Dear Commissioner,

Copa and Cogeca are appreciative of the progress made during the CAP negotiations and would like to insist on the need for a timely but above all good outcome for European farmers and their cooperatives.

The CAP must continue to secure and support farmers' incomes as stipulated in article 39 of TFEU. In addition, it must provide the necessary support for the ongoing investments to help farmers address the environmental challenges and societal expectations. This transition must be carried out while ensuring that they remain competitive and economically sustainable.

The new green architecture brings about certain opportunities but also many new obligations. It is among the most important aspects of the new CAP as it introduces additional interventions never implemented before. Therefore, we all need to work together to ensure that these measures would be realistic, simple to implement and use and, most of all, not adding to bureaucracy or administrative burden. They also need to provide for enough flexibilities in their implementation in the initial phase.

In view of the next trilogue, Copa and Cogeca would like to share with you, in the enclosed background note, their main views on the topic of the new green architecture, as well as other relevant ones.

Faithfully yours,

Copa - Cogeca

CC: Mr Wolfgang Burtscher, Director-General of DG Agri
**Background note**

**New green architecture**

**New enhanced conditionality**

While ensuring the commonality of the policy, the new enhanced conditionality needs to consider the differences among MS and fit the agronomic practices and the reality on the ground. Some degree of variability across the EU must be allowed in a manner that does not jeopardise uniform implementation while safeguarding a genuine level playing field for farmers across the EU. This process must help to even out differences in competitiveness linked to the various ways of implementing Union legislation, for example, in terms of the environment, climate change and animal welfare.

In addition, it is important to ensure that they set the basis for and provide a sufficient room of manoeuvre to incentivise farmers to more ambitious practices in eco-schemes and in pillar II measures.

Simplification must be key and any documentation checks and/or controls for CAP measures (including the enhanced conditionality) should be minimised and represent a reduction vis-à-vis the current situation.

Whilst Copa and Cogeca can accept that some of the current greening obligations have been merged with cross-compliance to create a new and enhanced conditionality, the number of requirements (SMRs and GAEC) must be streamlined. The threshold (size) for applying these measures must also be addressed.

In general terms, a particular attention should be given to farmers who participate in small farmer schemes who should be exempted from new conditionality requirements. While Copa and Cogeca support an immediate and “de facto” recognition of organic farmers as well as other more environmentally-friendly production systems that are duly certified as compliant with all or part of the new enhanced conditionality rules.

**GAEC 1: Maintenance of permanent grassland based on a ratio of permanent grassland in relation to agricultural area**

It remains important that grassland is managed at national/regional level, based on a ratio, as it is today and not at holding/farmer level. There is always the last resort option for MS to apply it at individual level in case there is a risk that the area of permanent grassland (PG) falls below the ratio. Any provisions regarding grasslands can only be accepted provided that they are simple, realistic and that they do not disrupt day-to-day farming practices.

Maintaining permanent grassland in absolute terms all across would not allow for a dynamic management of permanent grassland nor for a flexible management of the farm while complying with the environmental and climatic objectives. It would also disregard changes in the agricultural area due to alternative uses (urbanization or other economic activities) with a risk of unfairly penalising farmers. The EU legislation should not impede MS which have identified a high risk of conversion and which wish to apply this provision in absolute terms, from doing so.

When it comes to the reference year, clarity is key in fulfilling this standard. The reference year should also reflect MS situation and the respective production systems.

Regarding the definition of permanent grassland Copa and Cogeca support the definition proposed by the European Parliament, provided that it does not dramatically change the reference area or leads to a situation where there is a decline in the number of hectares. Presently, many of the declared PG areas are part of long crop rotations. The worst thinkable situation we could imagine would be if the share of permanent grassland at national level declines so much that areas with permanent grassland are “locked” at parcel level and farmers will have to re-establish permanent grassland. As it is now – things are in balance – but with the change in definitions, this might not be the case anymore. Therefore, we support a definition close to the current one of permanent grassland. It is important to ensure the possibility to
recalculate the reference area every time the definition of permanent grassland changes, should this be needed.

The definition should also provide for a period longer than 5-years if necessary. This would prevent the disruption of longer crop rotations and maintain the eligibility of land for support. The longer period might allow for an optimal carbon-fixation and might prevent an extensive ploughing up of land. It is also important to work with an annual ratio of permanent grassland.

Moreover, we do not support defining temporary grassland in the EU legislation as we consider that everything which falls out of the definition of “permanent grassland” can be automatically classified as temporary.

Regarding the possibility for MS to decide that changes in the species or mixture of species of green fodder when compared to the previous sowing shall be considered compliant with crop rotation principles/rules, this might bring a realistic approach at farm level when it comes to crop rotation. But it should not prevent good agricultural practices and should not lead to a reclassification of permanent grassland. It might also be more challenging from an administrative point of view, when it comes to controls, as this might bring about a need to record-keeping to prove the changes in species or mixture of species.

**GAEC 2: Appropriate protection of wetland and peatland**

Copa and Cogeca welcome the progress made in the previous trilogue meeting in order to ensure that area covered by this GAEC does not lose its agricultural status.

The Paris Agreement, which is legally binding for Member States and the EU as a whole, mentions that actions to lower greenhouse gas emissions should not threaten food production. In addition, the EU and its Member States are also morally prompted by the SDGs (SDG 13.2.1) to safeguard food security and to contribute to the global challenge of feeding a growing population. Appropriate/effective wetland and peatland protection will prove to be an issue in the countries that have a large share of this land under agriculture use. The concentration of carbon-rich soils in some Member States, and even specific areas, also underline the need for flexibility for Member States to address this issue, as well as the economic importance of agricultural activity for those rural areas. From the above, Copa and Cogeca supports that specific practices, such as low tillage, the use of adequate machinery, water table/nutrient/soil management, etc., are used to protect carbon-rich soils, as long as the economic agricultural activity and agronomic practices continue/are allowed. Wetlands and peatlands have historically been developed with the help of farming though numerous wetland projects. This should not stop in the future either, even with the help of new practices, such as paludiculture, and other good agriculture practices.

It is extremely important that the provisions are of common-sense and enable simple and practical implementation. These should not call into question good agricultural practices, but further set the basis for providing incentives to encourage good farm practices on such areas through other measures of the CAP.

Additionally, this must not result in a new documentation of area having to be recorded or new, additional bureaucratic processes being triggered.

**GAEC 4: Establishment of buffer strips along water courses**

While this standard provides for the obligation to establish buffer strips along water courses all across the EU, which will ensure a level-playing field for farmers, the provisions for the minimum width for buffer strips should be left at MS latitude because of different farm structures and size of parcels as well as specific local climatic conditions and soil characteristics. The water resource is also protected through the creation of buffer strips with trees that have the function of reducing nitrate pollution in surface waters. MS with many water courses should be allowed to adjust the standard according to the local circumstances.

This would allow to consider the identified risk of nitrogen leaking and better identify the water protection needs. Furthermore, it could also set the basis for more ambitious eco-schemes and environmental, climate and other management commitments (ECMC) to go beyond the set objective. We consider that the implementation on the basis of the water distance provisions...
According to the EU Nitrates Directive (SMR) is sufficient and appropriate and is needed in order to ensure policy coherence. Moreover, the same coherence should be ensured when it comes to the application of pesticides and fertilizers.

It is equally important that these buffer strips can be counted for in the percentage of non-productive areas which the farmers shall establish under GAEC 9.

In this respect, we welcome the progress made in the trilogue negotiations but insist on the fact that there is no one-size-fits-all solution and MS need to be able to set a lower width based on the identified risk based on SWOT and needs analysis.

**GAEC 5: Farm Sustainability Tool for Nutrients**

The introduction of this new conditionality obligation would have a strong impact in terms of organization and management on farms.

We support the deletion of FST as this would better fit as a voluntary eco-scheme, be part of advisory services or ECMC.

Current systems (national or private) for keeping track of nutrient use should be recognized.

**GAEC 7: No bare soil in most sensitive period(s)**

No bare soil in most sensitive periods will be difficult to achieve and risks threatening food production. The concentration of carbon-rich soils in some Member States, and even specific areas, underlines the need for flexibility for Member States to address this issue, as well as the economic importance of agricultural activity for those rural areas. Consequently, Copa and Cogeca support the use of specific practices, such as low tillage, the use of adequate machinery, water table/nutrient/soil management, etc., to protect carbon-rich soils, at a minimum level during the most sensitive periods, as long as the economic agricultural activity continues. Any requirement would need to make sense from an agricultural perspective, in line with the agronomic and climatic conditions as well as being easy for farmers to implement. Sensitive periods should allow for good agricultural practices.

Therefore, we can support as a general principle "Minimum soil cover to avoid bare soil in periods that are most sensitive".

**GAEC 8: Crop rotation**

Copa and Cogeca would like to reiterate the importance of allowing crop diversification and equivalent measures as alternative practices to crop rotation and we strongly hope that this will be reflected in the final agreement.

When protecting the soil, farmers should also be able to develop their land in line with good agriculture practices and allow for the crops to take hold. Having different crops on each parcel from one year to another might not bring the desired environmental benefits. It is fundamental that its implementation does not lead to agronomical and environmental counterproductive effects, with an administrative obligation to seed crops which are not adapted to the soil and specific conditions of the parcel.

An obligation for crop rotation could be accepted provided that a reasonable area threshold is established, that certified equivalent measures and joint action (enabling the involvement of multiple farmers to deliver crop rotation) and that the inclusion of crop diversification and other equivalent measures as alternative practices are allowed. We consider that the maintenance of crop diversification, using certified equivalent practices and joint action (by a group of farmers) can bring about agronomic and environmental benefits.

In addition, we consider that both crops under water, permanent crops, semi-permanent crops (e.g., forage seeds crops), as well as farms with a high share of permanent grassland should be exempted.

Flexibility in farmers' choices for rotation must be maintained, therefore the introduction of leguminous crops should remain a choice (potentially incentivised via an eco-scheme), and not become an obligation.
GAEC 9:
- Minimum share of agricultural area devoted to non-productive features or areas
- 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

Regarding the minimum share of agricultural area devoted to non-productive features or areas, Copa-Cogeca support the same percentage as the EFA under greening which we have today, meaning 5%, provided that (semi) productive features are also counted in this percentage. Productive features can have higher environmental benefits than simple set-aside and are also crucially important for providing feed for animals in critical situation, such as during a heatwave.

In this respect, non-productive features should be calculated as a maximum of 2-3% of the farm’s arable land throughout the EU, but it should be possible for farmers to count non-productive areas and features on all agricultural land, given that often the most valuable features for biodiversity are found in the areas which have a more permanent character or in connection with areas of a more permanent character like e.g. permanent grassland.

It is important that buffer strips and areas with trees put in place under GAEC 4 can count towards the percentage of non-productive areas. In addition, it is important that all European farmers will be able to count all possible productive- and non-productive features as fulfilment of GAEC 9 to ensure a level playing field between member states.

The development of non-productive landscape features beyond the baseline should, primarily, be left to voluntary measures such as eco-schemes or EMC, as these would fit better with farmers’ ambitions.

GAEC 10: Ban on converting or ploughing permanent grassland in Natura 2000 sites

It is extremely important that this standard applies only to environmentally sensitive grassland and that not all Natura 2000 sites are automatically protected to avoid ploughing up grassland in the last year of temporary grassland. It is important that this allows for good agricultural practices. Current exemptions should be maintained.

SMR 7-9: Animal identification

Although the EU Commission has tried in recent years to ease the implementation through simplification initiatives for the control and sanction system (e.g. ‘yellow-card-system’), these have failed and even led to more complexity and bureaucracy. A real simplification is needed in this respect. In particular the obligations linked to animal identification should be deleted. We therefore support the Council’s approach to remove these obligations from conditionality.

Social conditionality

Copa and Cogeca are very worried about the proposal on social conditionality. First, we reject that this is introduced under the CAP. We are moreover worried about the proposal to allow competent national safety, social, health control authorities to control the application of the proposed social standards as CAP conditionality is under the competence of agriculture paying agencies.

In addition, the CAP conditionality is usually based on the most relevant piece of legislation, while the social conditionality proposal includes 10 legal acts.

Labour rights are already established nationally through statutory law or collective bargaining. So there is no need to impose additional burdens on employers at EU level through the conditionality mechanism under the CAP. Moreover, including new criteria through the CAP could undermine the autonomy of social partners nationally, and those are the best suited organisations to adjust legislative frameworks into the specificities of each subsector in
agriculture. For example, regarding wage-setting, the EU has no competence to introduce a legal instrument on the matter based on Article 153 (5) of the EU Treaty. This article also explicitly excludes collective bargaining from EU regulation. This is for good reasons as it would strongly interfere with Member States' competences. In that sense, we would be against the inclusion of social conditionality. We should also precise which concrete topics are we considering in order to differentiate between EU and Member states' competences. Another argument to dismiss even the proposed advisory services is that national legislation already covers these issues and safeguards social partners' autonomy as well as the principle of subsidiarity. By adding a new layer of obligations, we would not be cutting the red tape, on the contrary, we would be imposing more requirements to the most fragile part of the agri-food chain; workers and employers, and so disrupting the development of farms and businesses, especially since the outbreak of the crisis.

Therefore, while we understand this request, we do not consider the CAP to be the best instrument to regulate employment in the agriculture sector and we strongly hope

From our point of view, to support farmers the best EU framework is the agricultural social dialogue, and the best legislative instruments are guidelines or directives for certain topics. Conditionality has a complex framework of controls and there are many question marks on how these can be implemented.

Eco-schemes

Generally, it is important that the final political agreement on the future CAP is well balanced. It should ensure that the increased ambition in the new green architecture goes hand in hand with an economically viable, market oriented and competitive agricultural sector. In the construction of the CAP Strategic Plans and their implementation, Member State and the Commission must guarantee that the future policy framework is simpler for farmers to use and deliver both on sustainability and competitiveness.

This means that the entire new green architecture should be constructed wisely in order to ensure that all farmers are incentivized, adapting their practices and activities towards delivering on these objectives.

To ensure an economically viable agricultural sector delivering in the increased green ambition in the CAP and investing towards a transition to more sustainable practices, it is very important that eco-schemes will include significant incentive payments for farmers and that they do not redistribute funds between farmers.

Eco-schemes should be designed based on SWOT and needs analysis carried out by Member States reflecting their respective targeted response towards the CAP strategic objectives. Furthermore, they should be designed in a manner in which it provides incentives to all farmers in this transition process; they should include a list of options that farmers can choose from in view of their individual farm, and most of all they should guarantee a level playing field in its availability to all farmers.

Copa and Cogeca have underlined in several occasions that eco-schemes must be obligatory for Member States and voluntary for farmers and have asked for more clarity regarding the type of agricultural practices that benefit the climate and the environment that could be included under the eco-schemes.

The indicative list put forward by the European Commission can, indeed, serve this objective. However, we would like to underline that the voluntary nature for farmers of these potential practices, as proposed by the Commission, should be maintained.

Moreover, this list should not be a closed one nor one that prevents MS from adopting the measures (as eco-schemes) better targeted at their needs. For some farmers, this might be precision farming; for others it might be actions to improve biodiversity. On the same line, we consider that a potential delegated act putting forward a list of eco-schemes, given its legally binding character, is not the right tool as it would go contrary to this objective.

For Copa and Cogeca, it is extremely important that the eco-schemes are simple, economically sound and under no circumstances compromise the agri-environmental measures under pillar II that have proven to work.
We would like to insist on the need for flexibilities when it comes to eco-schemes in the first years of implementation, and we very much hope that this will be part of the final deal. In this regard, we support the Council proposal to allow Member States using more than 30% for Pillar II agro-environment-climate measures to deduct these amounts from the eco-schemes ring-fencing in Pillar I. It is also important to prevent the loss of any funds allocated to eco-schemes should they be left unused (due to their annual nature). It is therefore important to introduce a flexible and transitional mechanism to prevent any loss of funds due to underuse of eco-schemes in the first 2 to 3 years of implementation of the future CAP. This should however not lead to distortion of competition between Member States nor disrupt the internal market.

We welcome the progress in the trilogue negotiations on the eco-schemes for animal welfare and the payments per livestock unit.

On the issue of eco-schemes built on conditionality requirements, Copa and Cogeca believe that any efforts in achieving simpler measures, controls and administrative requirements are fundamental. On the other hand, a clear distinction between eco-schemes built on conditionality and conditionality per se should be made in order to avoid confusion on their implementation – conditionality functions on the basis of controls and sanctions while eco-schemes must be incentive-based schemes. It should also be avoided that farmers are controlled and sanctioned twice, and we welcome the positive evolution in the trilogues in this respect. Conditionality should allow for more ambitious eco-schemes.

Copa and Cogeca would emphasize that basic income support for sustainability (BISS) must remain a fundamental part of pillar I to further ensure that farms have effective, direct and stable income support and that high EU standards are compensated. In order for this to happen, a significant percentage of at least 60% of the pillar I envelope must be dedicated to BISS.

Environmental, climate and other management commitments

The agri-environment-climate measure should continue to play an important role in the future. It needs to be more attractive and adapted to working practices on the ground (with corresponding incentive margins), local needs and farmers’ and forest owners’ actual circumstances. Collective and cooperative approaches should be promoted.

Payments for commitments going beyond EU legislation (including those on animal welfare) should be made according to the same EU baseline.

We support the revision clause according to which where an SMR or GAEC is amended, it must not impact the ability of farmers to receive full benefit of the scheme to its originally provided end while he/she continues to respect the initial terms.

We support the European Commission proposal under article 65 (6).

For result-based payment schemes, the starting level must be defined, otherwise the result may not be quantifiable or comparable.

While more details would be needed when it comes to the possible measures to be supported, this should rather take the form of a guidance list in order to leave the flexibility to MS to develop the measures which are best suited for their needs.

Areas facing natural or other specific constraints (ANCs)

Copa and Cogeca strongly oppose the exclusion of areas facing natural or other specific constraints (ANCs) from the eligible interventions that contribute to the environmental objectives and that are part of the 30% minimum ring-fencing of the budget dedicated to agri-environment-climate measures.

The ANC measure helps farmers in these areas to continue to sustainably manage agricultural land. It also plays an essential role in preventing land abandonment, contributing to biodiversity, the natural landscape and to tackling climate change. Therefore, the importance of ANC support cannot be ignored, and it must continue to be part of the toolbox of environment and climate measures.

We support the possibility for MS to re-designate the areas.
Definitions, capping and redistributive payment, coupled support

Definition of active/genuine farmer

Copa and Cogeca welcome the provisional agreement reached in order to ensure a clear definition all across the EU, which is something we have constantly called for.

In the context of subsidiarity, the proposals for the future CAP allow MS to establish the main definitions and eligibility criteria, provided they remain within the common EU framework. While we underline the need to safeguard the communality of the policy, we recognise that a degree of flexibility needs to be given to MS. This, however, must not lead to distortion of competition across MS nor must it create divergent approaches in the EU.

We must strive for a clear definition of genuine farmer across the EU, which is based on real and effective agricultural activity. CAP support must target active farmers, that is, those producing food, feed, fibre and renewable energy, who contribute to a sustainable sector and provide public goods and growth. This should not preclude or exclude the eligibility of those farmers who have established additional sources of income to secure their livelihood (e.g. part-time farmers and agri-tourism). In line with past legislative changes (Omnibus), MS could maintain the flexibility to better target the support (in terms of eligibility). Thus, it should be possible to design a common framework whilst also allowing for the definition to be adapted to the real needs and conditions of MS.

Definition of new farmer

Copa and Cogeca are favourable to a treatment to “new entrants” (who have set-up a holding for the first time, as head of holding and with appropriate training or acquired necessary skills) similarly to young farmers, which would fit under the already established interventions and support measures as part of rural development policy.

Capping and redistributive payment

Copa and Cogeca oppose mandatory capping as this is neither a beneficial nor a fair approach to ensure a “fairer distribution of payments” as all farms, regardless of their size and structure, face significant economic pressure.

Copa and Cogeca could instead accept, as a compromise a voluntary approach to be applied only to the basic income support for sustainability (BISS) and allowing for the full deduction of salaries.

On the redistributive payments, investigating the minimum size of claim could also be worthwhile to target farmers who actively contribute to the economic, environmental and social dimensions of sustainability. Thus, redistributive payments should focus not on paying for the first hectares but rather on sustainable and viable farms.

Coupled support

In terms of coupled support, this must continue under precise and limited conditions to support sectors, especially livestock production, in regions where other policy tools are not available or are less efficient. Member States should be free to identify the sectors that should benefit from this, rather than having a list of eligible sectors specified at EU level. The Commission should ensure that distortions of competition are kept to a minimum. We nevertheless recognise that coupled support should be maintained at the current level at least.

Risk management tools (article 70)

We welcome the inclusion of risk management tools as part of the interventions under rural development. The proposed measures are better fitted to crop/weather related income losses rather than to address the volatility impact of dairy and grain markets, or indeed the consistently poor incomes in certain sectors (beef/sheep). Income risks relating to volatility are often managed privately, for example through fixed price or forward pricing contracts.
We consider that risk management tools must be mandatory for Member States but voluntary and complementary for farmers.

Support to mutual funds should not be limited only to administrative cost of setting up, the amounts paid by mutual fund as compensation to farmer, the initial capital stock of the mutual fund.

The definition of the risk management tools should be flexible enough so that Member States may grant support based on their SWOT analysis and assessment of needs, allowing the setup of, and the financial contribution (including the administrative cost of setting up) for public, private or public-private systems in the national legislation. This means any type of risk management tools, including (re)insurance schemes and mutual funds should be allowed and designed with the necessary flexibilities to fit the reality in the ground.

The maximum support rate for subsidised insurance premiums should be increased from 70% to 85%.

We are against the option to grant up to 1% of direct payment to risk management tool as this would mean a further decrease in the envelope for direct payments.