

I. FOREWORD

1. The COVID-19 pandemic that has affected citizens, societies and economies worldwide has also had an impact on the post-2020 CAP reform discussion. The Croatian Presidency had to face this challenging situation to deliver on the Common Agricultural Policy (CAP) reform while engaging on specific measures to attenuate the consequences of the crisis in the agricultural sector.
2. Due to the COVID-19-related constraints, many of the planned meetings at Working Party level were cancelled and the Presidency had to adapt its working methods in order to make progress on the CAP reform, mainly by requesting written comments from Member States.
3. Meetings of the Special Committee on Agriculture (SCA) were limited in time and scope and dealt mainly with the COVID-19 situation (including a proposal to amend the current Rural Development Regulation to provide temporary support to farmers and SMEs) and the Transitional Regulation.
4. For the same reason, only the "Agriculture and Fisheries" Council meeting in January could take place. The Croatian Presidency, however, organised several High-Level Videoconferences which focused on the COVID-19 crisis and measures to be taken, aiming to help EU farmers.

II. INTRODUCTION

5. The proposals for the CAP reform after 2020 consist of the following three Regulations:
 - A centre-piece **CAP Strategic Plans Regulation (CAP SPR)**, encompassing direct payments, interventions in certain sectors and rural development;
 - A Regulation on the financing, management and monitoring of the CAP (hereinafter: **“Horizontal Regulation”**), updating and replacing the current Regulation with the same name;

- A Regulation on common market organisation (CMO) of agricultural products, which amends and updates Regulations (EU) No 1308/2013 on CMO, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on aromatised wine products, (EU) No 228/2013 on the outermost regions and (EU) No 229/2013 on the smaller Aegean islands (hereinafter: “**Amending Regulation**”).
6. Since the CAP reform proposals were published on 1 June 2018, the responsible Council Working Parties, the SCA and the “Agriculture and Fisheries” Council have worked on them under all the successive Presidencies with a view to aligning them to Member States’ views. While continuing this task on the basis of the progress report of the Finnish Presidency (14795/19), the Presidency focused its work on the outstanding elements that are not related to the EU’s Multiannual Financial Framework (MFF).
 7. The Presidency dedicated the major part of its work on the CAP reform to the CAP SPR and the related articles of the Horizontal Regulation on the integrated administration and control system, and the control system and penalties in relation to conditionality. The rest of the Horizontal Regulation and the Amending Regulation can be considered as broadly stable, although some elements of the Horizontal Regulation are linked to the outcome of work on the CAP SPR. Consolidated versions of revised drafting suggestions for the three legal acts are set out in 8409/20+ADD1, 8794/20 and 8761/20.
 8. Since some key elements of two of the three proposed Regulations are part of the horizontal MFF negotiations an agreement on the MFF is needed for the Council to establish its position on the CAP reform. The absence of a political agreement on the MFF had hence a significant impact on the progress on the CAP reform. In addition, input from the horizontal MFF negotiations is also required for the new Commission proposal amending the CAP SPR to add €16.5 billion (in current prices) to the European Agricultural Fund for Rural Development (EAFRD) in the years 2022 to 2024 (8555/20).
 9. The Presidency organised several discussions (in the SCA meeting and the “Agriculture and Fisheries” Council) on the impact of the Green Deal and, in particular, the Farm to Fork and Biodiversity Strategies, on the CAP SPR. Further work will be required to define the way

ahead on the environmental and climate-related aspects, including in the light of the MFF agreement in the European Council as well as the related elements of the new European Recovery Instrument (“Next Generation EU”).

III. STATE OF PLAY WITH THE REGULATION ON CAP STRATEGIC PLANS

10. The Presidency could hold five days of physical meetings of the Working Party on Horizontal Agricultural Questions (WP HAQ) to discuss the CAP SPR. As the rest of the meetings were cancelled, the Presidency organised three written consultations on revised drafting suggestions as well as a virtual meeting of the WP HAQ in June. The CAP SPR was also discussed once at the SCA, as well as at one “Agriculture and Fisheries” Council meeting. The Presidency focused its efforts in particular on the following elements:

New Delivery Model (NDM)

11. Considering the NDM as a central element, the Presidency continued the work of previous Presidencies to make it clearer and implementable for national administrations, particularly with regard to the setting of unit amounts and the specific features of non-area-/animal-based interventions.
12. The Presidency strived to clarify how performance clearance would work and, consequently, what the content of the **annual performance report** should be. In particular, the Presidency suggested to fully incorporate “option 1b”, which was widely discussed at Working Party level. According to this option, the Commission would use the information provided by Member States on the projects paid in the previous financial year to carry out the performance clearance. This option is expected to reduce both the need to provide justifications and the risk of losing funds, while simplifying the annual clearance procedure. Corresponding adjustments in the Horizontal Regulation might be needed.
13. The Presidency also worked on other elements related to the NDM, such as **average unit amounts**, whose scope of application was extended to all types of interventions, as well as on other **specific issues** such as the system of indicators (see also paragraphs 16 to 20) and

the setting of unit amounts at operational program level for interventions in certain sectors (see also paragraph 22).

14. The Presidency considers that its drafting suggestions on the NDM strike a **sound balance** between Member States' requests for a simple system and the need to enable the Commission to perform its duties regarding both performance review and performance clearance. Therefore, the Presidency - recalling that delegations supported in principle the switch from a compliance to a performance-based system - believes that its suggestions constitute a solid basis for finalising the work on the NDM, keeping in mind the need to provide an adequate assurance on the CAP expenditure. Therefore, the Presidency invites all parties to carefully consider how any further modification, including maximum unit amounts as suggested by some delegations, could impact this balance.
15. The Presidency highlights the necessity for the draft templates of the CAP Strategic Plan and the Annual Performance Report to be made available to Member States as soon as possible. Those templates would facilitate the process of programming, drafting the CAP Strategic Plans and introducing necessary modifications in Member States' data collection and monitoring systems. A final position regarding the biannual or mid-term and final performance review could be reached once the duration of the transitional period is confirmed in the framework of the negotiations for the Transitional Regulation. Finally, the potential for additional flexibility for reallocations during a financial year might be further explored.

System of indicators

16. The Croatian Presidency continued the work on the system of indicators. Building upon a suggestion for simplification made by several delegations, and in parallel to the discussions held in the related Commission Expert Group, the Presidency further examined the relevant articles of the Regulation, as well as Annexes I and XII, with a view to **simplifying the system** and reducing the administrative burden, while ensuring that enough information is available for the Commission to carry out performance review and monitor the implementation of the CAP.

17. The Presidency's main suggestions on the indicators system are the following:

- The **indicators** to be used **for performance review** are set out in **Annex XII**, as the core set of indicators, against which the performance information is to be measured. In addition to delineating this common framework for performance review, more flexibility is provided to Member States by enabling them to choose whether or not to include other result indicators for performance review (from Annex I or by setting CAP Strategic Plan specific indicators) depending on their CAP Strategic Plan intervention strategy design. Whereas all applicable Annex I result indicators would have to be included in the CAP Strategic Plans, only those set out in Annex XII would be mandatory for the performance review, while the others would be used for monitoring purposes in the annual performance report. The Presidency considers that, as a result of this change, the scope of possible financial consequences would be narrowed, thus significantly **reducing the risk of losing funds**.
- Milestones and targets would be set for result indicators used for performance review, while **forecasted values** would be set for result indicators used strictly for monitoring purposes.
- Each intervention included in a CAP Strategic Plan would need to be linked to at least one **output indicator** for performance clearance and at least one **result indicator**, regardless whether it is for performance review or monitoring purposes only.
- A new category of indicators, namely **monitoring indicators**, would allow Member States to monitor implementation and calculate some result indicators. The list of these indicators would be established by the Commission via an implementing act; this would provide sufficient flexibility should it need to be adjusted subsequently.

18. The overall **number of indicators** in Annex I was not significantly reduced as Member States expressed different views on which indicators are to be deleted or kept. However, the Presidency considers that this system provides higher flexibility for Member States in the context of the performance framework, thus enabling them to choose for that purpose

indicators which are better targeted to the specific intervention logic of their CAP Strategic Plan, while adhering to the common framework for monitoring and evaluation of CAP.

19. On the basis of the model above, the Presidency engaged in a thorough review of **Annex I** to: (i) highlight which result indicators are to be used for performance review; (ii) where possible, reduce the number of indicators or streamline them; (iii) where necessary, clarify the units to be used for their calculation; (iv) better associate output indicators to the relevant types of interventions. **Annex XII** was also reviewed and the list of indicators to be used as a common framework was specified therein. In addition, the titles of indicators were aligned to Annex I.
20. The Presidency considers that all data and information which are necessary for monitoring the implementation of the policy need to be available as soon as possible. In particular, the Presidency highlights the need for further detailed discussions on the **indicator fiches** not only for output and result indicators, but also for impact and context indicators. This discussion should take place among experts for monitoring and evaluation (first of all in the Commission Expert Group) before agreeing on the final titles of the indicators in Annexes I and XII.

Types of interventions in certain sectors

21. In line with Member States' requests and to facilitate the management of types of interventions in certain sectors, the Presidency suggested to extend the possibility of using **simplified cost options** to additional sectors, besides fruit and vegetables and wine under the current rules. The use of simplified cost options would be subject to the conditions that the Commission would be empowered to adopt in a delegated act.
22. For the types of interventions in the fruit and vegetables sector and those types of interventions implemented through operational programs in the hops sector, the olive oil and table olives sector and "other sectors", the Presidency sought to facilitate **planning, reporting and performance clearance** by suggesting to carry them out **at operational program** rather than at intervention level. While delegations in general welcomed this

suggestion, it might be useful to clarify how this concept would work in practice through concrete examples.

23. Building on the Finnish Presidency's "alternative approach" on the **forms of cooperation eligible under "other sectors"** (14288/19), the Croatian Presidency further adjusted Article 60a to address Member States' comments. The Presidency considers that the text now strikes a delicate balance between limiting the support to producer organisations and opening it up to other forms of cooperation under certain conditions.
24. The Presidency clarified the provisions for **granting EU financial assistance to producer groups** in Article 63. It also extended the scope of cooperation under rural development types of interventions to **interbranch organisations** in Article 71.
25. In addition, the Presidency suggested further changes aimed at addressing specific issues raised by delegations with regard to a number of sectors (fruit and vegetable sector, hops, olive oil and table olive sector, "other sectors"). They concern the objectives (which now include the **negotiation of contracts** for the supply of agricultural products), quality schemes (with an extension to **public and certified private schemes**) and types of interventions for crisis prevention and risk management in these sectors (which now include **communication actions**). All these suggestions were well received by delegations.

Environmental and climate-related aspects

26. The Presidency further explored the idea of a **single percentage for environmental and climate-related interventions** by focusing the discussion on key elements of the model such as the list of interventions to be counted, the sources of finance to be taken into account, possible additional rules and the method of monitoring the achievement of the single percentage. Based on Member States' and Commission input, the Presidency suggested a list of interventions to be considered as contributing to the single percentage, together with specific weightings reflecting their contribution for achieving the environmental and climate-related objectives. Given the Member States' divergent views on several key aspects and the complexity of implementation, support for the single percentage started to fade. The Presidency therefore concluded that there were not enough grounds to keep the single

percentage concept in its drafting suggestions. In the context of future work that will depend on the Green Deal, it should be considered whether to explicitly indicate which types of interventions are counted for the EAFRD percentage for environmental and climate-related objectives.

27. In line with Member States' support for limiting the scope of the **GAEC 9 standard** to arable land, the Presidency adjusted Annex III and Article 4(1)(c)(ia) accordingly.

Other elements

28. The Presidency inserted in the CAP SPR two **transitional provisions** regarding the continuation of support for rural development and sectoral measures that were originally part of the Transitional Regulation proposal.
29. The Presidency also suggested allowing Member States to determine what constitutes a **rural area**, even at the level of an intervention if duly justified.
30. With regards to **investments**, the Presidency suggested making eligible for support non-productive investments to protect crops against wild boar and similar animals as well as contribution in kind and depreciation costs under the EAFRD.
31. In **financial instruments** related provisions, in order to avoid ambiguity, it was clarified that stand-alone working capital is eligible for support and that the limitation in land purchase applies only to the public contribution.
32. In addition, the Presidency undertook a **thorough linguistic revision** of the text to improve its readability and legal consistency.

IV. STATE OF PLAY WITH THE HORIZONTAL REGULATION

33. At the start of its term in office, the Working Party on Agricultural Financial Questions (WP AGRIFIN) confirmed the broad agreement on the amendments to the Commission's proposal, which were introduced during the Austrian, Romanian and Finnish Presidencies (14465/19). The general view of delegations was that a final position on the proposed Horizontal Regulation could only be taken once an agreement on the MFF was struck and when the consequences of the final wording of relevant provisions in the proposed CAP SPR

on corresponding provisions in the Horizontal Regulation would have been examined. Although progress was made on the MFF and CAP SPR during the Croatian Presidency, this has **not yet resulted in definitive outcomes requiring the examination of further consequential changes in the Horizontal Regulation** at this stage.

34. However, some of the provisions in the Horizontal Regulation on the Integrated Administration and Control System (IACS) (Articles 63-73) and on the Control system and penalties in relation to conditionality (Articles 84-87) have been amended under the Croatian Presidency. With regard to **IACS**, the **link between the Horizontal Regulation and the General Data Protection Regulation** has been clarified. Furthermore, the text now also gives Member States the possibility to freely determine **the maximum size of holdings** up to which farmers may benefit from a simplified control system.
35. With regard to the **Control system and penalties in relation to conditionality**, and for the sake of equal treatment, the possibility for Member States to **apply administrative penalties only** to those **beneficiaries** who have been **selected for on-the-spot checks** was removed in Article 85; this would be the case where an area monitoring system, used to control conditionality, would reveal a non-compliance with conditionality. However, in such cases, Member States can now apply **lower reductions**. While no administrative penalty will be applied for a non-compliance that has no or only insignificant consequences, the text now allows Member States to apply a “standard” reduction (i.e. 1%, 3% or 5%) if such a **non-compliance persists or reoccurs** within three consecutive years.
36. Having in mind imminent work on implementation issues, it would be useful for Member States to get additional clarification on some practical aspects of the area monitoring system, as well as examples for setting the applicable reduction rate in relation to the gravity of non-compliances.
37. A consolidated version of the Horizontal Regulation incorporating these changes can be found in document 8794/20. Apart from the abovementioned changes, the text of the Horizontal Regulation is identical to the text established under the Finnish Presidency in

document 14465/19. The Presidency considers that **the overview of pending and open issues presented in that document still stands.**

V. STATE OF PLAY WITH THE AMENDING REGULATION

38. During the Croatian Presidency, the Working Party on Agricultural Products was unable to meet due to the COVID-19 pandemic. However, the Presidency carried out an informal written consultation of delegations covering some largely technical issues and mostly relating to Regulation 1308/2013 (the “CMO” Regulation).
39. In the light of the outcome of the written consultation, the Presidency included the following changes in the consolidated legal text annexed to document 8761/2020:
- technical changes to the CMO Regulation relating to Brexit;
 - a consequential change to the list of specific aims for producer organisations in the CMO Regulation to be consistent with the latest text of the proposed Strategic Plans Regulation as regards mutual funds;
 - adjustments to the list of agricultural products in Annex I to the CMO Regulation to better reflect production features and consumer habits;
 - at its request, the addition of Lithuania to the list of wine-producing countries; and
 - since the Transitional Regulation contains the same amendments regarding the outermost regions and the smaller Aegean islands, but will be agreed and adopted first, the deletion of those amendments and consequential adjustments to the title, recitals and legal basis.