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**NOTE**

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To: Delegations

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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  
*- Compromise package after the super-trilogue on 24-25 June 2021*

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Delegations will find:

- In Annex I the compromise package on the CAP Strategic Plans Regulation provisionally agreed at the super-trilogue on the CAP reform which took place on 24-25 June 2021;

- In the following Annexes the compromise drafting for Article 26 (Annex II), Article 68a (Annex III), consolidation of markets for the F&V sector (Annex IV), empowerments for the performance framework (Annex V), modalities of degressivity (Annex VI).
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#### 4.1.1 Eco-Schemes – Ring Fencing

WK 8096/2021

WK 7368/2021 ADD 4

- 25%, per year, for the whole period with use of the "Rebate" system for eco-schemes as per Council General Approach
- Learning period for 2023 and 2024 with a “floor” mechanism at 20%.
- Allow full use of unused funds in 2023 and 2024 (between 20% and 25%), within the margins of the maximum unit amounts, also for Member States with payment entitlements.
- The absolute amount of unused funds below the floor will have to be compensated by the end of the period, at least via one of the following
- 3 compensation mechanisms (optional for MS):
  - Compensation in the 1st pillar, until the end of the period (2023-2027) by strengthening eco-schemes;
  - Compensation in the second Pillar by compulsory temporary transfer for interventions classified as environmental and climate (no ANCs)
  - loss of funds (essentially intended for small differences)
- Use of provisions of art 89(1a) and 88(3) last subparagraph for the entire period + redrafting .

- Unused amounts of the 10% flexibility in the learning period in the learning period above 5% in both years has to be compensated
- 2% flexibility in 2025 and 2026 with obligation to compensate by the end of the programming period

#### **4.1.2 Conditionality (GAEC 2, GAEC 4, GAEC 7, GAEC 8 and GAEC 9)**

##### GAEC 2 – Protection of wetland and peatland

Footnotes:

Member States may provide in their CAP strategic plans that this GAEC will only be applicable as from claim year 2024 or 2025. In such cases, Member States shall demonstrate that the delay is necessary for the establishment of the management system in accordance with a detailed planning.

Member States, when establishing the standard for GAEC 2, shall ensure that on the land concerned an agricultural activity suitable for qualifying the land as agricultural area may be maintained.

##### GAEC 4 – Establishment of buffer strips along water courses [with a minimum width of 3m]

Footnotes:

The GAEC buffer strips along water courses shall, as a general rule and in compliance with Union law, respect minimum width of 3m without using pesticides and fertilizers.

In areas with significant dewatering and irrigation ditches, MS may adjust, if duly justified for those areas, the minimum width in accordance with specific local circumstances.

## GAEC 7 – Minimum soil cover to avoid bare soil in periods that are most sensitive

Footnote:

In duly justified cases, Member States may adapt in the regions concerned the minimum standards to take into account the short vegetation period resulting from the length and severity of the winter period.

## GAEC 8 – Crop rotation in arable land, except for crops growing under water

Footnotes:

Rotation shall consist in a change of crop at least once a year at land parcel level (except in case of multiannual crops, grasses and other herbaceous forage, and land lying fallow), including the appropriately managed secondary crops.

On the basis of diversity of farming methods and agro-climatic conditions Member States may authorise in the regions concerned other practices of enhanced crop rotation with leguminous crops or crop diversification, which aim at improving and preserving the soil potential in line with the objectives of this GAEC

Member States may exempt from the obligation under this standard holdings:

(a) where more than 75 % of the arable land is used for the production of grasses or other herbaceous forage, is land lying fallow, is used for cultivation of leguminous crops, or is subject to a combination of those uses;

(b) where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water either for a significant part of the year or for a significant part of the crop cycle, or is subject to a combination of those uses; or

(c) with a size of arable land up to 10 hectares.

Member States may introduce maximum limit of area covered with a single crop to prevent large monocultures

Farmers certified in accordance with Regulation (EU) n° 2018/848 shall be deemed to comply with this GAEC standard.

GAEC 9 – Minimum share of agricultural area devoted to non-productive areas or features

Minimum share of at least 4% of arable land at farm level devoted to non-productive areas and features, including land lying fallow.

Where a farmer commits to devote at least 7% of his/her arable land to non-productive areas and features, including land lying fallow, under an enhanced eco-scheme in accordance with Article 28(5a), the share to be attributed to compliance with this GAEC shall be limited to 3%.

Minimum share of at least 7% of arable land at farm level if include also catch crops or nitrogen fixing crops, cultivated without the use of plant protection products, of which 3% shall be land lying fallow or non-productive features. Member States should use the weighting factor of 0,3 for catch crops.

Retention of landscape features.

Ban on cutting hedges and trees during the bird breeding and rearing season.

As an option, measures for avoiding invasive plant species.

Text for the Footnotes (applicable only for minimum shares of area devoted to non-productive areas and features – the three options):

(1) Member States may exempt from the obligation under this bullet point holdings:

(a) where more than 75 % of the arable land is used for the production of grasses or other herbaceous forage, is land lying fallow, is used for cultivation of leguminous crops, or is subject to a combination of those uses;

(b) where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water either for a significant part of the year or for a significant part of the crop cycle, or is subject to a combination of those uses; or

(c) with a size of arable land up to 10 hectares.

(2) Member States with more than 50 % of their total land surface area covered by forest may exempt from the obligation under this bullet point holdings located in areas designated by those Member States as areas facing natural constraints in accordance with point (a) or (b) of Article 32(1) of Regulation (EU) No 1305/2013, provided that more than 50 % of the land surface area of the unit referred to in the second sentence is covered by forest and the ratio of forest land to agricultural land is higher than 3:1. The area covered by forest and the ratio of forest land to agricultural land shall be assessed on an area level equivalent to the LAU2 level or on the level of another clearly delineated unit which covers a single clear contiguous geographical area having similar agricultural conditions.

+ Recital to cover reference to biodiversity target at MS level

#### **4.1.3 Internal convergence (Art 20)**

- Minimum value of each entitlement = 85% of average value by 2026 at the latest
- 85% target has precedence over maximum decrease of 30% at beneficiary level
- "7a. Member States shall ensure that the adjustment of the payment entitlement values in accordance with paragraphs 3 to 7 of this Article starts from 2023."

#### 4.1.4 Targeting of support

##### WK 7368/2021 ADD 1 REV 1

- The use of mandatory redistributive payment based on the needs assessment in the CAP Plans,
- with mandatory redistributive payment of at least 10% of DPs,
- with opt out for MS when duly demonstrated in the CAP strategic plan that the redistributive needs are relevantly addressed through other interventions/ instruments of pillar I (provided the intervention strategy shows that the redistribution needs are met through these alternative tools).
- Article 26: see Annex II.

#### 4.1.5 Coupled Income Support

- Article 86: 13% + 2%
- Keep derogation for protein crops as per Art. 29 (wording as per COM proposal)

##### *Article 29*

*2. The Member States' interventions shall help the supported sectors and productions or specific types of farming therein listed in Article 30 addressing the difficulty or difficulties they undergo by improving their competitiveness, their sustainability or their quality. **By way of derogation for protein crops Member States are not required to demonstrate the difficulty or difficulties they undergo.***

- Mix of legumes and grasses provided legumes are predominant



- List of sectors/products include only starch potatoes, and clarifies protein crops (including predominance of legumes in mixes with grass)
- Link to WFD in Art 97(2)(a) second subparagraph as per following wording

**In addition, an explanation shall be provided on how the interventions under coupled income support as referred to in Subsection 1 of Section 3 of Chapter II of Title III are consistent with Directive 2000/60/EC;**

#### **4.1.6 Social Dimension**

**WK 6718/2021 REV1 and WK 6927/2021 REV 1**

- Text of the latest Commission Proposal with the inclusion of the part of PRES related with the sectorial interventions
- start implementation voluntarily as from 2023 and mandatorily as from 2025
- rendez-vous clause 2 years after start of implementation (which includes possibility to add new legislation)
- drop reference in Article 6(1)(h)

*Rendez-vous clause in form of Joint statement by EP and Council*

*Joint statement by the European Parliament and the Council on the social dimension \**

*The Council and the European Parliament invite the Commission to monitor, via a study to be carried out two years after the first two years of application of social conditionality, the impact of the mechanism on workers conditions and, where appropriate, to come forward with proposals to enhance the social dimension of the CAP. By 2025, the Commission will assess the feasibility of including in Annex XX, Article 7.1 of Reg 492/2011.*

*\*Annexed to SPR*

#### 4.1.7 EAFRD, Green investments and other article 86 Ring Fencings

- EAFRD ringfencing
  - 35% with ANC (Art. 86.2) 50% weighting
  - 100% for all other interventions including animal welfare and green investment
- Recital on green investment
- list of interventions in basic act (including green investments) that contribute to ring-fencing
- 15% F&V sectorial interventions
- No additional RF for BISS, CIS, socio-economic objectives

#### 4.1.8 Green Deal alignment; climate and biodiversity tracking

##### WK 8152/2021

- Green Deal alignment
  - Approval of plans
    - Keep Article 106(2) approval on the basis of legally binding acts
    - Recital for relevant GD targets
- The recital under point 1 of WK 8152/2021 is replaced by the following:

“When assessing the proposed CAP Strategic Plans, as referred to in Article 106, the Commission should assess the consistency and contribution of the proposed CAP Strategic Plans to the Union’s environmental and climate legislation and commitments and, in particular, to the Union targets for 2030 set out in the Farm to Fork Strategy and the EU Biodiversity Strategy [full references of the Strategies in footnotes].

In Article 97(2)(a)(v) the text is changed as follows

v. how the environmental and climate architecture of the CAP Strategic Plan is meant to contribute to, and be consistent with ~~already established~~ long-term national targets set out in or deriving from the legislative instruments referred to in Annex XI.

- Alignment vs contribution → consistency?
  - Title of Annex XI: EU LEGISLATION CONCERNING THE ENVIRONMENT AND CLIMATE TO WHOSE OBJECTIVES MEMBER STATES' CAP STRATEGIC PLANS SHOULD CONTRIBUTE TO, AND BE CONSISTENT WITH, PURSUANT TO ARTICLES 96, 97 AND 103:”
  - Reinforce with “consistency”
- Report(s) by COM
  - 2023
  - 2025 in art 127.1.b “consistency and combined contribution of MS”
- Art 87
  - Article to be kept
  - Delegated act empowerment for the Commission to modify the methodology/ weighting factors after 31/12/2025.

#### **4.1.9 Irrigation**

See text in Annex III.

#### **4.1.10 Payments for small farmers**

Possibility for Member States to set for small farmers different lump sums or amounts per hectare linked to different area thresholds.

#### **4.1.11 Complementary income support for young farmers**

Member States have to spend at least an amount equivalent to 3% of their direct payments envelope for young farmers under the first or both pillars with one or more of the following types of interventions:

- the complementary income support for young farmers as laid down in Article 27;
- investments referred to in Article 68 by young farmers under the conditions set out therein, with a weighting factor of 50%;
- the installation of young farmers referred to in point (a) of Article 69(2).

#### **4.1.12 Sectoral Interventions - wine market consolidation**

see text in Annex IV.

#### **4.1.13 Sectoral Interventions - olive oil**

*2. The Union financial assistance shall be limited to **30%** of the value of marketed production of each producer organisation or association of producer organisations **in 2023 and 2024, 15 % in 2025 and 2026 and 10 % as from 2027.***

#### **4.1.14 Empowerment for the performance framework**

see text in Annex V.

#### **4.1.15 Modalities of degressivity**

see text in Annex VI.

#### 4.1.16 Flood and coastal protection

*Article 68(3)(g)*

*“investments in large-scale infrastructure, as determined by Member States in the CAP Strategic Plan, not being part of the community-led local development strategies set out in Article 26 of Regulation [CPR], except for broadband and flood or coastal protection preventive actions aimed at reducing the consequences of probable natural disasters, adverse climatic events or catastrophic events”*

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Article 26

1. Member States ~~shall~~ ~~may~~ provide for a complementary redistributive income support for sustainability ('redistributive income support') under the conditions set out in this Article and as further specified in their CAP Strategic Plans, ~~including as regards relevant eligibility conditions.~~

By derogation to the first subparagraph and Article 86(x), Member States may address the need of redistribution of income support by other instruments and interventions financed by the EAGF pursuing the ~~same~~ objective of fairer distribution and more effective and efficient targeting of income support, provided they can demonstrate in their CAP Strategic Plan that such need is sufficiently addressed.

2. Member States ~~implementing the redistributive income support~~ shall ensure redistribution of direct payments from larger ~~support from bigger~~ to smaller or medium-sized farms holdings by providing for a redistributive income support in the form of an annual decoupled payment per eligible hectare to farmers who are entitled to a payment under the basic income support referred to in Article 17.

3. Member States ~~implementing the redistributive income support~~ shall establish **at national or regional level, which may be the groups of territories referred to in Article 18(2)**, an amount per hectare or different amounts for different ranges of hectares, as well as the maximum number of hectares per farmer for which the redistributive income support shall be paid.

4. The amount per hectare planned for a given claim year shall not exceed the national average amount of direct payments per hectare for that claim year.

5. The national average amount of direct payments per hectare is defined as the ratio of the national ceiling for direct payments for a given claim year as laid down in Annex IV and the total planned outputs for the basic income support for that claim year, expressed in number of hectares.]

5a. In the case of a legal person, or a group of natural or legal persons, Member States may apply the maximum number of hectares referred to in paragraph 3 at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of a head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.

In the case of farmers being part of a group of affiliated legal entities, as determined by Member States, Member States may apply the maximum number of hectares referred to in paragraph 3 at the level of this group under conditions to be determined by Member States.

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**Article 68a on irrigation investments**

1. Member States may grant support to investments in irrigation in new and existing irrigated areas, provided that the conditions laid down in Article 68 and in this Article are fulfilled.
2. A river basin management plan, as required under the terms of the Directive 2000/60/EC, shall have been notified to the Commission for the entire area in which the investment is to take place, as well as in any other areas whose environment may be affected by the investment. The measures taking effect under the river basin management plan in accordance with Article 11 of that Directive and of relevance to the agricultural sector shall have been specified in the relevant programme of measures.
3. Water metering enabling measurement of water use at the level of the supported investment shall be in place or shall be put in place as part of the investment.
4. Member States may grant support to an investment in an improvement to an existing irrigation installation or element of irrigation infrastructure only if:
  - a) it is assessed ex ante as offering potential water savings reflecting the technical parameters of the existing installation or infrastructure.
  - b) if the investment affects bodies of ground- or surface water whose status has been identified as less than good in the relevant river basin management plan for reasons related to water quantity, an effective reduction in water use must be achieved contributing to the achievement of good status of these water bodies, as laid down in Article 4(1) of Directive 2000/60/EC.

Member States shall set percentages for potential water savings and effective reduction in water use as an eligibility condition in their CAP Strategic Plan, in accordance with Article 99(d). Such water savings shall reflect the needs set out in the river basin management plans emanating from the Directive 2000/60/EC referred to in Annex XI.



None of the conditions in paragraph 4 shall apply to an investment in an existing installation which affects only energy efficiency, to an investment in the creation of a reservoir, or to an investment in the use of reclaimed water which does not affect a body of ground or surface water.

Support may be granted to investments in the use of reclaimed water as an alternative water supply only if the provision and use of such water is compliant with Regulation No (EU) 2020/741 of the European Parliament and of the Council<sup>1</sup>.

5. Member States may grant support to an investment resulting in a net increase of the irrigated area affecting a given body of ground or surface water only if:

(a) the status of the water body has not been identified as less than good in the relevant river basin management plan for reasons related to water quantity; and

(b) an environmental analysis shows that there will be no significant negative environmental impact from the investment; such an environmental impact analysis shall be either carried out by or approved by the competent authority and may also refer to groups of holdings.

6. Member States may only grant support to an investment in the creation or expansion of a reservoir for the purpose of irrigation provided it does not lead to significant negative environmental impact.

7. Member States shall limit the support to one or more rates not exceeding:

(a) 80 % of the eligible costs for irrigation on-farm investments made under paragraph 4;

(b) 100 % of the eligible costs for investments in off-farm infrastructure in agriculture to be used for irrigation;

(c) 65% of the eligible costs for other irrigation on-farm investments.

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<sup>1</sup> Regulation (EU) 2020/741 of the European Parliament and of the Council of 25 May 2020 on minimum requirements for water reuse (OJ L 177, 5.6.2020, p. 32).

**Possible compromise for “consolidation of markets” under the promotion intervention in the wine sector**

In the following wording proposal the text coming from the EP AM is presented in blue and the changes proposed now for a compromise are highlighted

The text on consolidation intervention in Article 52(1), first subparagraph, point (h), could be drafted as follows: (covers lines 554 and 558)

(h) promotion and communication carried out in third countries, consisting of one or more of the following actions and activities aimed at improving the competitiveness of the wine sector, and the opening, diversification or consolidation of the markets:

- (i) public relations, promotion or advertisement actions, in particular highlighting the high standards of the Union products, especially in terms of quality, food safety or the environment;
- (ii) participation in events, fairs or exhibitions of international importance;
- (iii) information campaigns, in particular on the Union quality schemes concerning designations of origin, geographical indications and organic production;
- (iv) studies of new or existing markets, necessary for the expansion and consolidation of market outlets;
- (v) studies to evaluate the results of the information and promotion measures;
- (vi) preparation of technical files, including laboratory tests and assessments, concerning oenological practices, phytosanitary and hygiene rules, as well as other third country requirements for import of products of the wine sector, to prevent restriction of, or to enable access to third country markets;

*Promotion and communication actions and activities aimed at the consolidation of market outlets shall be limited to a maximum non-extendable duration of [three] years, and shall concern only the Union quality schemes covering designations of origin and geographical indications.*

(...)

Article 52(2) – on general rules for types of interventions in the wine sector should be amended as follow: (covers line 562)

2. The Member States *referred to in Article 82(1)* shall substantiate in their CAP Strategic Plans their choice of objectives and the types of *intervention interventions* in the wine sector. Within the chosen types of *intervention interventions*, they shall *specify interventions. [Member States that chose the types of interventions provided for in point (h) of paragraph (1) may shall lay down specific provisions for the information and promotion actions and activities by the management bodies of the protected designations of origin and protected geographical indications, on behalf of all the enterprises concerned, particularly with regard to their maximum duration. define interventions.]*

(...)

In all other points where the notion of consolidation of market is included by the EP AM this part of the AM should be dropped (point on objectives row 543).

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**Empowerment for the performance framework**

**Art. 120 row 1227**

The Commission shall adopt implementing acts on the content of the performance framework. Such acts shall include ~~the list of context indicators, other~~ indicators ***other than those of Annex I which are*** needed for the appropriate monitoring and evaluation of the policy, the methods for the calculation of indicators ***set out in and outside of Annex I***, and the necessary provisions to guarantee accuracy and reliability of the data collected by Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 139(2).

**Art. 139(2) row 1341a**

In the case of acts referred to in Articles 120 and 129 where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

**Recital with justification why this derogation from the normal comitology rules is necessary**

In the light of the fact that indicators are already laid down in Annex I for the purpose of monitoring, evaluation and the annual performance reporting, the adoption of other indicators for the evaluation of the CAP should be submitted to additional scrutiny by Member States. The Commission should therefore not be allowed to lay down such indicators for the evaluation of the CAP in case the Common Agricultural Committee does not find a qualified majority for or against the proposed indicators.

## **Article 15**

### **Capping and degressivity of payments**

1. Member States may cap 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. Member States that choose to introduce capping shall reduce by 100 % the amount exceeding EUR 100 000.

1a. Member States may choose to 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 up to 85% between EUR 60 000 as follows: and EUR 100 000.**

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

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

Member States may set additional tranches and specify the percentages of reduction for these additional tranches within the limits set out in the first subparagraph. They shall ensure that the reduction for each tranche is equal to or higher than for the previous tranche.

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

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

(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.;

(c) the labour cost element of the contracting costs linked to an agricultural activity declared by the farmer.

To calculate the amounts referred to in points (a), (b) and (c), Member States shall use **salary costs actually incurred by the farmer. In duly justified cases, farmers may request to use standards costs to be determined by the Member State concerned according to a method to be further specified in its CAP strategic plan based on the 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** ~~a method to be further specified in their CAP Strategic Plans, possibly including the use of predefined standards.~~

To calculate the amounts referred to in **point b**, Member States shall use **standard costs to be determined by the Member State concerned according to a method to be further specified in its CAP strategic plan based on the 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.**

2a. In the case of a legal person, or a group of natural or legal persons, Member States may apply the reduction referred to in paragraphs **1 and 1a** at the level of the members of those legal persons or groups where national law provides for the individual members to assume rights and obligations comparable to those of individual farmers who have the status of a head of holding, in particular as regards their economic, social and tax status, provided that they have contributed to strengthening the agricultural structures of the legal persons or groups concerned.

~~In the case of farmers being part of a group of affiliated legal entities, as determined by Member States, Member States may apply the reduction referred to in paragraph 1 or 1a at the level of this group under conditions to be determined by Member States.~~

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, **where relevant, ~~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 2025 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 may adopt **delegated acts in accordance with Article 138 supplementing this Regulation with rules establishing a harmonised basis for** ~~implementing acts~~ laying down uniform conditions for the calculation of the reduction of payments laid down in paragraph 1 to provide detailed rules for the distribution of the funds to the entitled farmers.

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