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Subject: Post 2020 CAP reform package

- a) Regulation on CAP Strategic Plans
- b) Regulation on financing, management and monitoring of the CAP
- c) Regulation on common market organisation (CMO) of agricultural products

- *Exchange of views on the new delivery model*

With a view to the exchange of views at the Special Committee on Agriculture on 2 December 2019, delegations will find in the Annex a Presidency discussion paper on the new delivery model, which includes drafting suggestions on the relevant Articles of the Regulation on CAP Strategic Plans.

In the Annex to the Annex, compared to the Commission proposal, the added text is marked in **bold and underlined** and ~~strikethrough~~ is used for deleted text. Changes compared to the last Romanian Presidency's drafting suggestions (10103/19 REV 1) are highlighted in yellow.

The New Delivery Model

The proposed New Delivery Model (NDM) for the future CAP aims to provide a shift from a compliance-based policy to a performance-based policy.

Through the NDM, the achievement of the common policy objectives would be ensured by a strategic planning, which would include setting clear targets in advance. This would give Member States more leeway to plan their interventions on the basis of their actual needs and specificities and to design their own eligibility rules and control framework, with the Commission no more checking the compliance at the beneficiary level. The NDM would be fit for implementation in all Member States, regardless of their administrative structure. The Finnish Presidency has amended Articles 94 and 110 to clarify the role of regions in drafting and implementing the CAP Strategic Plan.

State of play

Member States have discussed the NDM in the Council and its preparatory bodies over the last two years since the Commission Communication on the future CAP was submitted. Over this time, the Commission has provided many detailed explanatory papers and examples. Member States have also presented practical and useful examples on how to manage interventions in accordance with the principles of the NDM.

Planning

Delegations have considered **target setting** as a challenging task, particularly for a multi-annual period.

Member States have pointed out that anticipating the uptake of certain interventions such as eco-schemes is difficult, as it is hard to predict the interest of beneficiaries. Therefore, both higher and lower than planned **uptakes** of these instruments could materialise. Lower than planned uptakes could result in a loss of funding, as resources would be tied to interventions which were not fully used. Higher than planned uptakes could lead to a situation in which the planned allocation is insufficient to satisfy the demand for eco-schemes, with potential beneficiaries risking being granted lower support than planned. The Presidency presented drafting suggestions (on Articles 88 and 89) to increase flexibility for financial planning and thus to address the abovementioned cases.

As regards the content of the CAP Strategic Plans, Member States have asked that the description of interventions be strategic in nature and limited to the elements that are needed for the Commission to assess and approve the Plans.

Reporting

Member States would submit to the Commission an Annual Performance Report (APR) on the implementation of the CAP Strategic Plan in the previous financial year. On the basis of the APR, the Commission would conduct an annual performance clearance and a biennial performance review.

Reporting on result indicators

A key issue is the frequency of milestones and of the performance review: in this regard, **biennial milestones** and **biennial performance review** have been widely welcomed by Member States as they would provide a balance between the needs to keep administrative burden to a minimum and to ensure the accuracy of the policy monitoring.

The Commission has provided explanations on how to track implementation with result indicators, and how to ensure that Member States are on the planned trajectory and that they are making progress towards achieving the set objectives. The Commission has also underlined several times that it would be key to ensure an early detection of and related actions on any implementation issue to correct the course and “to get back on track”, which is also in the interest of Member States. This is the reason why information on result indicators should be submitted on an annual basis.

Reporting on output indicators

Delegations have raised concerns on how to manage possible deviations between the planned and the realised unit amounts under the performance clearance.

In the Commission proposal, the benchmark for all operations subject to payments during the year concerned would be the planned unit amount set in the CAP Strategic Plan for that year. However, reporting obligations need to be built in a way that they are functional for *all* types of interventions. Thus, Member States feel that an alternative reporting model offering more flexibility would be needed for non-area-/animal-based interventions ("non-IACS interventions"). The reporting model should also be suitable for both large and small Member States as well as for regionalised countries.

The Presidency has suggested a reporting model (in Article 121) that aims to offer the requested flexibility and simplicity, while at the same time guaranteeing the sound financial management of EU funds and providing the necessary assurance. The model builds upon the principles that the expenditure needs to match reported number of outputs.

Regarding **area- or animal-based interventions** ("IACS interventions"), in principle the approach presented in the Commission proposals was considered straightforward by delegations. However, the uptake of interventions based on Article 65 is not easy to predict, as it would be based on the actual interest of farmers in performing environmental, organic or animal welfare interventions. Also certain designs of rural development types of interventions (e.g. pick-and-choose menu of commitments) may render the planning of unit amounts challenging and thus, flexibility needs to be embedded in the system.

Concerning **non-IACS interventions**, several Member States have pointed out the difficulty to predict the unit amounts of rural development interventions and sectoral interventions. This is why the Presidency has presented an alternative reporting model. In this model, the planned unit amounts would have a purely indicative nature, and Member States would calculate each year a "benchmark" based on the commitments made in the operations selected in the previous financial year. This benchmark would remain the same during the whole implementation period of the selected operations, even though payments would be made over several years. The Commission has been very clear on the need for the benchmark not to change over the implementation period for reasons of sound financial management: if the benchmark changed every year instead of being stable, it would not constitute a meaningful reference for realised unit amounts to be compared with, and hence not provide the conditions to obtain assurance over the expenditure.

The quantitative information given by Member States in their APR should in principle suffice; however, they could also provide **additional quantitative information** for the years when the operations were paid, at the level of aggregation they wish. In that case, it would be *obligatory* for the Commission to use this additional quantitative data for the purpose of the annual performance clearance.

For expenditure not supported with outputs, meaning in cases when the realised unit amount exceeds the benchmark, a **justification** would be required or possible in the context of the annual performance clearance. In particular:

- If the deviation is more than 50 %, it would be obligatory for the Member State to justify the difference in the APR in the context of Article 38 of the Horizontal Regulation;
- If the deviation is lower than 50%, the Member State may also provide a justification already in the APR. This could avoid possible additional information requests of the Commission in the context of Article 52 of the Horizontal Regulation.

In principle providing additional quantitative information should not be an administrative burden for Member States as the IT systems should be able to provide the financial data, outputs, unit amounts and results. The reporting model needs to give sufficient information on how the Member State has proceeded towards the targets and how it has used the EU funds. It should facilitate the delivery of the annual performance report, which is the basis of performance clearance and review. The Certification Body would ensure that the performance reporting system works properly in the Member States.

The way forward

The Presidency's drafting suggestions on Articles 121 and 121a were discussed in the Working Party on Horizontal Agricultural Questions (WP HAQ) on 21 November. Due to the diverse opinions of Member States, the Presidency feels that certain issues of principle need to be clarified at SCA level before developing the model further.

On the basis of work done so far at the Working Party, the SCA and the Council to reach a Council position on this key subject, the Presidency sees a way forward as follows:

- As regards the content of the CAP Strategic Plans, the description of interventions should be strategic in nature and limited only to the elements that are needed for the Commission to assess and approve the Plans.
- As suggested by the previous Presidencies, the setting of annual milestones would be replaced by a biennial approach.
- The suggestions concerning deviation from the milestones as proposed by the Romanian Presidency offer sufficient flexibility.
- Flexibility would be increased in the financial planning of interventions in order to ensure optimal use of funds.

- For most interventions, especially under IACS, the current text offers a workable reporting model.
- The Presidency considers that the reporting model for non-IACS interventions discussed in the WP HAQ on 21 November would guarantee the sound financial management of EU funds, while it is clearly simpler than the Commission proposal. In the opinion of the Commission, the other alternative models discussed in the WP HAQ (adapting the benchmark every year on the basis of paid operations or fixing maximum unit amounts) would not give sufficient assurance.

Questions to the Member States:

While bearing in mind the need to ensure sound financial management of EU funds and the simplicity of the reporting system, would Member States be ready to work on the basis of the principles set above? If alternative models are preferred, how to ensure the correct use of EU funds?

PRESIDENCY DRAFTING SUGGESTIONS FOR THE

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

Article 88

Indicative financial allocations

1. Member States shall set out, in their CAP Strategic Plan, an indicative financial allocation for each intervention. For each intervention, **this indicative financial allocation shall equal** the multiplication of the planned unit amount, without the application of the **percentage of** variation referred to in Article 89, and the planned outputs, **shall equal this indicative financial allocation.**
2. Where different unit amounts are planned within an intervention, **the indicative financial allocation referred to in paragraph 1 shall equal** the sum of the multiplications of the planned unit amounts, without the application of the **percentage of** variation referred to in Article 89 and the corresponding planned outputs **shall equal the indicative financial allocation referred to in paragraph 1.**

3. The indicative financial allocations set out by Member States in accordance with paragraph 1 shall not prevent Member States from using funds from these indicative financial allocations as funds for other interventions, without amending the CAP Strategic Plan as referred to in Article 107, subject to compliance with the provisions of this Regulation[, and in particular with Articles 81, 82, 83, 84, 86 and 89,] and with the provisions of Regulation (EU) No .../... [HzR Regulation][], and in particular with Article 30(6)(b),] and subject to the following:

- financial allocations for direct payments interventions are used for other interventions in the form of direct payment,
- financial allocations for rural development interventions are used for other interventions in the form of rural development,
- financial allocations for interventions in the fruit and vegetable sector, the apiculture sector, the wine sector, the hops sector, the olive oil and table olive oil sector are only used for other interventions in the same sector and the use does not affect approved operational programmes, and
- financial allocations for interventions in other sectors referred to in point (f) of Article 39 are used for interventions in other sectors referred to in point (f) of Article 39 laid down in the CAP Strategic Plan and the use does not affect approved operational programmes.

Article 89

Variation of the unit amount

1. ~~Without prejudice to the application of Article 15,~~ Member States ~~shall~~ **may** set **a** maximum **or minimum unit** amounts ~~of support per unit,~~ **or both** or **a** percentages of **lower or upper** variation, **or both** for each intervention of the following types of interventions:
- (a) decoupled direct payments and coupled income support referred to in Chapter II of Title III;
 - (b) payments for management commitments referred to in Article 65;
 - (c) payments for natural constraints or other area-specific disadvantages referred to in Articles 66 and 67.

~~The P~~percentages of **lower or upper** variation ~~is~~ **are** the percentages by which the realised average or uniform unit amount may **be lower than, or** exceed the planned average or uniform unit amount referred to in the CAP Strategic Plan.

For each intervention in the form of direct payments, the realised average or uniform unit amount **shall never be lower than the minimum unit amount or** the planned unit amount **after application of the lower percentage of variation,** unless the realised output exceeds the planned output as established in the CAP Strategic Plan. **Where the realised output exceeds the planned output, the realised average or uniform unit amount may decrease below the minimum unit amount or the planned unit amount after application of the lower percentage of variation provided that this decrease is proportionate to the additional realised output.**

Where different unit amounts have been defined within **established for** an intervention, this subparagraph shall apply to each uniform or average unit amount of that intervention.

2. For the purposes of this Article, the realised average or uniform unit amount is **shall be** calculated by dividing the annual expenditure ~~paid~~ by the corresponding realised output for each intervention.

Article 121

Annual performance reports

1. ~~By 15 February 2023 and 15 February of each subsequent year until and including 2030 the~~ Member States shall, **in accordance with Article 8(3) and (4) [HzR]** ~~submit~~ **provide** to the ~~Commission~~ an annual performance report on the implementation of the CAP Strategic Plan in the previous financial year. ~~The report submitted in 2023 shall cover the financial years 2021 and 2022. For direct payments as referred to in Chapter II of Title III, the report shall cover only financial year 2022.~~
2. ~~The last annual performance report, to be~~ ~~submitted~~ **provided, in accordance with Article 8(3) and (4) HzR,** by 15 February 2030, shall comprise a summary of the evaluations carried out during the implementation period.
3. In order to be admissible, the annual performance report shall contain all the information required in paragraphs 4, **4a**, 5 and 6. The Commission shall inform the Member State within 15 working days ~~of the date of receipt~~ **from the submission** of the annual performance report if it is not admissible **for the performance review and monitoring purposes**, failing which it shall be deemed admissible.
4. Annual performance reports shall set out key qualitative and quantitative information **on** the implementation of the CAP Strategic Plan by reference to financial data, output and result indicators ~~and in accordance with the second paragraph of Article 118.~~

4a. They **quantitative information referred to in paragraph 4** shall also include information about:

(a) the realised outputs;

(b) the ratio between realised-expenditure as declared in the annual accounts and relevant outputs referred to in point (a) ('realised unit amount');

(c) realised results and distance to respective corresponding targets milestones set in accordance with point (a) of Article 97(1).

The information referred to in point (b) shall be broken down per unit amount of support as set out in the CAP Strategic Plan in accordance with Article 99(g).

For an intervention not covered by the integrated system referred to in Article 63(2) of Regulation [HzR], Member States may decide to provide in each annual performance report, as a benchmark, the average unit amounts for the operations selected in the previous financial year. In addition, for the years when the operations are paid, Member States may also provide additional quantitative data regarding the paid operations at the level of aggregation chosen by them. These average unit amounts and, where provided, the additional quantitative data shall be used by the Commission for the purpose of the annual performance clearance as referred to in Article 52 of Regulation [HzR] and for the purpose of Article 38(2) of that Regulation in each of the years when the operations are paid.

For the types of interventions which are not subject to Article 89 of this Regulation, and where the realised output and the realised expenditure ratio deviates by 50% from the annual planned output and expenditure, the Member State shall submit a justification for this deviation.

5. ~~The data transmitted shall relate to achieved values for indicators for partial and fully implemented interventions. They~~ **The qualitative information referred to in paragraph 4** shall also set out **include**:

(a) a synthesis of the state of implementation of the CAP Strategic Plan ~~realised during~~ **in respect of** the previous financial year;

(b) any issues which affect the performance of the CAP Strategic Plan, in particular as regards deviations from milestones, **where appropriate**, giving reasons and, where relevant, describing the measures taken.

It may also include, for the purpose of Article 52(2) of Regulation [HZR] and without prejudice to Article 52(3) thereof:

(a) **justification of any difference between a realised unit amount and the corresponding planned unit amount referred to in point (g) of Article 99 of this Regulation, or, where applicable, its maximum upper variation referred to in the same point; or**

(b) **where a Member State decides to make use of the possibility provided in the third subparagraph of paragraph 4a, justification of any difference between a realised unit amount and the corresponding average unit amount for operations selected and, where provided, the additional quantitative data regarding the paid operations.**

Justification shall be included for the purpose of Article 38(2) of Regulation [HzR] where the realised unit amount exceeds by more than 50% the planned or average unit amount.

6. For financial instruments, in addition to the data to be provided under paragraph 4 information shall be provided on:

- (a) the eligible expenditure by type of financial product;
- (b) the amount of management costs and fees declared as eligible expenditure;
- (c) the amount, by type of financial product, of private and public resources mobilised in addition to the EAFRD;
- (d) interest and other gains generated by support from the EAFRD contribution to financial instruments as referred to in Article 54 of Regulation (EU) [CPR] and resources returned attributable to support from the EAFRD as referred to in Article 56 of that Regulation;

(e) total value of loans, equity or quasi-equity investments in final recipients which were guaranteed with CAP Strategic Plan resources and which were actually disbursed to final recipients.

Where Member States decide to apply the third subparagraph of paragraph 4a for financial instruments, the average unit amount referred to in that subparagraph shall relate to the average unit amount for the support committed to final recipients by the financial instruments in the financial year concerned.

~~7. The Commission shall carry out an annual performance review and an annual performance clearance referred to in Article [52] of the Regulation (EU) [HzR] based on the information provided in the annual Performance reports.~~

~~8. In the annual performance review, the Commission may make observations on the annual performance reports within one month from their submission. Where the Commission does not provide observations within that deadline, the reports shall be deemed to be accepted.~~

~~Article 108 on calculation of time limits for Commission actions shall apply *mutatis mutandis*.~~

~~9. Where the reported value of one or more result indicators reveals a gap of more than 25% from the respective milestone for the reporting year concerned, the Commission may ask the Member State to submit an action plan in accordance with Article 39(1) of Regulation (EU) [HzR], describing the intended remedial actions and the expected timeframe.~~

10. The annual performance reports, as well as a summary for citizens of their content, shall be made available to the public.

10a. Without prejudice to the annual clearance procedures provided for in the HzR, the Commission may make observations on the **admissible annual performance reports within one month from their submission. Where the Commission does not provide observations within that deadline, the reports shall be deemed to be accepted. Article 108 on calculation of time limits for Commission actions shall apply *mutatis mutandis*.***

11. The Commission shall adopt implementing acts laying down rules for the presentation of the content of the annual performance report. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 139(2).

* This paragraph is largely based on paragraph 8 of the Commission's proposal.

Article 121a

Biennial performance review

1. The Commission shall carry out a biennial performance review based on the information provided in the annual performance reports.
 2. Where the reported value of one or more result indicators reveals a shortfall of more than 45% from the respective milestone for the financial year 202{3}, 40% for the financial year 202{5} and 35% for the financial year 202{7}, Member States shall submit justification for this deviation. Following the assessment of the justifications submitted, where necessary, the Commission may ask the Member State to submit an action plan in accordance with Article 39(1) of Regulation (EU) [HzR], describing the intended remedial actions and the expected timeframe.
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