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NOTE

From:	Presidency
To:	Special Committee on Agriculture
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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 - Preparation of the Council debate

With a view to the meeting of the Special Committee on Agriculture on 7 September 2020, delegations will find in the Annex a Presidency background note on the green ambition of the future Common Agricultural Policy, including drafting suggestions.

Green ambitions of the CAP

1. Since the beginning of the CAP negotiations, Member States have repeatedly confirmed their ambition to increase the environmental and climate contribution of the CAP. However, many Member States stated that this higher environmental and climate ambition could only be reached with a stable budget for the CAP. The decision of the European Council of 21 July 2020 thus laid the foundations for the future **CAP budget** and at the same time reinforced the commitment to sustainable agriculture. Moreover, the European Council's decision grants flexibility between the two pillars of the CAP by allowing Member States to **shift up to 42%** of the funds from the first pillar to the second pillar, thereof 15% solely for environmental and climate purposes.
2. From the Presidency's point of view the Council should now try to achieve agreement on the CAP package, which reflects the broadly shared commitment to a higher environmental and climate ambition. Therefore, the Presidency proposes the following package:

- a. **Eco-schemes.** The Presidency sees strong eco-schemes as a key instrument to increase the environmental and climate ambition of the CAP.

In the discussions in the Agriculture Council on 20 July 2020, a mixed picture arose with regard to the mandatory nature of the eco-schemes, as well as with regard to a minimum budget for eco-schemes. Both supportive and critical Member States expressed strong concerns that unspent amounts could be lost if the realised expenditure did not match the minimum budget.

From the Presidency's point of view, it is possible to introduce a minimum budget for eco-schemes, while at the same time providing sufficient financial flexibility for Member States to avoid losses of unspent funds.

Presidency proposal for eco-schemes

- Mandatory introduction of eco-schemes for Member States,
- Introduction of a minimum budget for eco-schemes,
- Financial flexibility, especially in an introductory phase

The Presidency's drafting proposals **Articles 28, 81 and 86** can be found in Annex I.

The Presidency therefore proposes, that in the **first two years** (2023 and 2024) eco-scheme funds, which could unexpectedly not be spent due to an insufficient take-up and where the possibilities to allocate the funds by varying the unit amount for the eco-schemes are exhausted, can be used for other direct payment interventions. This **pilot phase** would give Member States additional flexibility. In subsequent years, sufficient experience should have been gained with regard to the acceptance of eco-schemes, so that interventions can be programmed more precisely and it can be ensured (where appropriate by revising the CAP strategic plan) that the realised expenditure for eco-schemes meets the minimum budget.

From the Presidency's perspective, **two other issues** are important to allow for sufficient flexibility:

Firstly, there must be sufficient room for manoeuvre in the **variation of the unit amounts** according to Article 89 of the Strategic Plan Regulation. The Presidency has presented a respective drafting proposal in the Council working group on 3rd September. The aim is to give Member States the possibility to explicitly take into account the objective of avoiding unspent funds when determining the possible adjustment of the unit amounts.

Secondly, the financial flexibility provided by **adjusting the unit amounts** also depends on whether the payments under the eco-schemes are granted as additional income support (Article 28, (6a)), or as a compensation for cost and foregone income (Articles 28 (6 (b))). Granting the payments under Article 28 (6a) offers considerably more flexibility. From the Presidency's point of view, further discussions based on practical examples that show in which cases and under what conditions payments can be granted under Article 28 (6a) might be useful.

- b. **Conditionality.** In order to achieve the desired higher environmental performance, the Presidency considers that an ambitious conditionality is necessary.

In the Agriculture Council meeting on 20 July 2020, a majority of Member States supported the introduction of a uniform **minimum share of productive/non-productive areas and features** across the EU into the provisions of the conditionality, namely concerning GAEC 9. In the Presidency's view, the specification of such a minimum share must reflect on the one hand the higher environmental and climate ambitions, but on the other hand the different situation within Member States.

Consequently, the Presidency proposes that the minimum percentage should be increased from 5% (as in the current greening) to **[x]% with reference to arable land**.

As it was strongly required by many Member States, it should be possible to **count certain productive** uses against the minimum share. For catch crops (and only for those), a weighting factor of 0.3 is proposed. For those Member States who wish to count exclusively non-productive areas and features against the minimum share, a lower minimum share (**3%**) could be envisaged.

The majority of Member States support that, with a view to the higher level of environmental ambition, **small farmers** should also be subject to the rules of the conditionality. In order to reflect the specific nature of small holdings, the Council Working Group is currently discussing details regarding specific provisions in the context of controls and sanctions.

Presidency proposal for GAEC 9 and small farmers

GAEC 9:

- Introduction of an EU-wide uniform minimum share of non-productive areas and features on [x] % of arable land,
- possibility to count certain productive uses (catch crops and N-fixing crops without the use of plant protection products) against the minimum percentage (with a weighting factor of 0.3 for catch crops),
- reduction to 3% of arable land for Member States wishing to take into account purely non-productive areas and features.

Small farmers: Inclusion of small farmers into the conditionality with special arrangements for controls and sanctions.

The Presidency's amendments to **Annex III** to the Strategic Plan Regulation can be found in Annex I to this paper.

c. Environmental and climate provisions in the second pillar:

The Presidency proposes to maintain the compromise reached under the Croatian Presidency regarding the payments for areas with natural constraints. The compromise reintroduces the possibility to count the payments for areas with natural constraints against the 30% ring fencing for environmental and climate objectives in the second pillar.

3. Many Member States expressed deep concerns and questions about the necessary legal certainty concerning the process of **approval of Member States' strategic plans** by the Commission. The Presidency has therefore inserted a corresponding legal clarification in **Article 106 of the Strategic Plan Regulation** (see Annex I).
4. The Presidency considers the NDM as a central element of the new CAP Reform. In particular, the system of **indicators** needs to be clear and implementable to guarantee its success. At the same time, the Commission needs enough information and data to carry out the performance review and monitor the implementation of the CAP.

Member States need certainty concerning the methodology and calculation of indicators to start with the interventions design, target setting and IT system development as soon as possible. In this light, the Presidency welcomes the fact that the Commission reopened discussions among experts for monitoring and evaluation in the relevant Expert Group and will hold a further detailed discussion on the indicator fiches at the beginning of October.

In its drafting suggestion on the proposal for a CAP Strategic Plans Regulation (8409/20 REV1 + ADD1), the Croatian Presidency, based on the suggestions by several delegations, **simplified the system of indicators**, reduced administrative burden and extended Member States' flexibility for designing their intervention logic.

Building on this work and considering delegations' and the Commission's comments, the German Presidency identified the following issues for further discussion:

- i) The coverage of natural resources by one or more indicators (*R.18*)

Several Member States have mentioned this question. Separate indicators could better reflect the importance and high ambition in the concerned areas. In order to address the contribution of the CAP to certain environmental and climate objectives, the Presidency **invites delegations** to give their view on splitting the result indicator R.18.

ii) The inclusion of monitoring indicators

The monitoring indicators introduced by the Croatian Presidency are the numerators of result indicators. Some Member States felt this additional definition of a new indicator group to cause complication without adding adequate value. As methods for the calculation of indicators are laid down in the methodological details (Fiche) delegations are **invited to consider the removal** of these monitoring indicators.

iii) A gap between indicator titles and the methodological details of the different indicators (Fiches)

Furthermore, in terms of clarification the annex comprises several amendments in order to align titles of indicators to methodological details for the different indicators as laid down in the relevant Fiches.

Against this background, the Presidency has prepared **specific drafting suggestions** (see Annex II) on which delegations are invited to share their views with a view to advancing work as much as possible, pending the work to be done in the relevant Commission Expert group.

Annex I*

Compared to the Commission's initial proposal, added text is marked in bold and underlined and ~~striketrough~~ is used for deleted text. Changes compared to the last consolidated text version of the HR Presidency are marked in yellow.

1. Amendment of GAEC 9

- Minimum share of agricultural area **[x]% of arable land** devoted to:

(i) non-productive **areas and** features ~~or~~

(ii) catch crops or nitrogen fixing crops, cultivated without plant protection products

For Member States using only non-productive areas and features the minimum share is 3%. For catch crops a weighting factor of 0.3 is to be used.

- 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

2. Amendment of Article 28 (Schemes for the climate and the environment)

1. Member States ~~shall~~ provide support for voluntary schemes for the climate and the environment ('eco-schemes') under the conditions set out in this Article and as further specified in their CAP Strategic Plans.

* Due to the short notice, the Council Legal Service did not yet have the opportunity to scrutinise the drafting suggestions.

2. Member States ~~shall~~ support under this ~~type of intervention~~ Article genuine farmers or groups of farmers who make commitments to observe, on eligible hectares, agricultural practices beneficial for the climate and the environment. **If Member States decide to apply point (b) of paragraph 6 of this Article, commitments may be made either on eligible hectares or livestock units.**
3. Member States shall establish the list of agricultural practices beneficial for the climate and the environment. **Those practices shall be designed to meet one or more of the specific environmental- and climate-related objectives laid down in points (d), (e) and (f) of Article 6, and may also contribute to objectives (h) and (i) of the same Article.**
- ~~4. Those practices shall be designed to meet one or more of the specific environmental- and climate-related objectives laid down in points (d), (e) and (f) of Article 6(1).~~
5. Under this ~~type of interventions~~ Article, Member States shall only provide payments covering commitments which:
 - (a) go beyond the relevant statutory management requirements and **GAEC** standards ~~of good agricultural and environmental condition~~ established under Section 2 of Chapter I of this Title;
 - (b) go beyond the **relevant** minimum requirements for the use of fertilisers and plant protection products, animal welfare, as well as other **relevant** mandatory requirements established by national and Union law;
 - (c) go beyond the conditions established for the maintenance of the agricultural area in accordance with point (a) of Article 4(1);
 - (d) are different from commitments in respect of which payments are granted under Article 65.

6. Support for **a particular** eco-scheme shall take the form of an annual payment ~~per~~ **for all** eligible hectares **or for the eligible hectares covered by the eco-schemes.** ~~and it~~ **Payments** shall be granted as either:

- (a) payments additional to the basic income support as set out in Subsection 2 of this Section*; or
- (b) payments compensating beneficiaries **farmers or groups of farmers** for all or part of the additional costs incurred and income foregone as a result of the commitments ~~as set pursuant to~~ **made, which shall be calculated in accordance with** Article 65~~76~~.

Payments granted in accordance with point (b) of this paragraph may also take the form of an annual payment for the livestock units covered by the eco-schemes and may cover transaction costs.

~~7. Member States shall ensure that interventions under this Article are consistent with those granted under Article 65.~~

~~8. The Commission is empowered to adopt delegated acts in accordance with Article 138 supplementing this Regulation with further rules on the eco-schemes.~~

3. Amendment of Article 81 (1) subparagraph 3: (financial allocations for types of interventions in the form of direct payments):

For the purpose of Article 86(5), **(6a) and (6b)**, the financial allocation of a Member State referred to in the first subparagraph after deduction of the amounts set out in [Annex VI] and before any transfers according to Article 15 is set out in [Annex VII].

* To be considered for a recital: "incentivising and remunerating the provision of ecosystem services through agricultural practices beneficial to the environment and climate".

4. Amendment of Article 86 (minimum and maximum financial allocations) – new paragraphs 6a and 6b

(6a) Member States shall set out in their CAP Strategic Plan for the calendar years 2023 and 2024 an indicative financial allocation for schemes for the climate and the environment referred to in Subsection 4 of Section 2 of Chapter II of Title III of at least [x]% of the amounts set out in Annex VII.

The indicative financial allocation shall not prevent Member States from using funds from this minimum financial allocation according to the first subparagraph as funds for other interventions in accordance with Article 88(3), where this is necessary to avoid funds being unused under the condition that all possibilities to use the respective funds for schemes for the climate and environment referred to in Subsection 4 of Section 2 of Chapter II of Title III have been exhausted.

(6b) At least [x]% of the amounts set out in Annex VII for the calendar years 2025, 2026 and 2027 shall be reserved for schemes for the climate and the environment referred to in Subsection 4 of Section 2 of Chapter II of Title III.

5. Amendment of Article 106 (Approval of the CAP Strategic Plan)

1. Each Member State shall submit to the Commission a proposal for a CAP Strategic Plan, with the ~~containing~~ gent ~~the information~~ referred to in Article 95 no later than 1 January 2020x.

2. The Commission shall assess the proposed CAP Strategic Plans ~~on the basis of~~ **as regards** ~~the **its** completeness of the plans, the **its** consistency and coherence with the general principles of Union law, with this Regulation and the provisions adopted pursuant to it and with the Horizontal Regulation (EU) [HzR], their **its** effective contribution to the specific objectives set out in Article 6(1), the~~ **and its** impact on the proper functioning of the internal market and distortion of competition, ~~the level of administrative burden on beneficiaries and administration.~~ The assessment shall address, in particular, the adequacy of the strategy of the CAP Strategic Plan, the corresponding specific objectives, targets, interventions and the allocation of budgetary resources to meet the specific CAP Strategic Plan objectives through the proposed set of interventions on the basis of the SWOT analysis and the ex-ante evaluation. **The assessment shall exclusively be based on acts with are legally binding on Member States.**

[...]

Annex II (Drafting suggestions related to indicators)*

Compared to the Commission's initial proposal, added text is marked in bold and underlined and ~~strikethrough~~ is used for deleted text. Changes compared to the last consolidated text version of the HR Presidency are marked in yellow.

Drafting suggestions in the legal text:

Article	Text as proposed by HRV Presidency with proposed changes	Explanation
Art. 3 Definitions	(i) 'targets' means pre-agreed <u>established</u> values, <u>set by Member States in the framework of their intervention strategies referred to in in-point (b) of Article 95(1)</u> , to be achieved at the end of the period in relation to the result indicators <u>used for performance review</u> included under a specific objective;	small typo
Art. 7 Indicators	1a. In addition to the indicators listed in Annex I, Member States shall use monitoring indicators relevant for their CAP Strategic Plans which are necessary for the monitoring of implementation and for calculating of result indicators as referred to in Article 120.	An additional definition of a new indicator group may be confusing without creating a significant added-value. As the methods for the calculation of indicators are laid down in the methodological details (indicator fiches), we propose to remove the additional Monitoring indicators.
	1b. Result indicators used for performance review, referred to in point (b) of paragraph 1, shall include <u>any applicable at least the common</u> result indicators set out in Annex XII. They <u>in</u>	The wording of Paragraph (1b) should be in line with Art. 99 (da). Clarification.

* Due to the short notice, the Council Legal Service did not yet have the opportunity to scrutinise the drafting suggestions.

	<p><u>addition, Member States may also choose to include, for the same purpose, any</u> other relevant result indicators as set out in Annex I or <u>any</u> other CAP Strategic Plan specific result indicators, as determined by the Member State concerned.</p>	
Art. 91 CAP Strategic Plans	<p>[...]</p> <p>Based on the SWOT analysis referred to in Article 103(2) and an assessment of needs referred to in Article 96, Member States shall establish in the CAP Strategic Plans an intervention strategy as referred to in Article 97 in which <u>relevant</u> quantitative targets and milestones shall be set to achieve the <u>relevant</u> specific objectives set out to—in Article 6. The targets shall be defined <u>set</u> using <u>at least</u> a <u>the</u>—common set of result indicators set out in Annex XII, <u>when appropriate for the intervention in the CAP Strategic Plan. In addition, Member States may choose to include, for the same purpose, any other relevant result indicators as set out in Annex I or any other CAP Strategic Plan specific result indicators, as determined by the Member State concerned.</u></p> <p>[...]</p>	<p>It is necessary to clarify that all indicators in Annex XII do not need targets if there is no relevant intervention in the strategic plan that is connected to the indicator.</p> <p>To ensure consistency with Article 3, 7, 97, 99.</p>
Art. 120 Implementing powers for the performance framework	<p>The Commission shall adopt implementing acts on the content of the performance framework. Such acts shall include the list of context indicators, other indicators needed for the appropriate monitoring and evaluation of</p>	<p>See comment on Art. 7</p>

	<p>the policy, the list of monitoring indicators, the methods for the calculation of indicators and the necessary provisions to guarantee accuracy and reliability of the data collected by Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 139(2).</p>	
<p>Art. 121a Biennial performance review</p>	<p>2. Where the reported value of one or more result indicators that are part of the performance review as set in point (da) of Article 99 reveals a shortfall of more than 45% from the respective milestone for financial year 202{3}, 40% for financial year 202{5} and 35% for financial year 202{7}, Member States shall submit justification for this deviation. Following the assessment of the justifications submitted, where necessary, the Commission may ask the Member State concerned to submit an action plan in accordance with Article 39(1) of Regulation (EU) [HzR], describing the intended remedial actions and the expected timeframe.</p>	<p>To clarify that not all result indicators are included in the performance review.</p>

Drafting suggestions Annex I:

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Impact-Indicators

Impact indicators as proposed by HR Presidency with proposed changes	Explanation
I.16 Reducing nutrient leakage: Nitrates s in ground water	Small typo
I.20 Enhancing provision of ecosystem services: Share of Utilised Agricultural Area (UAA) covered with landscape features	Write out of abbreviation
I.27 Sustainable use of pesticides: Risks and impacts of pesticides **	** „Directive on sustainable use of pesticides“ is not necessary and should be deleted

Result-Indicators

Result indicators as proposed by HR Presidency with proposed changes	Explanation
R.2 Linking advice and knowledge systems: Number of advisors receiving support to be integrated within Agricultural Knowledge and Innovation Systems (AKIS)	The purpose of the proposal is to clarify that only advisors that have received CAP support should be included in the indicator. It is only through the dedicated interventions that advisors will become more integrated within AKIS.
R.17 Afforested land: Share of land cover Area supported for afforestation (including agroforestry) and reforestation	The physical area seems more useful (than a percentage around 0, as the denominator is very large). It also relates more directly to national woodland creation targets which are usually expressed in additional hectares planted, so improves the clarity of contribution of CAP to other policies. No additional admin burden as the absolute figure is needed for the “share” anyway.
R.18 Efficient resource management Improving soils: Share of Utilised Agricultural Area (UAA) under management supported commitments beneficial contributing to efficient management of natural resources such as water, for soil and air management	A merged indicator R.18 including water, soil and air is not supported by all Member States. Separate indicators could better reflect the importance and high ambitions in the concerned areas.
R.19 Improving air quality: Share of Utilised	See R.18

Agricultural Area (UAA) under supported commitments to reduce ammonia emission	
R.20 Protecting water quality: Share of Utilised Agricultural Area (UAA) under supported commitments for water quality	See R.18
R.22 Sustainable water use: Share of Utilised Agricultural Area (UAA) under supported commitments to improve water balance	See R.18
R.23 Investments related to environment natural resources: Share of farms benefitting from CAP investment support related to care for the natural resources	The purpose is to bring the title of the indicator in line with the content
R.26 Protecting forest ecosystems Supporting sustainable forest management: Share of forest land under sustainable forest management and commitments supporting landscape, biodiversity to support forest protection and management of ecosystem services	A change in title would better depict the coverage of the merged indicators (R.25 and R.26), while pointing clearly at the contribution to biodiversity.
R.32 Developing the rural bioeconomy: Number of rural businesses including bio-economy businesses developed with CAP support	The support to SMEs is mainly but not only related to the bio-economy. The widening seems necessary in order to avoid possible gaps in support to SMEs.
R.33 Smart transition of Digitalising the rural economy: Number Share of rural population covered by a supported Smart Villages strategies	Smart villages are not only about digitalisation and the indicator could be simplified.
R.36 Limiting antimicrobial use: Share of livestock units (LU) concerned by supported actions to limit the use of antibiotics antimicrobials (prevention/reduction)	More precise

Output-Indicators

Output indicators as proposed by HR Presidency with proposed changes	Explanation
O.1 Number of EIP (European Innovation Partnership) operational group projects	Clarification, the support is paid per project and not per Operational Group. Ensure coherence with the fiche which already refers to projects
O.4 Number of ha for basic income support for sustainability	Clarification, corresponds to the title of the foreseen intervention (Basic income support for sustainability)
O.13 Number of ha (agricultural excluding forestry) covered by environment/climate commitments going beyond mandatory requirements	The modification "Excluding forestry" (instead of the reference to "agriculture") seems more precise as non-agricultural land can be eligible to AECMC
O.14a Number of forestry units other than ha covered by environment/climate commitments going beyond mandatory requirements	The latest text of article 65 allows for other units than hectares. However, this is wanted only for forestry environmental commitments and genetic resources (see O.17).
O.17 Number of operations or units supporting genetic resources	The reference to operations is added, as it might not be clear to everybody that a unit can be an operation.
O.18 Number of supported on-farm productive investments operations or units receiving support under EAFRD	'receiving support' is redundant with 'supported', in addition specifying 'under EAFRD' is not necessary as output refer clearer to EAFRD interventions.
O.20 Number of supported off-farm non-productive investments operations or units receiving support under EAFRD	see O.18
O.21 Number of supported off-farm productive investments operations or units receiving support under EAFRD	see O.18
O.24 Number of supported producer groups/organisations receiving support under EAFRD	see O.18
O.26 Number of supported operations or units for generational renewal (excluding installation support)	Potential clarification

Drafting suggestions Annex XII

Objectives and indicators as proposed by HR Presidency with proposed changes		Explanation
Objectives	Core set of indicators	
Support viable farm income and resilience across the Union to enhance food security	R.4 Linking income support to standards and good practices: Share of Utilised Agricultural Area (UAA) covered by income support and subject to conditionality	No changes
Enhance market orientation and increase competitiveness, including a greater focus on research, technology and digitalisation	R.9 Farm modernisation: Share of farms receiving investment support to restructure and modernise, including to improve resource efficiency	No changes
Improve the farmers' position in the value chain	R.10 Better supply chain organisation: Share of farms participating in supported Producer Groups, Producer Organisations and quality schemes supported by the CAP	No changes
Contribute to climate change mitigation and adaptation, as well as sustainable energy	R.12 Mitigation and adaptation to climate change: Share of Utilised Agricultural Area (UAA) and/or livestock units (LU) under support to reduce ammonia and GHG emissions, maintaining/enhancing carbon storage, including commitments to improve climate change adaptation (with breakdown by mitigation and adaptation)	No changes
Foster sustainable development and efficient management of natural resources such as water, soil and air	R.18 Efficient resource management Improving soils: Share of Utilised Agricultural Area (UAA) under management supported commitments beneficial contributing to efficient management of natural resources such as water, for soil and air management R.19 Improving air quality: Share of Utilised Agricultural Area (UAA) under supported commitments to reduce ammonia emission	A merged indicator R.18 including water, soil and air is not supported by all Member States. Separate indicators could better reflect the importance and high ambitions in the concerned areas.

	R.20 Protecting water quality: Share of Utilised Agricultural Area (UAA) under supported commitments for water quality	
Contribute to the protection of biodiversity, enhance ecosystem services and preserve habitats and landscapes	R.27 Preserving habitats and species: Share of Utilised Agricultural Area (UAA) under management commitments supporting biodiversity conservation or restoration	No changes
Attract and sustain young farmers and facilitate business development in rural areas	R.30 Generational renewal: Number of beneficiaries setting up with support from the CAP	No changes
Promote employment, growth, gender equality, social inclusion and local development in rural areas, including bio-economy and sustainable forestry	R.31 a LEADER coverage: Share of rural population covered by local development strategies	No changes
Improve the response of EU agriculture to societal demands on food and health, including safe and nutritious food produced in a sustainable way, food waste, as well as animal welfare	R.37 Sustainable pesticide use: Share of Utilised Agricultural Area (UAA) concerned by supported specific actions which lead to a sustainable use of pesticides in order to reduce risks and impacts of pesticides	No changes
Modernising the sector by fostering knowledge, innovation and digitalisation in agriculture and rural areas and encouraging their uptake	R.1 Enhancing performance through knowledge and innovation: Number of persons benefitting from support for advice, training, knowledge exchange, or participating in EIP operational groups or other cooperation groups/actions to enhance economic, environmental, climate and resource efficiency performance	The deletion "to enhance economic, environmental, climate and resource efficiency performance" reflects the according change of R.1 in Annex I by the Croatian Presidency