Council of the European Union

Brussels, 4 February 2020
(OR. en)

5748/20

Interinstitutional File: 2018/0216(COD)

AGRI 45
AGRILEG 17
AGRIFIN 10
AGRISTR 5
AGRIORG 10
CODEC 79
CADREFIN 14

NOTE

From:	Presidency
To:	Special Committee on Agriculture
No. Cion doc.:	9645/18 + COR 1 + ADD 1
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 *- Conditionality - GAEC standard 9*

Delegations will find in the Annex a Presidency discussion paper on GAEC standard 9 (Annex III to the abovementioned proposal) for an exchange of views at the Special Committee on Agriculture on 10 February 2020.

ANNEX

Discussion paper related to GAEC9 (Annex III of the Strategic Plans Regulation)

The main objective of **GAEC 9** (Annex III of the Strategic Plans Regulation - SPR) is to improve on-farm biodiversity. The Commission proposed that, among others, a minimum share of agricultural area is to be devoted to non-productive features. The Finnish Presidency suggested that Member States shall devote a minimum share of arable land and permanent crops to non-productive features or catch crops or nitrogen fixing crops cultivated without plant protection products, and undertake actions aiming at protecting biodiversity and landscapes (14824/19 ADD1).

Previous discussions related to GAEC 9 showed that Member States have different views on the content of this standard.

The most controversial issue is the type of area that should be devoted to non-productive features, catch crops or nitrogen fixing crops. Some Member States are of the opinion that the **whole agricultural area** should be covered by this obligation to protect biodiversity in all farms. Other Member States prefer to apply this obligation only to **arable land**, in line with current rules.

Additionally, some Member States suggested that the minimum **percentage of the area devoted to non-productive features** should be fixed in the SPR, rather than to allow each Member State to set a different rate. In their view, this would ensure a level playing field across the Union as it would reduce the fluctuation of that percentage across Member States, thus avoiding that farmers implementing the same level of environmental measures are treated differently. Under the current programming rules, non-productive features are part of greening obligations. This practice is not mandatory for all farmers; only those with an arable land exceeding 15 ha must ensure that at least 5% of their land is an Ecological Focus Area to improve biodiversity on farms (with some exemptions such as organic farmers). Dedicating a minimum share of land to non-productive features would now become a part of enhanced conditionality and compulsory for farmers irrespectively of the land size.

In case delegations wish to set a percentage at EU level in the SPR, a discussion on the actual figure should be conducted. The Presidency considers that the 5% established under the current Regulation should be at least a starting point to reflect the environmental and climate ambition of the future policy.

On the basis of the background set above, delegations are invited to answer the following questions.

1. **Regarding the type of area devoted to non-productive features, which one of the following options would you consider more appropriate?**

   a) **Arable land and permanent crops as in the document 14824/19 ADD1**

   b) **All agricultural area as proposed by the Commission**

   c) **Arable land**.

2. **Do you consider that the percentage of area devoted to non-productive features should be set at the EU level within GAEC 9 standard definition? If yes, which percentage would you consider appropriate?**