



Council of the European Union  
General Secretariat

Brussels, 31 May 2021

---

---

**Interinstitutional files:  
2018/0216(COD)**

---

---

**WK 7122/2021 INIT**

**LIMITE**

**AGRI  
AGRILEG  
AGRIFIN  
AGRISTR  
AGRIORG  
CODEC**

**WORKING PAPER**

*This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.*

**WORKING DOCUMENT**

---

From:	Presidency
To:	Delegations

---

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 - Presidency non-paper SPR core items
----------	--

---

Delegations will find attached a non-paper from the Presidency with a colour classification of the SPR core items.

Colour code:

- Green: agreed point
- Yellow: critical point
- Pink: blocking point

---

WK 7122/2021 INIT

**LIMITE**

**EN**

**Core Points PRES proposal and EP proposal on  
CAP Strategic Plans Regulation  
27 May 2021**

	<b>PRES Proposal</b>	<b>EP Proposal</b>
<b>1)</b>	<b>Transfers between pillars</b>	
	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.
<b>2)</b>	<b>Support rates</b>	
	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.
	<b>Contribution for climate and environmental objectives – F&amp;V and EAFRD interventions</b>	
<b>3)</b>	Ring Fencing for sectoral interventions on fruit and vegetables linked with climate and environmental objectives established at the level of 15%.	Ring Fencing for sectoral interventions on fruit and vegetables linked with climate and environmental objectives established at the level of 15%.
<b>4)</b>	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 (article 86.2) and Animal Welfare (both with a weighting factor of 60 %).	At least 35% <b>37% (no backsliding vs. Next Generation EU – Recovery Instrument)</b> 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 (article 86.2) <b>with a 40% weighting factor</b> and Animal Welfare (both with a weighting factor of 60 %).
<b>5)</b>	<b>Eco schemes</b>	
	<p>Ring Fencing for eco-schemes: 25%, per year, for the whole period.</p> <p>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.</p> <p>b. “Rebate” system for eco-schemes as per CS General Approach.</p> <p>c. For unused funds below the floor, option for MS:</p> <p>i. either to transfer unused funds to other decoupled payments and compensate in</p>	<p>Ring Fencing for eco-schemes: 25%, per year, for the whole period.</p> <p>a. "Floor" of 18% <b>22% only for year 2023 and 23% for year 2024</b> 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.</p> <p>b. "Rebate" system for eco-schemes as per CS General Approach.</p> <p>c. For unused funds below the floor, option for MS:</p> <p>i. either to transfer unused funds to other decoupled payments and compensate in</p>

	<p>subsequent years through increased planning of eco schemes, or</p> <p>ii. lose the unused funds below the floor and no requirement to compensate in subsequent years.</p>	<p>subsequent years through increased planning of eco schemes, or</p> <p>ii. lose the unused funds below the floor and no requirement to compensate in subsequent years.</p> <p><b>d. Compensate for the unused funds above the floor in years 2023 and 2024 by the end of the period.</b></p> <p><b>e. Limit use of provisions of art 89(1)(a) and 88(3) last subparagraph only to years 2023 and 2024.</b></p>
6)	<b>Annex III – GAEC</b>	
	<p><b>GAEC 4 – Establishment of buffer strips along water courses</b></p> <p><b>Footnotes:</b> 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></p> <p>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. <u>If the minimum width established in accordance the referred action programme is different from 3m the width established on action programme should prevail.</u></p> <p>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.</p>	<p><b>GAECs - further discussion needed with Council to find compromise on GAECs</b></p> <p><b>a. GAEC 4 - Establishment of buffer strips along water courses</b></p> <p><b>Footnotes:</b> The GAEC buffer strips along water courses shall respect minimum width of 3m without using pesticides and fertilizers. "[...]. Member States may increase the minimum width of 3 meters in accordance with specific local circumstances".</p> <p>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. <u>If the minimum width established in accordance the referred action programme is different from 3m the width established on action programme should prevail.</u></p> <p>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.</p>
	<p><b>GAEC 7 – Minimum soil cover to avoid bare soil in periods that are most sensitive</b> Text for the Footnotes:</p>	<p><b>EP in principle against re-opening of GAEC 7</b> b. GAEC 7 – Minimum soil cover to avoid bare soil in periods that are most sensitive Text for the Footnotes:</p>

<p><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></p>	<p><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></p>
<p><b>c. GAEC 8 – Crop rotation in arable land, except for crops growing under water –</b></p> <p>Text for the Footnotes: Rotation shall consist in a change of crop at least once a year at land parcel level (except in case of multiannual crops, grasses and other herbaceous forage, and land lying fallow), including the appropriately managed secondary crops.</p> <p><del>If Member States may so 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.</del></p> <p>Member States may exempt from the obligation under this standard holdings:</p> <p>(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;</p> <p>(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</p> <p>(c) with a size of arable land up to 10 hectares.</p> <p>Farmers certified in accordance with Regulation (EU) n° 2018/848 shall be deemed to comply with this GAEC standard.</p>	<p><b>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</b></p> <p>Text for the Footnotes: Rotation shall consist in a change of crop at least once a year at <del>land</del> <b>agriculture</b> parcel level (except in case of multiannual crops, grasses and other herbaceous forage, and land lying fallow), <del>including the appropriately managed secondary crops.</del></p> <p><del>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.</del></p> <p>Member States may exempt from the obligation under this standard holdings:</p> <p>(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;</p> <p>(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</p> <p>(c) with a size of arable land up to <del>10</del> <b>5</b> hectares.</p> <p>(d) Farmers certified in accordance with Regulation {EU} n9 2018/848 shall be deemed to comply with this GAEC standard.</p> <p><b>(e) MSs [may/shall] introduce maximum limit of area covered with a single crop to prevent large monocultures</b></p>

<p><b>d. GAEC 9 - Minimum share of agricultural area devoted to non-productive areas or features</b></p> <ul style="list-style-type: none"> <li>○ Minimum share of at least 4% of arable land at farm level devoted to non-productive areas and features, including land lying fallow.</li> <li>○ <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></li> <li>○ <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></li> <li>○ <i>A minimum share of arable area devoted to non-productive areas or features at least [x%] at Member State level.</i></li> <li>○ <i>Retention of landscape features.</i></li> <li>○ <i>Ban on cutting hedges and trees during the bird breeding and rearing season.</i></li> <li>○ <i>As an option, measures for avoiding invasive plant species.</i></li> </ul> <p><b>Text for the Footnotes:</b>  <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></p>	<p><b>d. GAEC 9 - Minimum share of agricultural area devoted to non-productive areas or features</b></p> <p>further discussion with Council needed to find a compromise on GAEC 9</p> <ul style="list-style-type: none"> <li>● Minimum share of at least 4% <b>5%</b> of arable land at farm level devoted to non-productive areas and features, including land lying fallow.</li> <li>● Where a farmer commits to devote at least <b>5% 6%</b> 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%.</li> <li>● 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 (<b>footnote: using existing flexibility of Regulation EU 1307/2013 Art. 46</b>), 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.</li> <li>● A minimum share of arable area devoted to non-productive areas or features at least [<b>10%</b>] at Member State level.</li> <li>● Retention of landscape features.</li> <li>● Ban on cutting hedges and trees during the bird breeding and rearing season.</li> <li>● As an option, measures for avoiding invasive plant species.</li> </ul> <p><b>Text for the Footnotes:</b>  <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></p>
--	--

	<p>(c) with a size of arable land up to 10 hectares.</p> <p>(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.</p>	<p>(c) with a size of arable land up to <del>10</del> 5 hectares.</p> <p>{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.</p>
<b>6a)</b>	<b>Definitions</b>	
	<p>Definition of eligible hectare</p> <p>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.</p>	<p>(Deletion from the package)</p>
<b>7)</b>	<b>Targeting of support</b>	
	<p>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 farmers or internal convergence <u>or taking into account existing farming structures.</u></p>	<p>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 farmers <del>or internal convergence or taking into account existing farming structures.</del></p>
<b>8)</b>	<b>Internal convergence</b>	
	<ul style="list-style-type: none"> <li>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).</li> </ul>	<ul style="list-style-type: none"> <li>Each Member State shall ensure that, for claim year 2026 at the latest, all payment entitlements have a value of at least 85% <b>100%</b> 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).</li> </ul>

	<ul style="list-style-type: none"> <li>The minimum rate of 85% internal convergence should prevail over article 20 (7).</li> </ul>	<ul style="list-style-type: none"> <li>The <del>minimum</del> rate of 85% <b>100%</b> internal convergence should prevail over article 20 (7).</li> </ul>
<b>9)</b>	<b>Social Dimension</b>	
	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 <del>2025</del> 2023.  <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>
<b>10)</b>	<b>Coupled Income Support</b>	
	Council keeps the General approach*	<p>Council keeps the General approach*</p> <ul style="list-style-type: none"> <li>- <u>Keep derogation for protein crops as per Art. 29 (row 333)</u></li> <li>- <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 meet, 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></li> <li>- <u>withdrawal was conditional upon insertion into article 97 para 2a as per Commission drafting suggestion (row 338e)</u></li> <li>- <u>exclude bulls used in bullfighting (row 338 f)</u></li> <li>- <u>Art. 86 - [10% +2%]</u></li> </ul>
<b>11)</b>	<b>Green Deal alignment + art 87 tracking</b>	
	---	<p>a) Commitment from Member States to align to FtF &amp; BD strategy objectives as soon as they become approved</p> <p><i>By [30 June 2025] the Member States shall review their Strategic Plans to ensure that the Strategic Plans are aligned with applicable Union legislation on climate and the environment and submit to the Commission</i></p>

	<p>requests to amend their Strategic Plans accordingly.</p> <p><b>b) Commitment from Commission to bring forward accurate new methodology by concrete deadline</b></p> <p>By [30 June 2025] the Commission shall develop a science-based and internationally recognised common methodology for more precise tracking of expenditure on climate and environmental objectives, including biodiversity to adjust weightings for climate tracking.</p> <p>in the meantime: Tracking climate expenditure and contribution to biodiversity (art. 87)</p> <p>Commission will assess the contribution to the 40% of each CAP strategic plan based on a [provisional/temporary] formula/method.</p> <p><b>c) Provision of Evaluation and Report by the Commission on the potential of CAP Strategic plans to reach Green Deal objectives</b></p> <p>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.</p> <p>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 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.</p> <p><b>d) Commission assessment of CAP strategic plans</b></p> <p>The assessment referred to in Article 106 shall be carried out on the basis of the quantified</p>
--	---



		<i>targets of the Farm to Fork Strategy and the Biodiversity Strategy. [deletion of Art. 106a - last sentence]</i>
<b>12)</b>	<b>Green investment</b>	
	---	<p><b>Article 68 (2)(a) new</b>  <i>2a. Member States shall allocate at least [30 %] of the support referred to in this Article to investments for environment and climate-related purposes contributing to the objectives referred to in points (d), (e) and (f) of Article 6(1). Member States shall establish priorities for those investments by means of higher support, higher score evaluation and other objective criteria.</i></p> <p><b>Article 87 - new point (e)</b>  <i>(e) 100% for the expenditure for investments on environment and climate related purposes as referred to in art Article 68</i></p>
<b>13)</b>	<b>Remaining ring-fencing proposals under Art 86</b>	
	--	--

---