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Subject: Post-2020 CAP reform package

a) 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

b) Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013

c) Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products, (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union and (EU) No 229/2013 laying down specific measures for agriculture in favour of the smaller Aegean islands

- *Presidency progress report*

I. INTRODUCTION

1. On 1 June 2018, the Commission proposed a reform of the Common Agricultural Policy (CAP) for the time after 2020 that consists of the three following Regulations:

- A centre-piece **CAP Strategic Plans Regulation (CAP SPR)**, encompassing direct payments, interventions in certain sectors and rural development, updating and replacing the current Direct Payments, Rural Development Regulations and parts of the Regulation on common market organisation (CMO);
- A Regulation on the financing, management and monitoring of the CAP (hereinafter: “**Horizontal Regulation**” - HzR), updating and replacing the current Regulation with the same name;
- A Regulation on common market organisation (CMO) of agricultural products, which would amend and update Regulations (EU) No 1308/2013 on CMO, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs and (EU) No 251/2014 on aromatised wine products and possibly also Regulations (EU) No 228/2013 on the outermost regions and (EU) No 229/2013 on the smaller Aegean islands (hereinafter: “**Amending Regulation**”)

2. Under the successive Bulgarian, Austrian, Romanian, Finnish, Croatian and German Presidencies, the "Agriculture and Fisheries" Council and its preparatory bodies held intensive technical and policy discussions on all aspects of the proposed CAP reform with a view to aligning the proposals to Member States' views and to preparing the ground for agreeing a Council negotiating position.

3. On 21 July 2020, the European Council adopted conclusions on the multi-annual financial framework (MFF) for 2021-2027, containing guidance also on key elements of the MFF-related sectoral legislative acts, including the reform of the CAP.
4. On 21 October 2020, the "Agriculture and Fisheries" Council agreed a General Approach on the CAP reform, hereby providing the Presidency with a negotiating mandate (CAP SPR: doc. 12148/20 + ADD 1; HzR: doc. 12151/20; CMO: doc. 12158/20). On 23 October 2020, the European Parliament concluded the vote on its negotiating position.
5. On 10 November 2020, the negotiations with the European Parliament were launched at a trilogue covering the three CAP reform proposals. This kick-off meeting was followed by trilogues dedicated to the specific CAP reform proposals.
6. In the light of the political agreement reached at the final trilogue on the CAP **Transitional Regulation** on 27 November 2020, the rules of the current CAP should continue to apply in 2021 and 2022, meaning that the new CAP rules would cover the period from 2023 to 2027.

II. THE COUNCIL'S NEGOTIATING POSITION AND ITS KEY ELEMENTS

1) CAP Strategic Plans Regulation

7. The General Approach shows the Council's ambition on the new CAP's "**green architecture**":
 - As a general rule, all farmers regardless the size of their holding would have to apply the enhanced **conditionality standards and requirements** to receive CAP funds - although a simplified control system would make checks on small farms less burdensome and Member States could exempt small holdings when implementing some GAECs;

- On **eco-schemes**, the single most important novelty compared to the current policy in this area, the General Approach goes even beyond the Commission's proposal, suggesting not only a mandatory application to Member States, but also a ring-fencing corresponding to 20% of their direct payments allocations. As eco-schemes are a "new" instrument and their uptake is still uncertain, the introduction of a ring-fencing would be facilitated by a two-year "pilot phase" during which Member States would be allowed to transfer unused funds to other interventions, thus reducing the risk of unspent budget;
 - **Rural development** interventions would continue to contribute to the CAP's "green" ambition for at least 30% of the EAFRD allocation of a Member State. The General Approach also recognises that, when this contribution is reached, the excess expenditure can be counted in the ring-fencing for eco-schemes.
8. Regarding the **new delivery model**, the Council supported the shift from a compliance to a performance-oriented policy proposed by the Commission, with less red tape and more flexibility for Member States. Flexibility is especially necessary in regard to the rules determining the relation to the beneficiaries. National administrations would be subject to less administrative burden thanks to a biennial performance review, which, through a streamlined system of indicators, would allow the Commission to follow the implementation of the policy against the specific objectives. While keeping the foundations of the Commission's proposal, including the notion of unit amounts for interventions in both pillars, the General Approach strives for simplification, allowing amongst others average and maximum/minimum unit amounts where setting a single value would result in excessive burden for planning and/or reporting. Necessary financial flexibility is another distinctive feature of the General Approach, as it provides for the possibility, within precise limits and conditions, to use unspent amounts for interventions in the first pillar for other interventions of the same kind, thus reducing the risks associated with the concept of "strategic planning".

9. Measures under the **first pillar** would become part of the same strategic approach as rural development measures, which are funded by the second pillar, although the former would continue to be planned and implemented on an annual basis and the latter would follow a multi-annual horizon. With regard to **direct payments**, in line with the **European Council** conclusions on the MFF 2021-2027, the General Approach provides for a further convergence of the support level per hectare among Member States. Those countries below 90% of the EU average would see 50% of the gap between their current level and 90% of the EU average being closed by 2027. With a view to better targeting support to small- and medium-sized farms, Member States could decide to reduce direct payments as from 60 000€ per year and to cap them at 100 000€; they could also grant redistributive payments for this purpose. Small farmers would also benefit from a specific scheme for direct payments. Member States could continue to pay up to 13% of their direct payment allocations in the form of coupled support and further 2% for protein crops. To support young farmers, Member States would have to spend a minimum budget to help them setting up, sustaining and making investments. Member States could also grant up to 1% of their direct payment allocations to support farmers in risk management.
10. With a view to helping producers better organise themselves, the General Approach extends **sectoral support** to other sectors than those that have been benefitting of those measures in the past. To incentivise producers to strengthen their cooperation in these other sectors without undermining their efforts in Member States with a traditionally low level of sectoral organisation, producer groups could be supported during a four-year transitional period to get recognised as producer organisations.
11. Under the **second pillar**, the General Approach provides Member States with increased flexibility to align their **rural development** measures to the needs and the situation on the ground. To this end, Member States could design tailor-made interventions based on a menu of broad types of interventions. The intended flexibility is especially useful when designing highly diversified, targeted and therefore particularly effective measures.

12. **Other elements:** in line with the guidance provided by the European Council, the Council's negotiating position allows Member States to shift up to 25% of their direct payment allocations to the EAFRD. Up to additional 15% and 2% could be transferred for environment-/climate-related objectives and for young farmers respectively. Member States could also decide to shift up to 25% of their EAFRD allocation to their direct payment allocation; Member States with a direct payment level per hectare below 90% of the EU average could transfer up to 30% of their EAFRD allocation to the first pillar.

2) Horizontal Regulation

13. The Council's support to the shift from a compliance to a performance-oriented policy can also be found back in its General Approach on the Horizontal Regulation. The Council believes that the provisions in the current Horizontal Regulation (1306/2013) have proven to be fit for purpose for the financing, management and monitoring of the CAP and can, with some exceptions (e.g. scrutiny of transactions), be carried over to the new Horizontal Regulation and the new performance-based policy environment.
14. The Council acknowledges that the new proposed provisions are necessary to accommodate the new delivery model also in the Horizontal Regulation. The Council could generally accept the Commission's proposals in this regard and introduced relatively modest amendments, for example with regard to the content of the annual clearance package, the procedure for annual performance clearance, and the reasons and procedure for the suspension of payments. The amendments introduced were to a certain extent necessary as a result of the changes introduced in the proposed CAP Strategic Plan Regulation, e.g. with regard to the annual performance report and the biennial performance review.

15. In conclusion, the Council's General Approach on the Horizontal Regulation aims to preserve what is working well, to accommodate the policy shift to performance, and to achieve simplification of rules and reduction of administrative burden. Therefore, it is of outmost importance that the shift to performance is not on top of the current compliance based system. The shift must result in a high degree of subsidiarity and flexibility enabling the MS to foresee an effective and efficient control system as regards the relation to the single beneficiary best fitting to the governance system and the specific measures foreseen in the MS.

3) Amending Regulation

16. The General Approach shows that the Council is in general content with the functioning of the current CMO Regulation and its role as a safety net with regard to market and crisis measures. The Council examined the proposed new amending Regulation focusing on geographical indications, wine provisions and some technical aspects. It could be concluded that there is no major appetite for review of the CMO and that the Commission had managed to use currently available instruments in a flexible and timely manner in the recent years.

III. THE TRILOGUE PHASE

1) CAP Strategic Plans Regulation

17. Trilogues dedicated to the CAP SPR took place on 19 November and 1 December, and another one is planned on 17 December. All trilogues focused on the green architecture, with the following topics covered:
- Conditionality (Art. 11, 12, Annex III);
 - Farm Advisory Services (Art. 13);
 - Eco-schemes (Art. 28).

18. The trilogues allowed the Council and the European Parliament to better understand each other's positions and to align their views on several technical as well as some political issues. Further work will however be needed to reach a common and comprehensive understanding on the green architecture as well as on the remaining parts of the CAP SPR.

2) Horizontal Regulation

19. To date, one trilogue on the Horizontal Regulation has taken place on 4 December and a second one is planned for 18 December, where the negotiating parties aim to achieve tentative agreement on the following clusters of topics:

- Governance bodies (Art. 8-11, 88);
- Financial management (Art. 4-7, 12-33);
- Transparency (69, 89, 96, 97, 98).

20. With regard to the policy shift to performance, it can be noted that some of the amendments of the European Parliament appear to support this policy shift, whereas other amendments re-introduce (additional) provisions on compliance. As the working out of the final text of the provisions in the Horizontal Regulation depends on the policy choice made for performance, compliance or a combination of both, the Presidency has asked for an exchange of views on this matter with the Parliament at the second trilogue on 18 December.

3) Amending Regulation

21. The first trilogue on the Amending Regulation took place on 2 December and focused on wine. Topics covered included: the extension of vine planting rights, converting rights into authorisations, the permitted varieties and *vitis labrusca* in historical vineyards, dealcoholized wine and "sustainable development" as a product specification for PDO/PGI. There was also a first exchange of views on market management/ crisis measures where the three institutions presented their positions.

22. Work will continue on the basis of four negotiating blocks in view of reaching an agreement on the Amending Regulation. An emphasis will be required on market management/crisis measures, where the General Approach does not provide a mandate to engage in negotiations on some of the European Parliament's amendments, in order to respond to concerns expressed by the latter.

IV. OUTLOOK

23. Building on the progress made, the German Presidency has full trust in the incoming Portuguese Presidency to conclude the CAP reform discussions with the European Parliament. The guiding principle according to which "nothing is agreed until everything is agreed", should continue to apply to the whole CAP reform, which from the beginning has been considered as a package.
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