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NOTE

From:	Presidency
To:	Special Committee on Agriculture
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Regulation (EU) No 1307/2013 of the European Parliament and of the Council - Preparation of the Council debate

With a view to the meeting of the Special Committee on Agriculture on 14 September 2020, delegations will find in the Annex a Presidency paper on the implementation of the guidance provided by the European Council on the MFF with regard to direct payments and rural development, as well as other issues related to direct payments.

ANNEX

Presidency Paper for the SCA on 14 September 2020

I. Direct Payments

A. Implementation of the guidance provided by the European Council on the MFF from 21 July 2020

General remark

References to years in the following texts as well as in the rest of the draft Regulation will have to be adapted to take into account the two-year transitional period (2021-2022).

1. In point 89 of its conclusions (doc. 10/20), the European Council agreed on the continuation of the **external convergence** of direct payments among Member States:
   "All Member States with direct payments per hectare below 90% of the EU average will close 50% of the gap between their current average direct payments level and 90% of the EU average in six equal steps starting in 2022. This convergence will be financed proportionately by all Member States. Additionally, all Member States will have a level of at least EUR 200 per hectare in 2022 and all Member States shall reach at least EUR 215 per hectare by 2027."

   As a result of the European Council's conclusions, the Annexes with financial ceilings of the CAP Strategic Plans Regulation and the Transitional Regulation will need to be adapted. Meanwhile the European Commission has presented the breakdown of the financial funds for the CAP in the MFF 2021-2027 (cf. MFF fiche no 85). Revised versions of the Annexes will be prepared soon on the basis of that input, with the support of the Commission services to integrate certain data which still need to be provided.

2. According to point 90 of the same conclusions, "**capping** of the direct payments for large beneficiaries will be introduced on a voluntary basis at the level of EUR 100 000" and that "it will apply only to the Basis Income Support for Sustainability (BISS). When applying capping Member States may subtract from the amount of BISS per beneficiary all labour-related costs".

In the Presidency's view, the European Council conclusions do not prohibit an optional and limited reduction of payments below EUR 100 000. The Presidency suggests to complement the European Council's guidance on capping with the reduction of payments provided for in letters (a) – (c) of Article 15(1) of the CAP Strategic Plans Regulation. Therefore, the Presidency suggests the following amendments to Article 15(1):

- The reduction of direct payments shall be voluntary for Member States and limited to the amount of the Basic Income Support for Sustainability (BISS) exceeding the amount of EUR 60 000.

- Member States that decide to use the option of a reduction of payments shall have much flexibility as regards the amount from which a reduction shall apply as well as regards the percentage of reduction. As a consequence, the Presidency’s suggestion gives Member States the possibility to significantly reduce payments below EUR 100 000, if they wish to do so. However, for each reduction below EUR 100 000 a percentage threshold shall limit the reduction so as not to make it become a full capping, which may not be in line with the European Council's conclusions.

As mentioned above, Member States may also foresee a capping of the amount exceeding EUR 100 000. On the other hand it would also be possible to reduce amounts over EUR 100 000 only to a moderate extent and/or degressively.

The Presidency's suggestions would provide Member States with a wide range of options and maximum flexibility.

In the Presidency's view, Article 15(2) as set out in the Croatian Presidency drafting suggestions (8409/1/20 REV 1) already reflects the European Council's conclusions according to which Member States may subtract all labour-related costs from the amount of BISS per beneficiary. The text offers Member States enough flexibility in calculating the amounts. Therefore, the Presidency does not intend to suggest any changes to this text at this stage.

The Commission's proposal for the CAP Strategic Plans Regulation comprised two elements for better targeting of direct payments: mandatory capping in Article 15 and the mandatory application of the Complementary Redistributive Income Support for Sustainability in Article 26. In the Presidency`s view, the European Council's guidance on capping does not imply a link with the Complementary Redistributive Income Support. The latest compromise text, stating that Complementary Redistributive Income Support to be voluntary, could thus be maintained.

3. According to point 93 of the European Council's conclusions, the default percentages for the flexibility between the pillars shall be increased from 15% to 25%. The threshold for transfers from direct payments to rural development allocations "may be increased by 15 percentage points provided that Member States use the corresponding increase for EAFRD financed interventions addressing specific environmental- and climate-related objectives and by 2 percentage points provided that Member States use the corresponding increase for EAFRD financed interventions for supporting young farmers". With regard to transfers from rural development to direct payments allocations, Member States with direct payments per hectare below 90 % of the EU average may increase the percentage to 30 %. Therefore, the Presidency adjusted Article 90 accordingly.

4. In the light of the European Council's conclusions on the MFF, the Presidency sees the possibility to remove the brackets in Articles 53 and 58 because the Presidency considers the proposed percentages as adequate.

B. Other direct payments issues

5. In respect to the definition of the **genuine farmer** (Article 4) and the **complementary income support for young farmers** (Article 27) the Presidency suggests to stick to the latest Croatian Presidency's compromise text, because there seems to be a broad majority in favour of the current version of these Articles.

6. An issue in relation to direct payments is the **transitional national aid** (Article 132a). In this respect, the Presidency suggests to start in the year **2023** the gradual phasing out of these payments by 10 percentage points per year, as suggested by the Croatian Presidency (see Annex).

II. Rural Development

Implementation of the European Council guidance on the MFF

1. In point 96 of its conclusions, the European Council agreed to take into account transition regions as well as to raise up several contribution rates compared to the original Commission's proposal. These changes have now been integrated in Article 85, with the figures in brackets replaced by the agreed ones and the brackets deleted.

2. Independently from that, it seems to be necessary to further clarify the text of Article 85; therefore some editorial amendments have been added without however changing the substance.

Drafting suggestions of the Presidency[*]

(Compared to the Commission's initial proposal, added text is marked in bold and underlined and ~~strikethrough~~ is used for deleted text. Changes[1] compared to the last consolidated drafting suggestions of the HR Presidency are marked in yellow)

Article 15

Reduction of payments

1. [Member States ~~shall~~ **may** reduce the amount of direct payments to be granted to a farmer pursuant to **Subsection 2 of Section 2 of** this Chapter for a given calendar year ~~by~~ exceeding EUR [60 000] as follows:

   (a) **up to** ~~by at least~~ [25] % for the tranche between EUR [60 000 and EUR 75 000];

   (b) **up to** ~~by at least~~ [50] % for the tranche between EUR [75 000 and EUR 90 000];

   (c) **up to** ~~by at least~~ [75] % for the tranche between EUR [90 000 and EUR 100 000];

   (d) **up to** ~~by~~ [100] % for the amount exceeding EUR [100 000].]

2. Before applying paragraph 1, Member States ~~shall~~ **may** subtract from the amount of direct payments to be granted to a farmer pursuant to this Chapter in a given calendar year:

   (a) the salaries linked to an agricultural activity declared by the farmer, including taxes and social contributions related to employment;~~ and~~

[*] The Council Legal Service did not yet have the opportunity to scrutinise the drafting suggestions.

[1] References to years in the following texts as well as in the rest of the regulations will have to be adapted to take into account the two-year transitional period (2021-2022).

(b) the equivalent cost of regular and unpaid labour linked to an agricultural activity practiced by persons working on the farm concerned who do not receive a salary, or who receive less remuneration than the amount normally paid for the services rendered, but are rewarded through the economic result of the farm business.

To calculate the amounts referred to in points **(**a) and **(**b), Member States shall use the **method further specified in their CAP Strategic Plans**~~average standard salaries linked to an agricultural activity at national or regional level multiplied by the number of annual work units declared by the farmer concerned~~.

3. The estimated product of the reduction of payments shall primarily be used to contribute to the financing of the complementary redistributive income support for sustainability**, if applied by that Member State,** and thereafter of other interventions belonging to decoupled direct payments.

Member States may also use all or part of the product to finance types of interventions under the EAFRD as specified in Chapter IV by means of a transfer. Such transfer to the EAFRD shall be part of the CAP Strategic Plan financial tables and may be reviewed in 2023 in accordance with Article 90. It shall not be subject to the maximum limits for the transfers of funds from the EAGF to the EAFRD established under Article 90.

4. The Commission ~~is empowered to~~**may** adopt ~~delegated~~**implementing** acts ~~in accordance with Article 138 supplementing this Regulation with rules establishing a harmonised basis for~~ **laying down uniform conditions for the** calculation **o**~~for~~ the reduction of payments laid down in paragraph 1 to ~~ensure a correct~~**provide detailed rules for the** distribution of the funds to the entitled ~~beneficiaries~~ **farmers.**

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 139(2).

Article 85

EAFRD contribution rates

1. The CAP Strategic Plans shall establish a single EAFRD contribution rate applicable to all interventions. **Where applicable, a separate contribution rate shall be established for the less developed regions within the meaning of point (a) of Article 102(2) of Regulation (EU) No [CPR], the transition regions in the meaning of Art. xx of Regulation (EU) No [CPR], the outermost regions and smaller Aegean islands.**

2. The maximum EAFRD contribution rate shall be:

(aa) 85% of the eligible public expenditure in the less developed regions;

(a) ~~[~~~~7~~**8**0%~~]~~ of the eligible public expenditure in the outermost regions and in the smaller Aegean islands~~ within the meaning of Regulation (EU) No 229/2013~~;

~~(b) [70%] of the eligible public expenditure in the less developed regions;~~

(ba) 60% of the eligible public expenditure in transition regions;

~~(c) [65%] of the eligible expenditure for payments under Article 66;~~

(d) ~~[~~43%~~]~~ of the eligible public expenditure in the other regions.

The minimum EAFRD contribution rate shall be ~~[~~20 %~~]~~.

3. By way of derogation from paragraph**s 1 and** 2, the maximum EAFRD contribution rate shall be:

(aa) 65% of the eligible expenditure for payments under Article 66;

(a)~~[~~80 %~~]~~ for management commitments referred to in Article 65 of this Regulation, for payments under Article 67 of this Regulation, for non-productive investments referred to in Article 68 of this Regulation, for support for the European Innovation Partnership under Article 71 of this Regulation and for the LEADER, referred to as community-led local development in Article 25 of Regulation (EU) [CPR];

(b)~~[~~100%~~]~~ for operations receiving funding from funds transferred to the EAFRD in accordance with Articles 15 and 90 of this Regulation.

Article 90

Flexibility between direct payment~~s~~ allocations and EAFRD allocations

1. As part of their CAP Strategic Plan proposal referred to in Article 106(1), Member States may decide to transfer:

   (a) up to ~~[15~~**25**%~~]~~ of the Member State's allocation for direct payments set out in [Annex IV] after deduction of the allocations for cotton set in [Annex VI] for calendar years 2021 to 2026 to the Member State's allocation for EAFRD in financial years 2022 – 2027; or

   (b) up to ~~[15~~**25**%~~]~~ of the Member State's allocation for EAFRD in financial years 2022 – 2027 to the Member State's allocation for direct payments set out in [Annex IV] for calendar years 2021 to 2026.

   The percentage of transfer from **a** Member State's allocation for direct payments to its allocation for EAFRD referred to in **point (a) of** the first subparagraph may be increased by:

   (a) up to ~~[~~15 percentage points~~]~~ provided that Member States use the corresponding increase for EAFRD financed interventions addressing the specific environmental- and climate-related objectives referred to in points (d), (e) and (f) of Article 6~~(1)~~;

   (b) up to ~~[~~2 percentage points~~]~~ provided that ~~the~~ Member States use the corresponding increase in accordance with point (b) of Article 86~~(5)~~**(4).**

The percentage of transfer from a Member State's allocation for EAFRD to its allocation for direct payments referred to in point (b) of the first subparagraph may be increased to 30% for Member States with direct payments per hectare below 90% of the Union average.

2. The decisions referred to in the paragraph 1 shall set out the percentage referred to in paragraph 1, which may vary by calendar year.

3. Member States may, ~~in~~ **once a year from** 2023, review their decisions referred to in paragraph 1 as part of a request for amendment of their CAP Strategic Plans, referred to in Article 107.

Article 132a

Transitional national aid

Member States may continue to grant transitional national aid in accordance with Article 37 of Regulation (EU) No 1307/2013, in order to allow for a gradual phasing-out of these payments by an annual 10 percentage points starting in 2023~~x~~ with 40 % of the level of payments in each of the sector-specific financial envelopes as authorised by the Commission in accordance with Article 132(7) or Article 133a(5) of Regulation (EC) No 73/2009 in 2013.