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NOTE

From: Presidency
To: Council

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Subject: Regulation on CAP Strategic Plans
- *Policy debate*
- *Progress report*

1. On 1 June 2018, the Commission submitted to the Council and the European Parliament the abovementioned proposal¹. It aims at establishing rules on support for the strategic plans to be drawn up by Member States under the Common Agricultural Policy ("CAP Strategic Plans") for the next programming period. The proposed Regulation would repeal the current Regulations on direct payments² and rural development³.

¹ Doc. 9645/18 + COR 1 + ADD 1.

² Regulation (EU) No 1307/2013 of the European Parliament and of the Council.

³ Regulation (EU) No 1305/2013 of the European Parliament and of the Council.

2. Under the Bulgarian Presidency, the first exchanges of views in the Special Committee on Agriculture (SCA) took place on 4 and 11 June 2018, while the proposal was presented by the Commission to the "Agriculture and Fisheries" Council on 18 June. Technical examination of the proposal was carried out by the Working Party on Horizontal Agricultural Questions (WP HAQ) on 15 and 20 June.
3. Under the Austrian Presidency, the Working Party further examined the proposal on 10/11 July, 18/19 July, 24/25 July, 5/6 September, 12/13 September and 19/20 September⁴. The first round of examination of the proposal was completed on 13 September. Delegations also provided their written contributions to the technical examination, upon request by the Presidency.
4. Three "state of play" reports were drawn up by the Presidency, under its sole responsibility, to summarise the technical work performed in the WP HAQ.
5. The first report⁵ was presented to the SCA on 10 September and covered the Impact Assessment, the subject matter and scope, applicable provisions and definitions (Title I), the objectives and indicators (Title II and Annex I), the selection of interventions and general principles set out in Articles 8 and 9 (Title III, Chapter I, Section 1), conditionality and farm advisory services (Title III, Chapter I, Sections 2 and 3).

⁴ At its meeting on 19 September, the WP HAQ focused on the following related articles of the Regulation on Financing, management and monitoring of the CAP for which it was identified as the preparatory body in charge of the examination: integrated administration and control system (Title IV, Chapter II - Art. 63-73); control system and penalties in relation to conditionality (Title IV, Chapter IV - Art. 84-87). The comments and questions on these articles will be reported in a separate document in the context of the examination of that Regulation.

⁵ Doc. 11490/18.

6. The second report⁶ was presented to the SCA on 24 September and covered WTO domestic support (Article 10), types of interventions in the form of direct payments (Title III, Chapter II - Art. 14-38), sectoral types of interventions (Title III, Chapter III - Art. 39-63), types of interventions for rural development (Title III, Chapter IV - Art. 64-78).
7. The third report⁷ was presented to the SCA on 1 October and covered financial provisions (Title IV - Art. 79-90), monitoring, reporting and evaluation (Title VII - Art. 115-129), competition provisions (Title VIII - Art. 130-133), general and final provisions (Title IX - Art. 134-142).
8. The SCA took note of the three "state of play" reports and most delegations considered them to accurately reflect the discussions held in the WP HAQ.
9. On the basis of the "state of play" reports, the Presidency drew up a progress report (in Annex) to inform the Council about the state of examination of the proposal. It summarises the **key comments and questions** raised in the WP HAQ when examining the CAP Strategic Plans Regulation. Therefore, it is not supposed to provide a comprehensive summary of all views expressed. The report was welcomed by most delegations in the SCA meeting on 8 October.
10. On 15 October, the "Agriculture and Fisheries" Council will hold a policy debate on the abovementioned proposal with a view to providing guidance for the continuation of the work at technical level.

⁶ Doc. 12228/18.

⁷ Doc. 12447/18.

11. In the light of the above, the Presidency would like to propose to the "Agriculture and Fisheries" Council the following questions:

1. *The proposed new delivery model will lead to a significant shift of responsibility between the EU and Member States, in conjunction with the move towards a performance based CAP. In this context, does the proposal provide for sufficient flexibility for Member States, while ensuring a level-playing field? Whilst still maintaining the focus on performance, are there elements of the new delivery model where further scope for simplification can be proposed?*
2. *The new green architecture aims at increasing the environmental performance of the CAP, and providing more flexibility to adapt interventions to local conditions. Do you consider the new environmental ambition proportionate? Are the proposed instruments and their interaction appropriate to meet the environmental and climate challenges ahead?*

Presidency Progress report

Several delegations entered scrutiny reservations, including parliamentary scrutiny reservations.

The Impact Assessment

- The Impact Assessment (IA) does not comprehensively reflect the administrative burden generated by the CAP reform proposals and overestimates the potential for simplification;
- The IA assesses different policy options but the proposals represent a "mix" of these options which has not been examined in the IA;
- Descriptions were asked of the impact of the proposed measures on individual Member States, especially on the impact of reduction of payments (capping).

No substantial modification of the IA nor integration of additional elements was requested by any delegation.

Subject matter and scope, applicable provisions and definitions (Title I)

- Clarification was asked concerning the definitions to be provided by Member States within their CAP Strategic Plans (art. 4), including the definitions of "arable land", "permanent grassland", "eligible hectare" and "young farmers" (particularly on the proposed age limit and the training requirement);
- Questions were asked regarding the reasoning standing behind certain definitions, the leeway for adapting them to Member States' needs and the possibility to add further definitions, such as of "forest" and "cooperatives";

- Among the proposed definitions, in particular the one of "genuine farmers" could cause considerable administrative burden; for this reason an optional application of this definition would be preferable;
- There is a need to clarify Art. 2(2) on the applicability of rules from the Common Provision Regulation (CPR) and, since the CAP will not be part of the Partnership Agreement any more, the interplay between the future CAP and the Structural Funds;

Objectives and indicators (Title II and Annex I)

- Concerns were raised on the high number of specific objectives in Art. 6. The wording of some of them was deemed too vague and overlapping. It was requested to add an objective on forestry;
- Indicators must be simple, verifiable, robust and proportionate. The proposed indicators must undergo significant simplification going beyond reduction in their number. Commission guidance is needed on how to measure them. The addition of new indicators through delegated acts during the programming period must be avoided. The context indicators must be provided before the programming process starts. Setting them in an implementing act following the adoption of the Regulation seems to be too late and might undermine legal certainty;
- Concerns were expressed on how the impact of policies other than the CAP could be taken into account when monitoring output and results;
- The indicators set out in Annex I generated many questions, in particular with regard to the difficulty to collect the required information;
- There is a need to clarify the relation between interventions, objectives and indicators;

Selection of interventions and general principles (Title III, Chapter I, Section 1, Articles 8 and 9)

- Questions were raised with regard to Art. 8 and 9 related to the exhaustive nature or not of the proposed list of types of interventions, the "principles of EU law" and the "legal framework" to be established by Member States;

Conditionality and farm advisory services (Title III, Chapter I, Sections 2 and 3 and Annex III)

- The proposed conditionality (Art. 11-12 and Annex III) would generate disproportionate additional administrative burden, limit Member States' leeway to provide farmers incentives to reach better climate and environmental results, put farm income under pressure and disregard Member States' different climatic and natural conditions;
- The number of conditionality requirements and standards is too high and some of them difficult to monitor. Certain individual requirements (Annex III), in particular the additional ones on Good Agricultural and Environmental Conditions (GAECs) raise significant difficulties. This includes for instance GAEC 1 ("Maintenance of permanent grassland based on a ratio of permanent grassland in relation to agricultural area"), GAEC 7 ("No bare soil in most sensitive period(s)") and GAEC 8 ("Crop rotation"). In particular the "new elements" proposed under the enhanced conditionality⁸ should therefore be either deleted or made optional under the eco scheme (pillar I) or the agri-environmental measures (pillar II);
- Many questions were raised about the new standard GAEC 5 ("Use of Farm Sustainability Tool for Nutrients"). It should in particular have no negative impact on existing voluntary systems. An optional application or deletion of this GAEC was requested;

⁸ SMRs Water Framework Directive, Sustainable Use of Pesticides Directive and Animal Health Law; GAECs "Appropriate protection of wetland and peatland" and "Use of Farm Sustainability Tool for Nutrients".

- The balance between the enhanced conditionality requirements and adequately remuneration for farmers was given importance;
- For the sake of simplification, an exemption for small farmers from conditionality was called for, in line with the principles that currently apply to greening;
- All conditionality rules should be established in the basic act rather than in a delegated act;
- While having a possible positive impact on sustainable agriculture, the proposed “Farm Advisory Services” (FAS) raise doubts with regard to *i)* their compulsory nature; *ii)* their broad scope; *iii)* their relation with the European Agricultural Knowledge and Innovation Systems (AKIS) and with rural development funding; Member States which have already set up FAS should not be obliged to create a new service;
- The number of empowerments to the Commission to adopt delegated or implementing Acts seems to be excessive and could undermine legal certainty;

CAP Strategic Plan (Title V)

- The proposed requirements for the establishment and amendment of the Strategic Plan go into too much detail. Fewer rules and more flexibility for the Member States was requested;
- The proposed deadline (1 January 2020) for the submission by the Member States of their draft Strategic Plans to the Commission is too ambitious. A transitional period is therefore necessary to ensure the continuity of the policy as a whole and, in particular, to avoid the interruption of direct payments;
- The eight-month period for the Strategic Plans' approval is too long and the "stop-the-clock" mechanism not appropriate;

- CAP Strategic Plans should provide legal effects already on the day of their submission to the Commission rather than on the day of their approval by the Commission;
- There is a need to clarify Art. 106(5) on the possible partial approval of the Strategic Plans and its impact in practice;
- Member States should be allowed to amend their Strategic Plans more than once per year;
- The level of detail that Member States are expected to report to the Commission for the approval of their CAP Strategic Plans (Art. 95) is too high; this applies also to the Annexes to such Plans (Art. 103). Lessons should be learned from the Rural Development Programmes in the 2014-2020 period and the complexity of Strategic Plans significantly reduced;
- The proposed requirements for the establishment of the Strategic Plan such as the needs assessment with the obligation to address *all* specific objectives would generate considerable workload for national administrations;
- The annual performance review, in particular with regard to the annual milestones, would increase complexity and hamper Member States' flexibility, in particular for interventions under pillar II which are designed in a multi-annual perspective;
- More clarification was asked on the proposed obligation for Member States to aim to make a "*greater overall contribution to the achievement of the specific environmental- and climate-related objectives*" (Art. 92(1));
- It would be very useful for the Member States to know the criteria for the approval of the Strategic Plans and to see an example of a Strategic Plan;

- Member States should be provided flexibility to take account of their territorial organisation when drafting Strategic Plans, for instance by allowing regional needs assessments/SWOT analyses or regional Strategic Plans; there is also a need to clarify the relation between regional elements and the national Strategic Plan;
- Rather than disregarding Member States' information on control systems and penalties in the approval of their Strategic Plans this information should either be approved separately from the Strategic Plan or Member States should be provided with sole competence for control systems and penalties;
- For the sake of planning security and legal certainty, the conferral of extensive delegated/implementing powers to the Commission should be avoided;

Coordination and governance (Title VI)

- The proposed rules on governance and coordination are excessively detailed and more flexibility should be provided to Member States;
- Member States should be allowed to have several regional Managing Authorities rather than one for the whole country; intermediate bodies would not be sufficient;
- The rationale behind the proposed distribution of tasks between the Paying Agency and the Managing Authority, in particular in the drafting of the annual performance report is not clear;
- The setting up of the Monitoring Committee before the submission of the Strategic Plan was opposed, since the partnership principle would anyhow be applied in the programming process;
- Questions were raised regarding the scope and rationale of the Monitoring Committee's obligation to examine the "*administrative capacity building for public authorities and beneficiaries*" (Art. 111(3f));

- Member States should have the possibility to have more than one Monitoring Committee;
- Technical assistance should not only be financed from the European Agricultural Fund for Rural Development (EAFRD) - financing pillar II measures - but also from the European Agricultural Guarantee Fund (EAGF) - supporting pillar I measures;
- There is a need to clarify the proposed separation of work between the national and European CAP networks as well as the link between these networks and the AKIS;

WTO domestic support

- It is important that compliance with the WTO Agreement on Agriculture is ensured within the approval of the CAP Strategic Plans;
- Clarification was asked about the implications of coupled income support (CIS) being notified as an "Amber Box" rather than a "Blue Box" measure and the risk of sanctions in case of incorrect notifications;

Types of interventions in the form of direct payments

- The proposed reduction of payments (Art. 15) could hamper the economic prospects of certain farms, especially farms taking part in schemes for the climate and the environment and farms held by young people. It may induce farm divisions and generate considerable administrative burden, in particular through the deduction of labour costs. Any reduction of payments should therefore be kept voluntary for Member States, including the deduction of labour costs;
- The deductibility of labour costs may give rise to an excessive administrative burden for national administrations. Questions were in particular raised on the type of salaries to be deducted (actual, standard or average salaries) and the scope of the salaries to be taken into account (e.g. sub-contracted companies, seasonal/regular workers). The collection of data on average salaries might be challenging for statistical institutes in different Member States;

- Including the payments under the eco-schemes and the income support for young farmers into the scope of reduction of direct payments would jeopardise the CAP's capacity to enhance its environmental ambition and foster generational renewal. The scope of the reduction of payments should therefore be limited to the basic income support for sustainability;
- There is a need to clarify the provisions for the use of the product resulting from the reduction of payments, in particular with regard to the pillar under which it could be spent;
- It is necessary to provide Member States with more flexibility on the minimum requirements for receiving decoupled direct payments (Art. 16), for instance on whether the minimum threshold should be a lump sum or based on area;
- The possibility set out in Art. 19 for Member States currently using the system of payment entitlements to give it up constitutes an important simplification. However, the details of this possibility require further examination, for instance on the need for a transition period, different payments for permanent grassland and other areas or to complement it with a limit on the number of eligible hectares;
- The proposed rules in Art. 20 on the convergence of direct payments between farmers of the same Member State should be simplified. Questions were raised for instance on the entrance into the system of new sectors or farmers. Examples of how the Commission proposal translates into practice could be helpful for further examination;
- Member States should be given more flexibility when establishing and using their reserves for payment entitlements (Art. 22);
- Although the maintenance of a voluntary scheme for small farmers is a welcome step, there is still scope to simplify this scheme, in particular with regard to the provisions on conditionality and genuine farmers. In particular, further discussion is required with regard to the possibility to define exemptions from conditionality for small farmers;

- The complementary redistributive income support should be either voluntary or Member States should be given the freedom to choose between the reduction of payments and the complementary redistributive income support. Further reflection is needed on whether to set a maximum number of hectares for which the complementary payment could be paid, the possibility to focus on defined types of farms and the sources of funds;
- The complementary income support for young farmers is an important tool contributing to generational renewal and thriving rural areas. Further examination is, however, needed on some specific aspects, such as the interlinkage between pillar I and pillar II measures for young farmers, the flexibility for Member States to adapt the rules to their needs such as with regard to the definition of young farmers including the necessary qualification, the support period, the area covered or the possibility to regionalise the payment;
- The proposed eco-schemes should be made voluntary for Member States to provide more flexibility to tailor environmental measures to their needs. Questions raised include the possibility for Member States to have several eco-schemes, the fate of unused eco-scheme resources, the dividing line with agri-environmental measures under pillar II and the possibility to grant lump sum payments rather than area-based ones. Concrete examples of eco-schemes from the Commission would be welcomed to fully clarify the difference with pillar II measures;
- Divergent views exist on coupled income support as set out in Art. 29-32 and in particular on the proposed limit (with calls for at least maintaining the current ceiling of 13% + 2%, opposed by calls for phasing out this system to avoid a distortion of competition), the sectors covered (some Member States calling for more flexibility, while others advocating a more restrictive approach) and the conditions attached, especially the difficulties that coupled support is designed to address in the sectors concerned;

- The delegation of powers to the Commission should be limited to the strictly necessary extent to ensure legal certainty and avoid delays. In particular, all provisions on eco-schemes and on the reserves for payment entitlements should be defined in the basic act;

Sectoral types of interventions

- The inclusion of the sectoral types of interventions into the CAP Strategic Plans poses important challenges that need to be addressed. This includes in particular the increased administrative burden for Member States and the transition from the current multi-annual sectoral programmes with different end dates to the new scheme while avoiding their overlapping. It is important to ensure a smooth transition from the current to the new support measures while allowing the existing programmes to run until their end;
- Flexibility and subsidiarity should be safeguarded, in line with the general philosophy underpinning the future CAP. In this light, the list of "other sectors" provided for in Art. 39 should not exclude any sector. The mandatory character of some sectoral types of interventions set out in Art. 40 should also be reviewed. The range of interventions in Art. 60 should be extended to meet the needs of the animal production sectors;
- The delegation of powers to the Commission (Art. 41) should have clear boundaries to ensure legal certainty and a level playing field. Therefore, the delegation foreseen in Art. 41(a) should be more clearly defined, as its scope appears excessively broad and vague;

- With regard to the fruit and vegetables sector the focus of interventions set out in Art. 43 should be also on optimising production and improving competitiveness, as the current formulation suggests an unbalanced attention towards the protection of the environment and on the mitigation of and adaptation to climate change. This should also be reflected in a reviewed minimum expenditure share for environment and climate in the operational programmes (OP). Care should be taken to allow all producer organisations (PO), irrespective of their size, to achieve their objectives, such as to concentrate supply and adjust production to demand. A minimum expenditure share of 5% for research and development in the OP could be difficult to implement for small PO and should therefore be either revised or made voluntary. In addition to PO and associations of PO (APO), interbranch organisation should become eligible for EU support. Divergent views exist on the EU financial assistance as set out in Art. 46(2) and in particular on the appropriate level as well as on the possibility to modulate support depending on the interventions chosen;
- The list of types of intervention for apiculture should be extended to measures such as market monitoring, environment and climate action as well as biodiversity. When applying the new delivery model to the apiculture sector due account should be taken of the sector's specificities, including the high number of hobby beekeepers and the difficulties in planning honey production;
- In the wine sector the proposed obligation for Member States to set a minimum expenditure share for environment protection and climate action in their CAP Strategic Plans in Art 54(4) requires further clarification while taking account of the sector's specificities;
- The administrative burden generated by the EU rules on the hops sector should be proportionate to the size of the sector. It should enable the sector to address the challenges that it faces for instance by extending the list of types of intervention to the breeding of new varieties;

- Apart from POs and APOs also interbranch-organisations should be allowed to implement interventions in the olive oil and table olives sector;
- The provision of EU assistance to "other sectors" could help them to organise themselves and to improve their resilience. The types of intervention should, however, be amended to better reflect the needs of the livestock sectors while double-funding with other EU sources of financing should be avoided. The right to implement interventions in "other sectors" should not be limited to recognised PO and APO but also be provided to other groups such as POs without transfer of property, producer groups, cooperatives and interbranch organisations. Care needs to be taken to ensure that interventions do not distort the market or price formation;

Types of interventions for rural development

- The simplification of the provisions on rural development interventions, including the increased flexibility for Member States to design their interventions, was generally welcomed. The increased flexibility should, however, also be reflected in the design of the CAP Strategic Plans without overloading them. Excessive burden for administrations should be avoided;
- The principle of compensating beneficiaries for costs incurred and income foregone resulting from environmental, climate and other management commitments in Art. 65 was generally welcomed. Compensation, however, should also be allowed in a partial form. Incentives going beyond mere compensation should be provided to beneficiaries who commit to higher objectives. More clarity is needed on the extent to which Member States could cover transaction costs under paragraph 6, the "collective schemes" under paragraph 7 and the consistency between environmental-climate commitments (pillar II) and eco-schemes (pillar I). In particular the notion of "genuine farmer" applying to eco-schemes but not to environmental, climate and other management commitments generated questions. Environmental, climate and other management commitments should be allowed for a shorter period than five to seven years;

- In particular in the field of animal health it would be appropriate to allow annual commitments. The conditions for a reduction of the period set out in Art. 65(8) should be clearly spelled out. Member States should be allowed to establish payments not only per hectare, but also on other bases, such as per unit of livestock. The absence of maximum aid intensities for area-based EAFRD interventions was questioned by delegations;
- Concerning areas with natural or other area-specific constraints there is a need to clarify in Art. 66 whether it will be possible to allow for degressive payments. With regard to areas affected by disadvantages from certain mandatory requirements in Art. 67(2) the precise scope of eligibility of forest holders should be clarified;
- The link between different non-area-based EAFRD interventions and local development strategies should also be clarified: for example, it was questioned whether investments in large infrastructure may actually be part of such strategies. Moreover, the definition of local development strategies is not clear, in particular on whether they go beyond Community-Led Local Development (CLLD)/LEADER;
- With regard to ineligible investments listed in Art. 68, the ineligibility of certain investments in irrigation and in large infrastructure raised some scepticism. More reflection will therefore be needed, including on the maximum level of support (on which contrasting views were expressed) and on specific requirements, such as the "forest management plan" for support to the forestry sector;
- The scope of the proposed support to young farmers and rural business start-up in Art. 69 needs to be clarified. To maximise the benefit of the provision a restrictive approach (e.g. a limitation to young farmers within the meaning of Article 4(1) and to business start-ups of non-agricultural activities being part of LEADER) should be avoided. Further reflection is also needed on the maximum amount of support and financial modalities;

- The support for risk management tools in Art. 70 should remain optional for Member States. It is also important to give Member States some room of manoeuvre in the definition of the minimum losses for which support is to be granted;
- The eligibility of the promotion of quality schemes within the scope of cooperation interventions in Art. 71 needs to be clarified. The duration of cooperation projects and the requirement for them to involve at least two entities should be reviewed to make them compatible with the LEADER approach;
- The maximum aid intensity of 75% support limit proposed for knowledge exchange and information measures in Art. 72 was questioned since it might not give sufficient incentive to farmers to participate in such schemes. Full coverage of eligible costs appears to be more appropriate in this regard;
- The obligation for Member States set out in Art. 73 to define selection criteria for certain types of intervention, as well as the possible derogations, generated scepticism. The possibility to select projects which have already started (i.e. which would take place independently from funding) raised concerns. The latest development in the context of the Omnibus negotiations should be taken into account to avoid unnecessary administrative burden. More clarity is necessary on the specific interventions for which selection criteria are to be defined, since the proposed wording leaves doubts on the possible inclusion of certain interventions (e.g. advisory services). The proposed exceptions for not applying selection criteria (e.g. financial instruments) were criticised. More information is required on the procedure of the selection process when combining financial instruments and grants;
- The proposal to deliver a part of EAFRD through InvestEU should remain optional for Member States. The text of the Regulation should be clearer on simplified cost options;

- The attribution of delegated or implementing powers to the Commission should be limited and clear boundaries should be set in this regard. To avoid legal uncertainty, all relevant requirements must be included in the basic act. To allow early planning, the implementation requirements for the CAP Strategic Plans should be provided in due time;

Financial provisions

- Delays in the approval of the CAP Strategic Plan should not postpone the eligibility of expenditure for contribution from the EAGF and the EAFRD. Expenditure should therefore become eligible either on the date where the CAP Strategic Plan is submitted to the Commission or on 1 January 2021, whichever is earlier;
- The proposal in Art. 85(1) to establish a single EAFRD contribution for all interventions was questioned. Specific maximum EAFRD contribution rates should also be established for transitional regions;
- Areas with natural constraints should be counted under Art. 86(2), like they are under Art. 87(2)(d) for the evaluation of the CAP budget contribution to the climate change objectives. It should be further examined whether other interventions, e.g. the sectoral interventions and LEADER could also be counted under Art. 87(2)(d). The specific weightings were asked to be reviewed; particularly the percentages for Basic Income Support for Sustainability and Complementary Income Support were considered too low;
- It should be reconsidered whether the 4% limit of the EAFRD that could be dedicated to technical assistance is sufficiently high to meet the needs. Further reflection is also needed on the source of financing of technical assistance, since part of the activities that it will cover fall under the scope of pillar I. There is also a need to clarify in Art. 86(3) some aspects of how technical assistance is to be implemented, including reimbursement;

- Further clarification is also required in Art. 86(4) on support for young farmers and in particular on how EAGF and EAFRD will interact, since support can be given under both funds;
- On Art. 86(5) similar views were expressed as on Art. 29-32 (see above under "Types of interventions in the form of direct payments");
- The establishment of indicative financial allocations on the basis of planned unit amounts in Art. 88 raised many questions, in particular on how to address under- and over-executions of a planned intervention, the possibility to transfer unspent amounts between different interventions and how to define unit amounts for non-area based interventions. Further clarification is also needed on the variation of the unit amount in Art. 89;
- With regard to the flexibility between the two pillars in Art. 90 there is a wish to allow Member States to review their decision more than once during the programming period;

Monitoring, reporting and evaluation

- The proposed provisions on the performance framework in Art. 115 need to be clarified, in particular whether it will be part of the CAP Strategic Plans or has to be established in a separate document; how these provisions will interact with those included in the proposed Regulation on Financing, management and monitoring of the CAP; what its relationship is with the annual performance review and the annual performance clearance; which indicators and which mechanisms for rewarding for good performance and for addressing low performance it includes; and why it should cover market measures and other interventions provided for in Regulation (EU) No 1308/2013. Annual milestones would be burdensome, may run against the objective of simplification, could push Member States to reduce their targets and would be inappropriate for rural development interventions, given the multiannual nature of many interventions in pillar II;

- All relevant indicators should be described in the basic act to allow for an early planning at Member State level. In particular, context and result indicators should be known from the outset and appropriate guidance on all indicators should be provided by the Commission;
- The proposed deadline of 15 February for the submission of the annual performance report to the Commission set out in Art. 121 would be very challenging. Keeping a six-month preparation as for the current Rural Development Programmes would allow Member States to process data in a reliable way. Allowing the Commission to ask the Member States to submit an action plan in case of a gap of more than 25% from a planned milestone would be too demanding for administrations. A higher threshold should be set, also in light of the difficulty to set precise targets for a seven-year period;
- More clarity is needed with regard to the annual review meeting to be organised by Member States (Art. 122), particularly with regard to the expected participants and the ownership of the related costs;
- The proposed performance bonus (Art. 123-124) raised doubts with regard to its nature (since rather than being a real bonus with additional funding it more appears like a reserve/penalty) and its capacity to contribute to higher environmental/climate objectives. More clarity is also needed on its calculation method;
- Doubts were expressed on the need and scope of the proposed ex-ante **evaluation** of CAP Strategic Plans (Art. 125) with comparisons made with the European structural and investment funds for which in future no ex-ante evaluation will be required. The list of elements covered by the ex-ante evaluation should be considerably simplified and guidance should be provided by the Commission, particularly on elements considered difficult to measure such as the "adequacy of human resources" and the "administrative capacity";

- Some concepts proposed in the Regulation require further clarification and need to be better defined in the basic act. This concerns for instance "potential for development" under Art. 125(3) and "functional independent experts" under Art. 126(2). More clarity is also needed with regard to the responsibilities of Member States, experts and Managing Authorities in the ongoing and ex-post evaluation and on the requirement to make all evaluations available to the public;
- The proposed deadline for the performance assessment by the Commission (31 December 2023) could give rise to difficulties in light of the n+2 decommitment rule. More information was requested on the indicators to be used by the Commission as set out in Annex XII;
- Implementing powers for the Commission (both for the definition of the elements of the performance framework and for the rules on performance assessment) should be limited and all essential information should be included in the basic act;

Competition provisions

- There is a need to clarify the "forms of cooperation" referred to by the rules applying to undertakings in Art. 130, particularly with regard to the applicability to interbranch organisations, and to have a clear demarcation line with interventions in the CAP Strategic Plans;
- It should be further examined whether the "one-window approach" on state aid can be extended by providing for a *single* approval by the Commission of all measures, including those not related to agricultural products or production, together with the approval of the CAP Strategic Plan. Otherwise, an *automatic* notification of measures not falling under Art. 42 TFEU upon submission of the CAP Strategic Plan would reduce administrative burden;

- Some clarifications are necessary on the new exemption from state aid rules for national fiscal measures in Art. 133 and on the support for working capital provided through a financial instrument in Art. 131(3), which seems to be in contradiction with the exemption from state aid rules of interventions for rural development;

General and final provisions

- The information system to be set up by the Commission under Art. 136 should be available as soon as possible to allow a smooth adaptation at national level, and direct communication with Paying Agencies' systems should be ensured;
- As in other Titles of the Regulation, it is important to circumscribe the delegated powers for the Commission to what is absolutely necessary and clearly define their scope;
- A sufficiently long transitional period is necessary while moving from the current programming period to the next one. Sectoral interventions should be included in the scope of transitional measures and interventions under the current period should be eligible until the Cap Strategic Plans have been adopted.

The Presidency recalls that the financial elements of the proposal, such as the proposed percentages of reduction of direct payments, the limits for EU financial assistance to the wine and olive oil sectors, the rules of de-commitment, Member States' allocation of support as set out in some Annexes, the co-financing rates under rural development and the scope of allowed flexibility between the two pillars are expected to form part of the horizontal negotiations on the multiannual financial framework 2021-2027. The identification of the perimeter of these elements is a dynamic process, and will evolve as negotiations progress.