article 66 (ANC), Article 67 (certain mandatory requirements) and the non-productive elements in Article 68 (Investments) has been fine-tuned and the texts have the support of a large majority of Member States. However, as regards eco-schemes the question of voluntary or compulsory application of the system in the Member States remains open.

Under the **sectoral interventions** the percentage of the operational funds of the PO's operational programmes to be directed towards environmental and climate purposes has been discussed, but differences in Member States' opinions remain.

2. Reflections for further work

In addition to the legal elements and requirements presented above, a question remains about the required financial contribution of the CAP Strategic Plans towards environmental and climate purposes. This issue has been discussed in connection with the reform and some Member States, for example, have suggested to dedicate a specific share of direct payments to eco-schemes, but wide differences in opinions and preferences still remain.

The Commission proposal includes in its recitals a general objective of reaching 40% of climate related expenditure under the CAP and provides under Article 87 a method for tracking climate related expenditure. It also includes a more concrete percentage (30%) for the European Agricultural Fund for Rural Development (EAFRD) budget to be earmarked for environmental and climate-related objectives. For pillar I interventions, a minimum expenditure share (20%) has been proposed for operational funds of the producer organisations (POs) for fruit and vegetables.

As the CAP Strategic Plan should form a coherent whole, covering interventions under both Pillars, the Presidency would like to suggest to introduce **one common percentage** covering the whole CAP Strategic Plan, equally applicable to all Member States, to be dedicated to environmental and climate-related objectives. Alternatively, this could also be expressed as a **fixed amount** of funding per Member State for these purposes under the whole CAP Strategic Plan. In other terms, there would be one common percentage or fixed amount of funding covering both pillars and **the Member State in question could choose one or more intervention(s) under Pillar I or Pillar II or both, which would contribute to reaching this percentage or amount**. This would mean that Member States could choose those interventions that fit best to them in the light of their local conditions without being constrained to pick them from a specific pillar, thus ensuring more flexibility in drafting the CAP Strategic Plan.

Thus, instead of allocating 30% of Pillar II to the environmental and climate-related objectives, the Presidency suggests that Member States should allocate a certain share from their *overall* CAP envelope (Pillar I and Pillar II) to these objectives.

The Presidency feels that, together with the obligation for increased ambition in the design of the CAP Strategic Plans according to Article 92, one common percentage or fixed amount would be a good way to give visibility to environmental and climate spending, achieve a higher level of environmental and climate ambition compared to current situation and ensure the common nature of the CAP "green architecture". At the same time, a single common percentage or fixed amount would give Member States flexibility in choosing whether to use more Pillar I or Pillar II interventions according to their circumstances, as long as the required percentage or amount is reached.

The common percentage would replace the proposed 30% target and could be **fixed later, after the MFF decision**, at a level that would achieve a higher level of environmental and climate ambition than the current CAP. A target for operational programmes for fruits and vegetables would be kept while its percentage would still need to be discussed.

Interventions contributing to the single common percentage or fixed amount

The Presidency has identified a preliminary list of types of interventions, which may be considered for the achievement of the single common percentage or fixed amount (to be specified in the legal text):

- the schemes for the climate and the environment (eco-schemes) (Article 28 of the Strategic Plans Regulation);
- management commitments contributing to environment and climate in Pillar II (Article 65 of the Strategic Plans Regulation);
- certain percentage of funding compensating for natural or other area-specific constraints (Articles 66 and 67 of the Strategic Plans Regulation);

- investments linked to the environment and climate related purposes (Article 68 of the Strategic Plans Regulation);
- certain interventions linked to the environment and climate related purposes under types of interventions in certain sectors;
- advisory services linked to environment and climate related purposes (Article 13 of the Strategic Plans Regulation);
- knowledge transfer and cooperation linked to environment and climate related purposes (Articles 71-72 of the Strategic Plans Regulation).

The Presidency would also suggest to add to the CAP Strategic Plans Regulation specific provisions concerning the follow-up of the percentage/amount set. These provisions should take into account the multiannual character of II Pillar commitments. Thus, it would seem logical to monitor the achievement of the target over a period of several years and provide for a mechanism ensuring that the required percentage/amount is met during the CAP planning period.

In light of the background above, Ministers will be invited to address the following **questions** at the "Agriculture and Fisheries" Council on 18 November:

- Would Member States agree with the proposal on the single common dedicated share of funding for environmental and climate purposes, which would cover both pillars?
- Would the package of measures outlined above constitute a sufficiently robust but flexible framework to achieve an increase in the environment and climate-related ambition of the future CAP?