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General Secretariat

Brussels, 18 June 2021

Interinstitutional files:

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WK 8096/2021 INIT

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WORKING PAPER

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NOTE

From:	Presidency
To:	Special Committee on Agriculture (SCA)
N° Cion doc.:	9645/18 + COR 1 + ADD 1 9556/18 + REV 1 (en, de, fr) + COR 1 9634/18 + COR1 + ADD1
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 Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products, (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union and (EU) No 229/2013 laying down specific measures for agriculture in favour of the smaller Aegean islands

WK 8096/2021 INIT

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Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF
THE COUNCIL on the financing, management and monitoring of the common
agricultural policy and repealing Regulation (EU) No 1306/2013
- Presidency suggestions for the three CAP reform files

With a view to the SCA meeting on 21 June 2021, the Annexes to this document contain the latest
Presidency suggestions for the three CAP reform files.

PRES Proposals - SCA of 21.06.2021
Core Points PRES proposal and EP proposal on
CAP Strategic Plans Regulation

	PRES Proposal	EP Proposal	New PRES Proposals
1)	Transfers between pillars		
	Transfers between pillars should not dilute the environmental ambition. It was agreed that the ring-fencing should be done after transfers.	Transfers between pillars should not dilute the environmental ambition. It was agreed that the ring-fencing should be done after transfers.	Agreed. On Article 86 it should be made clear that also for Eco-schemes the calculation of the ring-fencing should take place after transfers + Agreement on Council general approach text for the whole Article 90 (rows 934 to 942a) - Flexibility between direct payments allocations and EAFRD allocations
2)	Support rates		
	All the rates set out in the Council mandate, which are in line with the European Council conclusions.	All the rates set out in the Council mandate, which are in line with the European Council conclusions.	Full agreement on Article 85: EAFRD contribution rates. Rows 888 to 898b
	Contribution for climate and environmental objectives – F&V and EAFRD interventions		
3)	Ring Fencing for sectoral interventions on fruit and vegetables linked with climate and environmental objectives established at the level of 15%, in accordance with Council General Approach.	Ring Fencing for sectoral interventions on fruit and vegetables linked with climate and environmental objectives established at the level of 15%, in accordance with Council General Approach.	Full agreement on Council general approach text for Article 44(7), point (a) – row 473
4)	At least 35% of the total EAFRD contribution to the CAP Strategic Plan shall be reserved for interventions addressing the specific environmental-and climate-related objectives,	At least 35% 37% (no backsliding vs. Next Generation EU – Recovery Instrument) of the total EAFRD contribution to the CAP Strategic Plan shall be reserved for interventions addressing the specific	At least 35% of the total EAFRD contribution to the CAP Strategic Plan shall be reserved for interventions addressing the specific environmental-and climate-related objectives, including ANC (with a weighting factor of [60%]).

	including ANC (article 86.2) and Animal Welfare (both with a weighting factor of 60 %).	environmental- and climate-related objectives, including ANC (article 86.2) <u>with a 40% weighting factor</u> and Animal Welfare (both with a weighting factor of 60 %).	<i>No backsliding at MS level compared to programming period 2014-2020 (ANC accounting should be adjusted in accordance with the weighting factor to be established).</i> <i>(Animal Welfare has a weighting factor of 100 % in line with eco-schemes)</i> Possible derogation for those MS that currently have a very low programming on the pillar II on green measures. Point 4 has to be settled together with point 12 and 13. EP has to choose which is the most important ring-fencing in the 2nd pillar. With an agreement on point 4, the proposal for point 12 should be dropped by the EP.
5)	Eco schemes		
	Ring Fencing for eco-schemes: 25%, per year, for the whole period. a. "Floor" of 18% with full flexibility to transfer unused funds above the floor to other decoupled direct payments (within the margins of the maximum unit amounts), also for Member States with payment entitlements. b. "Rebate" system for eco-schemes as per CS General Approach. c. For unused funds below the floor, option for MS:	Ring Fencing for eco-schemes: 25%, per year, for the whole period. a. "Floor" of 18% 22% only for year 2023 and 23% for year 2024 with full flexibility to transfer unused funds above the floor to other decoupled direct payments (within the margins of the maximum unit amounts), also for Member States with payment entitlements. b. "Rebate" system for eco-schemes as per CS General Approach. c. For unused funds below the floor, option for MS: i. either to transfer unused funds to other decoupled payments and compensate in	See WK 7368/2021 ADD 4 (Presidency note on eco-scheme ring-fencing and flexibilities).

	i. either to transfer unused funds to other decoupled payments and compensate in subsequent years through increased planning of eco schemes, or ii. lose the unused funds below the floor and no requirement to compensate in subsequent years.	subsequent years through increased planning of eco schemes, or ii. lose the unused funds below the floor and no requirement to compensate in subsequent years. <u>d. Compensate for the unused funds above the floor in years 2023 and 2024 by the end of the period.</u> <u>e. Limit use of provisions of art 89(1)(a) and 88(3) last subparagraph only to years 2023 and 2024.</u>	
6)	Annex III – GAEC		
	GAEC 2 – Protection of wetland and peatland at the latest by 2025 <u>Footnotes:</u> 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 2 – Protection of wetland and peatland at the latest by 2025 <i>Further discussion needed with Council to find compromise on GAECs</i>	To be closed together with the agreement on the GAEC package

	GAEC 4 – Establishment of buffer strips along water courses <u>Footnotes:</u> <i>The GAEC buffer strips along water courses shall respect minimum width of 3m without using pesticides and fertilizers. <u>Member States may increase the minimum width of 3 meters in accordance with specific local circumstances.</u></i> <i>The GAEC buffer strips shall respect, both within and outside vulnerable zones designated pursuant to Article 3(2) of Directive 91/676/EEC, at least the required width of the buffer strip and the requirements relating to the conditions for land application of fertiliser near water courses, referred to in point A.4 of Annex II to Directive 91/676/EEC, to be applied in accordance with the action programmes of Member States established under Article 5(4) of Directive 91/676/EEC. If the minimum width established in accordance the referred action programme is different from 3m the width established on action programme should prevail.</i> <i>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.</i>	GAEC 4 - Establishment of buffer strips along water courses <i>EP position on this GAEC was not finally confirmed. Further discussion needed with Council to find compromise on GAECs</i>	To be closed together with the agreement on the GAEC package
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	GAEC 7 – Minimum soil cover to avoid bare soil in periods that are most sensitive Text for the Footnotes: <i>In duly justified cases, Member States may adapt the minimum standards to take into account the short vegetation period resulting from the length and severity of the winter period.</i>	EP in principle against re-opening of GAEC 7 b. GAEC 7 – Minimum soil cover to avoid bare soil in periods that are most sensitive Text for the Footnotes: <i>In duly justified cases, Member States may adapt the minimum standards to take into account the short vegetation period resulting from the length and severity of the winter period.</i>	The exception proposed by CONS goes in the direction of GAEC's own objective. The aim is not to bring machinery into soil that is not fit to receive it or to put at risk the structure of the soil.
	c. GAEC 8 – Crop rotation in arable land, except for crops growing under water – Text for the Footnotes: <i>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.</i> <i>If Member States may decide that crop rotation encompasses it should be possible situations when change of crop happens every other year, or other practices aiming at preserving the soil potential, such as crop diversification, taking into account existing farming systems and the diversity of agro-climatic conditions.</i>	c. GAEC 8 - Crop rotation in arable land, except for crops growing under water further discussion with Council needed to find compromise on GAEC 8 Text for the Footnotes: Rotation shall consist in a change of crop at least once a year at land agriculture parcel level (except in case of multiannual crops, grasses and other herbaceous forage, and land lying fallow), <u>including the appropriately managed secondary crops.</u> <u>If Member States may decide that crop rotation encompasses situations when change of crop happens every other year, or other practices aiming at preserving the soil potential, such as crop diversification, taking into account existing farming systems and the diversity of agro-climatic conditions.</u>	GAEC 8 – Crop rotation in arable land, except for crops growing under water Text for the Footnotes: <i>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. Member States may decide that crop rotation encompasses situations when change of crop happens every other year, or other practices aiming at preserving the soil potential, such as crop diversification, taking into account existing farming systems and the diversity of agro-climatic conditions.</i> <i>Member States may exempt from the obligation under this standard holdings:[...]</i> Recover the 10 ha exemption already agreed with the EP and COM.

	<i>Member States may exempt from the obligation under this standard holdings:</i> <i>(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;</i> <i>(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</i> <i>(c) with a size of arable land up to 10 hectares.</i> <i>Farmers certified in accordance with Regulation (EU) n° 2018/848 shall be deemed to comply with this GAEC standard.</i>	<i>Member States may exempt from the obligation under this standard holdings:</i> <i>(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;</i> <i>(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</i> <i>(c) with a size of arable land up to 10 5 hectares.</i> <i>(d) Farmers certified in accordance with Regulation {EU} n° 2018/848 shall be deemed to comply with this GAEC standard.</i> <u>(e) MSs [may/shall] introduce maximum limit of area covered with a single crop to prevent large monocultures</u>	Possible landing zone on maximum limit of area for monoculture: MSs <u>may</u> introduce maximum limit of area covered with a single crop to prevent large monocultures
	d. GAEC 9 - Minimum share of agricultural area devoted to non-productive areas or features	d. GAEC 9 - Minimum share of agricultural area devoted to non-productive areas or features	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. ○ <i>Where a farmer commits to devote at least 5% 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%.</i> ○ <i>Minimum share of at least 5% of arable land at farm level if include also catch crops or nitrogen fixing crops, cultivated without the use of plant protection products and fertilizers, 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.</i> ○ <i>A minimum share of arable area devoted to non-productive areas or features at least [x%] at Member State level.</i> ○ <i>Retention of landscape features.</i> ○ <i>Ban on cutting hedges and trees during the bird breeding and rearing season.</i> ○ <i>As an option, measures for avoiding invasive plant species.</i>	further discussion with Council needed to find a compromise on GAEC 9 • Minimum share of at least 4% 5% 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 5% 6% 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 5% of arable land at farm level if include also catch crops or nitrogen fixing crops, cultivated without the use of plant protection products and fertilizers (footnote: using existing flexibility of Regulation EU 1307/2013 Art. 46), 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. • A minimum share of arable area devoted to non-productive areas or features at least [10%] at Member State level. • 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.	• 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 and fertilizers, 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. • Recover the 10 ha exemption already agreed with the EP and COM. Text for the Footnotes:
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Text for the Footnotes: <i>(1) Member States may exempt from the obligation under this bullet point holdings:</i> <i>(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;</i> <i>(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</i> <i>(c) with a size of arable land up to 10 hectares.</i> <i>(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</i>	Text for the Footnotes: (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 105 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	<i>(1) Member States may exempt from the obligation under this bullet point holdings:</i> <i>(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;</i> <i>(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</i> <i>(c) with a size of arable land up to 10 hectares.</i> <i>(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.</i> Note: Council is willing to increase the ambition on biodiversity (increasing the percentages and going beyond the EP proposal). In exchange Council will ask EP to accept as a
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	<i>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.</i>	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 the issue of the minimum share of arable area devoted to non-productive areas or features at Member State level. Text of the recital proposed: <i>“Member States should demonstrate through their CAP Strategic Plans, a greater overall ambition in comparison with the past in respect of the CAP’s environment- and climate-related specific objectives. Such ambition should be considered as consisting in a range of elements – related, inter alia, to targets set against impact and result indicators, design of interventions, intended implementation of the system of conditionality, and financial planning. Member States should explain in their CAP Strategic Plans how they are displaying the greater overall ambition, with reference to the various relevant elements.”</i>
6a)	Definitions		
	Definition of eligible hectare Addition to Article 4 (1), point c (ii), first subparagraph, second indent, of a reference to plaidiculture and a change to give the option to Member States to account for landscape features if they are not predominant in the area they occupy.	<i>(Deletion from the package)</i>	See WK 7368/2021 ADD 3 (Commission non-paper on the eligible hectare framework definition).
7)	Targeting of support		
	Mandatory redistributive payment with 10% of DP, with opt-out for MS when duly demonstrated in the CAP strategic plan that the redistributive needs are addressed through other tools, including e.g. capping/degressivity, small	Mandatory redistributive payment with 10% of DP, with opt out for MS when duly demonstrated in the CAP strategic plan that the redistributive needs are addressed through other tools, including e.g.	See WK 7368/2021 ADD 1 REV 1 (Presidency note with suggestions on the fairer distribution and more effective and efficient targeting of income support.)

	farmers or internal convergence <u>or taking into account existing farming structures.</u>	capping/degressivity, small farmers or internal convergence or taking into account existing farming structures.	
8)	Internal convergence		
	- Each Member State shall ensure that, for claim year 2026 at the latest, all payment entitlements have a value of at least 85% of the planned average unit amount as referred to in Article 89(1) or, where applicable, of the maximum planned unit amount, as referred to in Article 89(1a), for the basic income support for claim year 2026 as laid down in its CAP Strategic Plan for the Member State or for the group of territories as referred to in Article 18(2). - The minimum rate of 85% internal convergence should prevail over article 20 (7).	- Each Member State shall ensure that, for claim year 2026 at the latest, all payment entitlements have a value of at least 85% 100% of the planned average unit amount as referred to in Article 89(1) or, where applicable, of the maximum planned unit amount, as referred to in Article 89(1a), for the basic income support for claim year 2026 as laid down in its CAP Strategic Plan for the Member State or for the group of territories as referred to in Article 18(2). - The minimum rate of 85% 100% internal convergence should prevail over article 20 (7).	<i>Article 20 - Value of payment entitlements and convergence</i> [...] 5. For the purposes of paragraph 4, each Member States shall ensure that, for claim year 2026 at the latest, all payment entitlements have a value of at least [85%] of the planned average unit amount as referred to in Article 89(1) or, where applicable, of the maximum planned unit amount, as referred to in Article 89(1a), for the basic income support for claim year 2026 as laid down in its CAP Strategic Plan for the Member State or for the group of territories as referred to in Article 18(2). [...] 7. The reductions referred to in paragraph 6 shall be based on objective and non-discriminatory criteria. Without prejudice to the minimum value set in accordance with paragraph 5, such criteria may include the fixing of a maximum decrease that may not be lower than 30%. In accordance with the text of the COM proposal for article 20(7), 85% prevail over the 30% of the safeguard clause.
9)	Social Dimension		
	Text of the latest Commission Proposal with the inclusion of the part of PRES related with the sectorial interventions and start implementation from 2025.	Text of the latest Commission Proposal with the inclusion of the part of PRES related with the sectorial interventions and start implementation from 2025 2023.	See WK 7368/2021 ADD 2 (drafting suggestions for the CAP Strategic Plans Regulation on the social dimension of the CAP) and WK 7369/2021 ADD 1 (possible consequential changes in the Horizontal Regulation on social conditionality)

		<u>The Annex XX on rules on social conditionality pursuant to article 11a should be enlarged by regulation 492/2011 on Freedom of movement of workers, articles 7 and 8 as well as the directive 2000/78 on the General framework for equal treatment - start implementation in 2023</u>	
10)	Coupled Income Support		
	Council keeps the General approach*	Council keeps the General approach* <u>- Keep derogation for protein crops as per Art. 29 (row 333)</u> <u>- Scope (Art. 30): cereals, oilseeds excluding confectionary sunflower seeds as laid down in art. 10a para 5; protein crops, legumes, mix between legumes and grasses, flex, hems rice, nuts, starch potatoes, milk and milk products, seeds, sheep meat and goat meat, beef and veal, olive oil and table olives, silk worms, dried fodder, hops, sugar beet, cane and chicory roots, fruit and vegetables, short rotation coppice. (row 336)</u> <u>- withdrawal was conditional upon insertion into article 97 para 2a as per Commission drafting suggestion (row 338e)</u> <u>- exclude bulls used in bullfighting (row 338 f)</u>	Derogation for protein crops as per Article 29 (row 333): <i>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. <u>By way of derogation from the previous sentence, Member States may support protein crops and legumes, as listed in Article 30, to improve their competitiveness, sustainability or quality.</u></i> - Couple Support (Article 30) (row 336): <i>Article 30. Coupled income support may only be granted to the following sectors and productions or specific types of farming therein where these are important for socioeconomic or environmental reasons: cereals, oilseeds excluding confectionary sunflower seeds as laid down in art. 10a para 5, protein crops, legumes, mix between legumes and grasses, flex, hems rice,</i>

		- Art. 86 - [10% +2%] <i>nuts, <u>potatoes including starch potatoes</u>, milk and milk products, seeds, sheep meat and goat meat, beef and veal, olive oil and table olives, silk worms, dried fodder, hops, sugar beet, cane and chicory roots, fruit and vegetables, short rotation coppice.</i> (row 338e) – Agree with insertion into article 97 para 2a as per Commission drafting suggestion and EP withdraws the AM Article 97 (2a): [...] <i>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.</i>[...] Article 86 – maximum rates of coupled support: 13% +2% <i>Article 86.5., first subparagraph (row 909) - The indicative financial allocations for the coupled income support interventions referred to in Subsection 1 of Section <u>3</u> of Chapter II of Title III, shall be limited to a maximum of <u>13%</u> of the amounts set out in Annex VII. <u>[Member States may transfer a part of it to increase the maximum allocation set up in Article 82(6) if that allocation is insufficient to finance the interventions covered under Section 7 of Chapter III of Title III.]</u></i> <i>Article 86.5., third subparagraph (row 911) - The percentage referred to in the first subparagraph, may be increased by a maximum of <u>2 percentage points</u>, provided that the amount corresponding to the percentage exceeding the 13% is allocated to the support</i>
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			<i>for protein crops under Subsection 1 of Section 3 of Chapter II of Title III.</i> Note: This item is linked to the Council's proposal of internal convergence from 75% to 85%. In fact, increased internal convergence has a major impact for a large number of farms facing viability difficulties. The principle of coupled payments is fundamental to this transition.
11)	Green Deal alignment + art 87 tracking		
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		<i>biodiversity to adjust weightings for climate tracking.</i> <u>in the meantime:</u> Tracking climate expenditure and contribution to biodiversity (art. 87) <i>Commission will assess the contribution to the 40% of each CAP strategic plan based on a [provisional/temporary] formula/method.</i> c) Provision of Evaluation and Report by the Commission on the potential of CAP Strategic plans to reach Green Deal objectives <i>By [31 December 2023] the Commission shall publish an overview evaluation of Member States strategic plans when it comes to their individual and joint potential to address the specific objectives set out in Article 6(1), in particular those mentioned in points (d), (e) and (f) thereof, and set out in EU legislation emanating from the Farm to fork and Biodiversity strategy as decided by the co-legislators.</i> <i>By 30 June/December 2025 the Commission shall submit a report to the European Parliament and the Council in order to evaluate the operation of the new delivery model by the Member States and combined contribution of Member States strategic plans' interventions to achieve environmental and climate commitments of the Union, in</i>	
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		<i>particular those emerging from the European Green Deal. When necessary the Commission shall issue recommendations to the Member States to ensure the achievement of these commitments.</i> d) Commission assessment of CAP strategic plans <i>The assessment referred to in Article 106 shall be carried out on the basis of the quantified targets of the Farm to Fork Strategy and the Biodiversity Strategy. [deletion of Art. 106a - last sentence]</i>	
12)	Green investment		
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13)	Remaining ring-fencing proposals under Art 86		
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CMO Regulation

Regarding the outstanding political issues that remained open in the May super dialogue, there have been no developments since then, so the issues remain open. The aim of this new document is to enable Member States to confirm their position expressed at the SCA of 7 June or to re-examine the compromise proposals which the Presidency presented at that time in document WK 7370/2021 INIT.

	PRES Proposal	EP Proposal
1)	Article 147a (new) - Supply agreements of bulk wines	
	The approach to supply agreements for sales of wine in bulk, was a European Parliament's amendment on new subparagraph 4(ca) of Article 164 ("Extension of rules"). However, the European Parliament considered that it would be preferable to refer this matter to a new Article 147a, which allowed for an agreement on Article 164, as it was already presented to Member States in the document WK 6866/2021 INIT. In this context, the European Parliament also presented a draft for this new article, also presented in the mentioned document. The Presidency understood that what the European Parliament wanted with this new article was not a derogation from the rule in the UTPs directive, but a need to complement the derogation which already exists in the directive for grapes and musts, but which does not exist for bulk wines. The Presidency understands that it may be a solution in order to avoid asymmetries in the derogations applicable to operators along the wine value chain. In addition, the European Parliament's proposal does not seem to go in the direction of reducing the level of protection afforded by the directive to winegrowers and grape producers. It is a relationship between the wine makers and their bulk wine customers. For the Presidency this is positive, as it is important to maintain this protection conferred on vine growers.	

The European Commission considered that it would be possible to accept this proposal, until the first opportunity arises to revise the UTP directive to include bulk wine. In the light of the above, as part of a broader compromise, the Presidency is now submitting a proposal for Article 147a for validation by the Member States. ===== This article can be accepted on the basis of European Commission redrafting proposal, already presented previously to MS. Article 147a (new) Payment delays for sales of bulk wine By way of derogation from Article 3(1) of Directive (EU) 2019/633, Member States may, upon request of an interbranch organisation recognised under Article 157 operating in the wine sector, provide that the prohibition referred to in point (a) of the first subparagraph of Article 3 of Directive (EU) 2019/633 does not apply to payments made under supply agreements for the sales transactions of bulk wines between producers or resellers of wine and their direct buyers provided that: (a) specific terms to make payments after 60 days are included in standard contracts for transactions of bulk wines which have been made binding by the Member State pursuant to Article 164 of Regulation (EU) No 1308/2013 before 30 October 2021 and that this extension of the standard contracts is renewed by the Member States from that date without any significant changes to the terms of payment to the disadvantage of suppliers of bulk wines; and (b) that the supply agreements between suppliers of bulk wines and their direct buyers are multiannual or become multiannual.	 Article 147a (new) Supply agreements of bulk wines Upon the request of an interbranch organisation recognised under Article 157 operating in the wine sector, Member State may lay down binding rules on standard contracts for the sales transactions of bulk wines between producers or resellers of wine and their direct buyers, containing, by way of derogation from Article 3(1) of Directive (EU) 2019/633, specific terms of payment longer than 60 days, provided those supply agreements are multiannual and are compatible with Union rules. Those standards contracts shall be made binding by the Member State pursuant to this Article before 1 July 2022 and those rules on the standard contracts may only be renewed by the Member State from that date provided that no significant changes to the terms of payment are introduced to the disadvantage of producers or resellers of wine.
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	PRES Proposal	EP Proposal
2)	Article 172b - Value sharing from IBOS on PDO/PGI	
	The European Parliament proposed to address the possibility for PDO/PGI wine inter-branch organisations to provide guidance to their members on value sharing along the chain. The issue was considered sensitive by the European Commission because it may in some way be linked to price fixing. These concerns were conveyed by the European Commission and the Presidency in the Supertrilogue, however, European Parliament has clarified that this is not about price fixing, but only about non-binding guidelines, and that it is a matter of great importance for European Parliament to conclude favourably. The Presidency indicated to the European Parliament that in the spirit of compromise could consider a drafting proposal by the European Commission which would be acceptable for the purposes of competition rules. For the sake of compromise, it was possible for the European Commission to work on a proposal which the Presidency is now presenting again to the Member States for confirmation of their views. Article 172b can be accepted on the basis of European Commission drafting proposal valid in terms of competition rules. Article 172b Guidance by interbranch organisations for the sale of grapes for PDO/PGI wines By way of derogation from Article 101(1) TFEU, interbranch organisations recognised under Article 157 operating in the wine sector may provide non-mandatory price guidance indicators concerning the sale of grapes for the production of PDO/PGI wines provided that such guidance does not eliminate competition in respect of a substantial proportion of the products in question.	Article 172b Value sharing for products with a protected designation of origin or protected geographical indication For products with a protected designation of origin or a protected geographical indication recognised under Union law, interbranch organisations recognised under Article 157 may adopt indicators and may propose guidance rules on value sharing between operators at the different stages of EP Redraft of its own proposal on Art. 172b:

		production and, where appropriate, of processing and marketing involved in the interbranch organisation, for which they may, by way of derogation from Article 101(1) TFEU, request extension on the basis of Article 164(1) of this Regulation. Such agreements, decisions or concerted practices shall be proportionate to the objective pursued and shall not: (a) entail the fixing of prices of the final products sold to consumers; (b) eliminate competition in respect of a substantial proportion of the products in question; (c) create an excessive imbalance between the different stages of the value chain of the sector in question.”
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	PRES Proposal	EP Proposal
3)	International Trade Policy	
	Concerns on International Trade issues were addressed at the super trilogue of 26 March and the Presidency confirmed at that occasion that the Council shares the European Parliament objectives of competitiveness for European producers vis-à-vis their competitors in the international market, which must be addressed under the framework of international institutions and rules. The Presidency highlighted that the Council acknowledges that the European Union is a net exporter and also depends on its external trade partner’s compliance with these international rules and agreements. The European Union must prevent grounds for retaliation as a result of unilateral political signals which could result in susceptibility for those trading partners. In this sense, and as agreed in the super trilogue in March, the Presidency expressed to the European Parliament that the Council considers that the best way to address the concerns expressed by the text of Article 188a would be through the Joint Political Statement of the 3 institutions, providing the European	International Trade Policy concerns addressed under Joint Political Statements and Article 188a included in the CMO Regulation. Article 188a – EP Redraft 25.05.21: <i>“Food and feed of plant and animal origin may only be imported from third countries if they comply with obligations related to the maximum residue levels (MRL) of pesticides in force for food and feed produced in the Union.</i> <i>As soon as possible and by 1 January 2025 at the latest:</i> <i>(i) import tolerances as defined in Article 3 (2) (g) of Regulation 396/2005 shall neither be granted nor maintained and</i> <i>(ii) Codex Limits (CXL) as defined in Article 3(2)(e) of Regulation (EC) No 396/2005 shall neither be implemented nor maintained</i>

Commission with objective and clear guidelines for future action on trade policy. The European Parliament insisted then on its intention to maintain Article 188a, and presented a revised version on 10 May for this article. In order to set the best way to tackle this 'Trade' topic in the ongoing negotiations, on the 17 May SCA, the Presidency presented to the Member States for consideration the two working alternatives (WK 6461/2021 INIT), having article 188a included at the CMO or exclusively with joint political declarations. The Member States' choice was clear in expressing that the issues raised by the European Parliament should be addressed through a joint statement, thus not accepting the EP proposal to include Article 188a in the CMO Regulation. Work has been done by legal and technical services of the three institutions in drafting a proposal for the declaration that could reflect the concerns and the best way to address them. A drafting proposal was circulated at the Council meeting of 27 May. At the Supertrilogue, the European Parliament insisted in keeping article 188a and presented a redraft version, and asked the Presidency to present to Member States the European Parliament reasoning for keeping this proposal to be included under CMO regulation. The European Parliament's document including the 25 May redrafted Article 188a and the reasoning, was also circulated to Member States at the Council meeting of 27 May. On that occasion, the Member States maintained the same opinion as regards international trade policy and reinforced their choice of resorting only to Joint Political Statements. For the purpose of this compromise, the drafting proposal for the declaration to be signed by the three institutions concerning the application of EU health and environmental standards to imported agricultural products, as well as the bilateral declaration concerning the application of EU health and environmental	<i>with respect to active substances not approved in the EU for reasons related to consumer protection (including in particular active substances not satisfying the approval criteria set out in points 3.6.2 to 3.6.5 of Annex II to Regulation (EC) No 1107/2009) or for reasons related to environmental concerns of a global nature (including active substances not satisfying the approval criteria in points 3.7.1 to 3.7.3 of Annex II to Regulation (EC) No 1107/2009)."</i> ===== <i>Draft joint statements to be discussed after final decision on keeping or not Article 188a</i>
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	standards to imported agricultural products, are again submitted to the Member States for a consideration. The Presidency invites the Member States to confirm their views on this issue. ===== International Trade Policy concerns addressed under Joint Political Statements and no Article 188a included in the CMO Regulation. - Joint Statement by the Council of the European Union, the European Parliament and the European Commission concerning the application of EU health and environmental standards to imported agricultural products and including the concerns on imported tolerances for pesticides proposed by the European Parliament under article 188a. - Bilateral Joint Statement by the Council of the European Union and the European Parliament, concerning the application of EU health and environmental standards to imported agricultural products inviting the COM to present by the end of the first quarter of 2022 a report containing an assessment of the rationale and legal feasibility. <i>Draft joint statements presented to MS at the Council meeting of 28 May, along with redrafted article 188a and EP reasoning.</i>	
DRAFT PROPOSAL OF JOINT STATEMENTS ON EXTERNAL TRADE FOR THE ACHIEVEMENT OF THE EUROPEAN GREEN DEAL Draft proposal of a possible joint statement by the Council of the European Union, the European Parliament and the European Commission concerning the application of EU health and environmental standards to imported agricultural products The Council of the European Union, the European Parliament and the European Commission recognise the need to seek greater coherence between health and environmental standards that apply to agricultural products in the European Union and		

those that apply to imported agricultural products, in conformity with international trade rules. In order to tackle sustainable development issues, especially climate change and biodiversity loss, which are issues of global concern, and to match Citizens' expectations for higher quality and more sustainable foods the European Union has continually raised these standards for many years. The European Green Deal and its sectoral strategies, including the European Commission communication "Farm to Fork strategy", strive to achieve this goal, and will result in a further raising of these standards applied within the EU.

The Council of the European Union, the European Parliament and the European Commission agree that import tolerances for pesticides should be kept under review in conformity with international trade rules and following a case-by-case risk assessment. In addition to health and good agricultural practices aspects currently considered when assessing import tolerance applications, environmental aspects should also be taken into account when assessing requests for import tolerances for substances that are no longer approved in the EU.

The Council of the European Union, the European Parliament and the European Commission recognise the need to engage proactively at the multilateral level in increasing the ambition on international environmental objectives when enforcing and improving international trade rules. As stated in the European Commission Trade Policy Review Communication, it is also appropriate for the European Union, under certain circumstances as defined by WTO rules, to require that imported agricultural products comply with certain production requirements so as to ensure the effectiveness of the health, animal welfare and environmental standards that apply to agricultural products in the European Union and to contribute to the full delivery of the European Green Deal and Farm to Fork Strategy communications. Given the importance of its market in international trade, the European Union can use its leverage capacity to raise health and environmental standards globally and thus contribute to achieving international environmental objectives such as those of the Paris Agreement.

The Council of the European Union, the European Parliament and the European Commission welcome the broader approach put forward in the Trade Policy Review, regarding the need for more engagement at the multilateral level to address key issues, such as strategic stocks, in particular because food is an essential good. Improving global food security implies reducing instability in agricultural markets by more cooperation at multilateral level going beyond reduction of market distortions, which is a necessary but not sufficient factor in stabilising international markets.

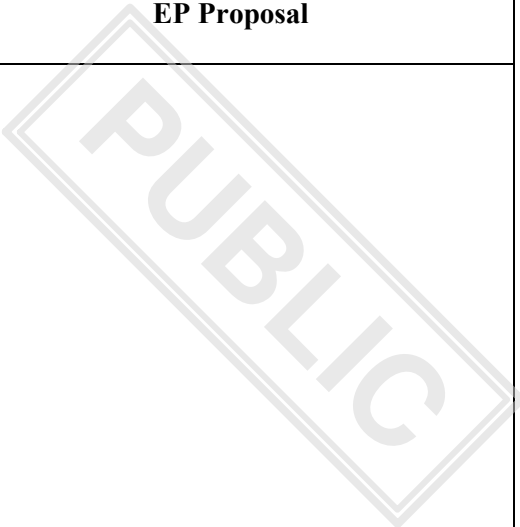
Draft proposal of a possible joint statement by the Council of the European Union and the European Parliament concerning the application of EU health and environmental standards to imported agricultural products:

The Council of the European Union and the European Parliament invite the European Commission to present by the end of the first quarter of 2022 a report containing an assessment of the rationale and legal feasibility of applying EU health and environmental standards (including animal welfare standards as well as processes and production methods) to imported agricultural and agri-food products as well as identifying the concrete initiatives to ensure better consistency in their application, in conformity with WTO rules. This report should cover all relevant public policy areas including - but not limited to - the Common Agricultural Policy, the Health and Food Safety Policy, the environmental policy and the Common Commercial Policy.

Regarding the other 2 outstanding political issues, the Presidency also informed at the Supertrilogue of May that the Council doesn't support the European Parliament's proposals on **Article 11** (products eligible for intervention – sugar) and on **Article 206a** (resale at a loss).

Horizontal Regulation

	PRES Proposal	EP Proposal
	Agricultural Reserve	
	The amount of the reserve would be EUR 450 million at the beginning of each year, unless the budgetary authority (so Council and Parliament together) decides during the annual budgetary procedure to set a higher amount. In practice, the Commission could then in the Amending Letter to the Draft Budget propose a higher reserve in case there would be a need to do so and of course provided there would be the necessary margin under the EAGF sub-ceiling in the MFF. This amending letter is then part of the budget conciliation in October-November where Parliament and Council agree on the next year's budget, including also the amount of the agricultural reserve. Nevertheless, the Commission may adjust/refill the amount of the reserve during the budget year when needed. Total unused amount of the crisis reserve available at the end of year 2022 to be rolled over to the year 2023 and if appropriations remain available after financing the agricultural reserve, these shall be reimbursed to the beneficiaries. <i>Draft compromise text:</i> <i>“Article 14</i> <i>Agricultural reserve</i> <i>1. An EU agricultural reserve (‘the reserve’) shall be established at the beginning of each year in the EAGF-to provide additional support for the agricultural sector for the purpose of market management or stabilisation and to respond promptly in the case of crises affecting the agricultural production or distribution.</i> <i>The appropriations for the reserve shall be entered directly in the Union's budget. Funds from the reserve shall be made available, in the financial year or years for which additional support is required, for the following measures:</i>	The amount of the agricultural reserve shall be at least EUR 450 million in current prices at the beginning of each year of the period 2023-2027. Total unused amount of the crisis reserves available at the end of year 2022 not to be rolled over to the year 2023 and these shall be reimbursed to the beneficiaries.

	PRES Proposal	EP Proposal
	a) <i>measures to stabilise agricultural markets under Articles 8 to 21 of Regulation (EU) No 1308/2013;</i> b) <i>exceptional measures under Articles 219, 220, and 221 of Regulation (EU) No 1308/2013.</i> 2. <i>The amount of the agricultural reserve shall be EUR 450 million in current prices at the beginning of each year of the period 2023-2027, without prejudice to a higher amount being set in the Union's budget. The Commission may adjust the amount of the agricultural reserve during the year when appropriate in view of market developments or perspectives in the current or following year and taking into account available appropriations under the EAGF sub-ceiling.</i> <i>In the event that such available appropriations are not sufficient, financial discipline may be used in accordance with Article 15 of this regulation, as a last resort, to fund the reserve up to the initial amount referred to in the first subparagraph.</i> <i>By way of derogation from Article 12(2), 3rd subparagraph of the Financial Regulation, non-committed appropriations of the reserve shall be carried over to finance the reserve in the following financial years until 2027.</i> <i>Moreover, by derogation from Article 12(2), 3rd subparagraph of the Financial Regulation, the total unused amount of the crisis reserve available at the end of year 2022 shall be carried over to the year 2023 without being fully returned to the budgetary lines which cover the actions referred to in point (c) of Article 5(2) and made available to the extent necessary for the financing of the agricultural reserve after taking into account appropriations available under the EAGF sub-ceiling. Should appropriations of the crisis reserve remain available after financing the agricultural reserve, these shall be returned to the budgetary lines which cover the actions referred to in point (c) of Article 5(2)."</i>	

	PRES Proposal	EP Proposal
	Pre-financing for EAFRD	
	Maintain status quo for initial pre-financing amount EAFRD: 1% in 2023, 2024 and 2025.	This initial pre-financing amount shall be paid as follows: 1,5% in 2023; 1,5% in 2024 and 1% in 2025
	Automatic decommitment	
	Return to N+2 rule for automatic decommitment in EAFRD.	Maintain status quo for automatic decommitment in EAFRD: N+3
	Data Mining-Tool (ARACHNE)	
	Draft compromise text: <i>“Article 57</i> <i>Protection of the financial interests of the Union</i> <i>1. [...]</i> <i>2. Member States shall set up efficient management and control systems in order to ensure compliance with the Union legislation governing Union interventions.</i> <i>Member States shall take the actions necessary to ensure the proper functioning of their management and control systems and the legality and regularity of expenditure declared to the Commission.</i> <i>To assist the Member States in this respect, the Commission shall make available to the Member States a data-mining tool to assess risks presented by projects, beneficiaries, contractors and contracts while ensuring minimal administrative burden and effective protection of the Union financial interest. That data-mining tool may also be used in order to avoid circumvention of rules as referred to in Article 60. By 2025, the Commission shall present a report which assesses the use of the single data mining tool and its interoperability in a view of its generalised use by Member States.</i> <i>2a. [...]</i>	

	PRES Proposal	EP Proposal
	2b. [...] 3. [...] 4. [...] 5. [...] 6. [...]" Draft suggestion on a new recital: <i>“(42a) In order to assist the Member States in ensuring effective protection of the financial interests of the Union, the Commission should make available to them a data-mining tool to assess risks presented by projects, beneficiaries, contractors and contracts. In order to assess the use of the single data mining tool and its interoperability with a view to its generalised use by Member States, the Commission should present a report by 2025, accompanied, if necessary, by appropriate proposals.”</i> Draft suggestion on a Joint Statement by the European Parliament, the Council and the Commission on further measures to protect the EU budget against fraud and irregularities by requiring a generalised application of a single data mining tool: <i>“The Council and the European Parliament commit to examine a proposal on the compulsory use of a data-mining tool in the Member States, following the Commission’s report by 2025 assessing the use of the single data mining tool and its interoperability with a view to its generalised use by Member States.”</i>	