

Sustainability agreements and the Common Agricultural Policy

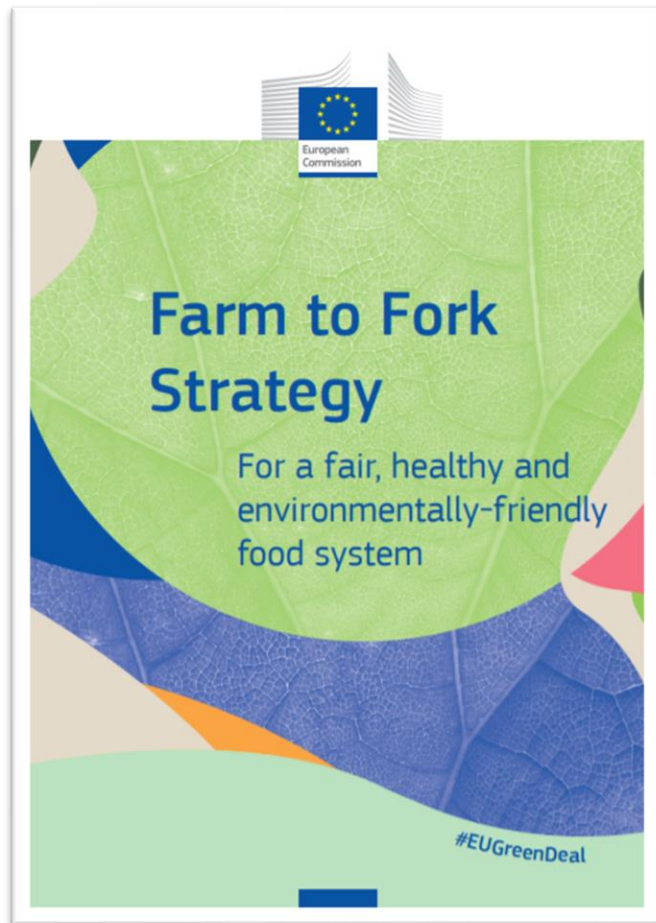


17 March 2022

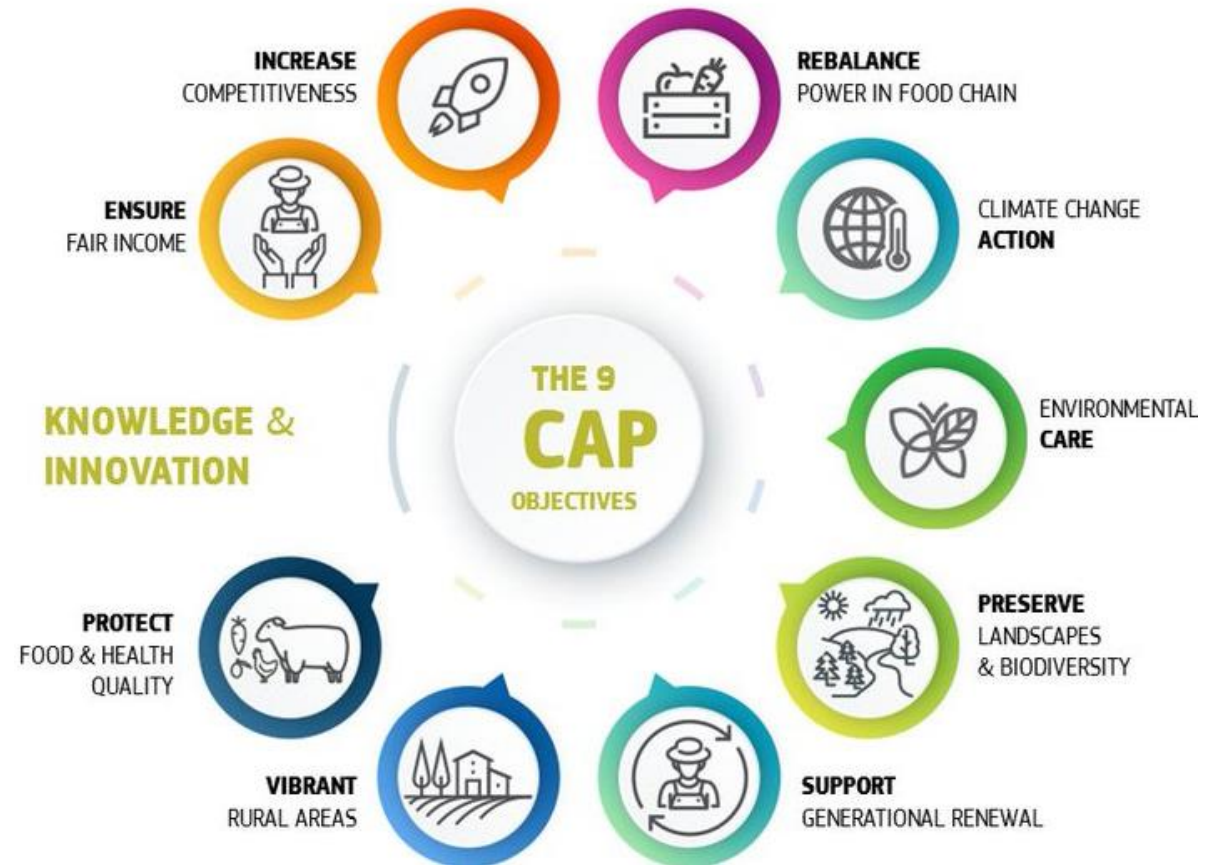
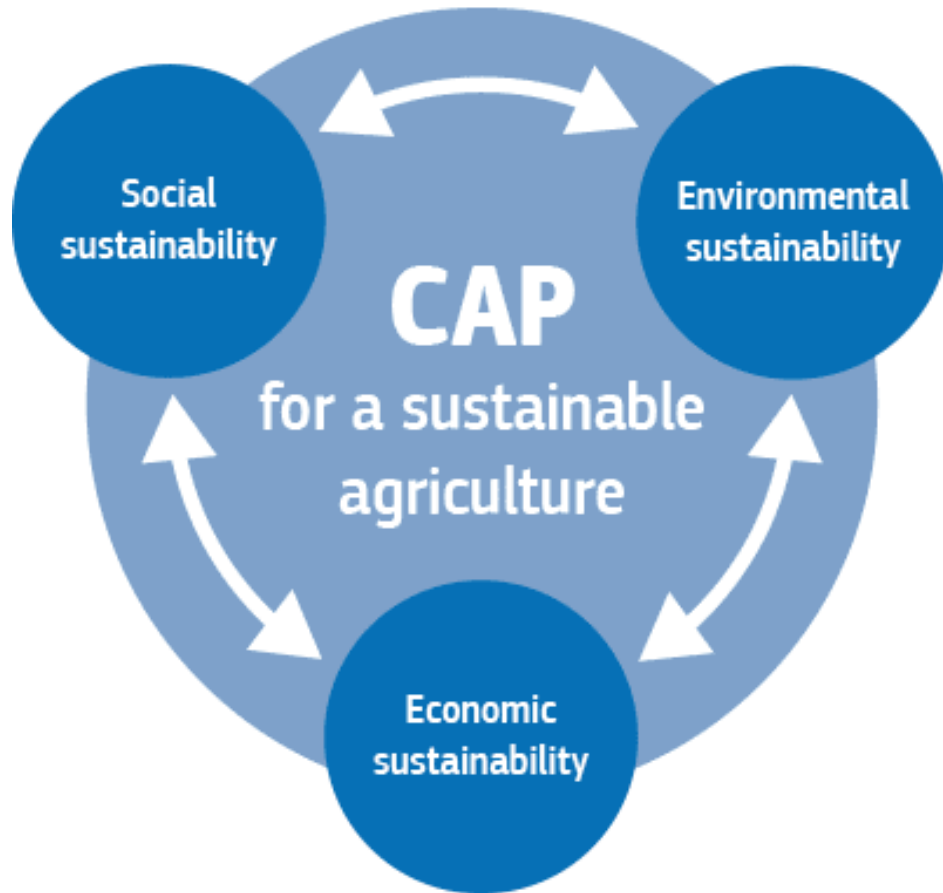
European Commission - DG AGRI

Transition to a resilient and sustainable food supply chain

Green Deal - Climate-neutral by 2050, emissions reduction of least 55% by 2030



CAP for sustainable agriculture



Key tools of the CAP to foster the transition



- **CAP Strategic Plans** at national level help to combine a wide range of targeted interventions addressing the specific needs of a Member State → **Funding**
- Amended **Common Market Organisation Regulation*** introduced a new derogation from Article 101(1) TFEU for sustainability agreements → **Article 210a CMO Regulation**

Sustainability agreements related to the production of or trade in agricultural products

Aimed at achieving standards higher than mandated by Union or national law

Horizontal agreements
between primary producers

Vertical agreements
between primary producers and other actors within the supply chain



Sustainability objectives under Article 210a CMO Regulation



- **Environmental objectives**, incl. climate change mitigation & adaptation, sustainable use & protection of landscapes, water and soil, circular economy, incl. reduction of food waste, pollution prevention and control, and the protection and restoration of biodiversity and ecosystems
- The production of agricultural products in ways that **reduce the use of pesticides and manage risks resulting from such use**, or that **reduce the danger of antimicrobial resistance in agricultural production**
- **Animal health and animal welfare**

Conditions of the derogation



- **Ex ante:**
 - Agreements only impose restrictions of competition that are indispensable to the attainment of the standard
- **Ex post:**
 - Agreements do not prevent competition from being excluded and/or
 - the CAP objectives (Article 39 TFEU) to be jeopardised

Enforcement system



- No need for ex ante notification, if conditions are fulfilled → self-assessment
- To facilitate self-assessment by producers and other actors
→ **Guidelines to be issued by 8 December 2023 at the latest**
- Producers may request opinion from the Commission
→ **From 8 December 2023**
- Commission can reassess the opinion ex post if conditions change + inform the producer
- National Competition authorities may assess the agreements and decide upon

Public consultation and call for evidence open until 23 May 2022

We ask stakeholders for the following information:

- sustainability objectives and standards linked to them;
- methods of pursuing the standards and types of agreements;
- the indispensability of the joint activity in relation to unilateral actions and other alternative methods of achieving sustainability objectives;
- participants, duration and market coverage of sustainability agreements;
- impact of the sustainability agreements on e.g. productivity, income of agricultural producers, stability of the markets, agricultural, food and consumer prices, output and innovation;
- challenges and hurdles linked to the implementation.

Thank you.



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Sustainability agreements in agriculture – guidelines on antitrust derogation



https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13305-Sustainability-agreements-in-agriculture-guidelines-on-antitrust-derogation_en

Annex: Article 210a - Text of the derogation

1. Article 101(1) TFEU shall not apply to agreements, decisions and concerted practices of producers of agricultural products that relate to the production of or trade in agricultural products and that aim to apply a sustainability standard higher than mandated by Union or national law, provided that those agreements, decisions and concerted practices only impose restrictions of competition that are indispensable to the attainment of that standard.
2. Paragraph 1 applies to agreements, decisions and concerted practices of producers of agricultural products to which several producers are party or to which one or more producers and one or more operators at different levels of the production, processing, and trade in the food supply chain, including distribution, are party.

Annex: Article 210a - Text of the derogation (2)

3. For the purposes of paragraph 1, “sustainability standard” means a standard which aims to contribute to one or more of the following objectives: (a) environmental objectives, including climate change mitigation and adaptation, the sustainable use and protection of landscapes, water and soil, the transition to a circular economy, including the reduction of food waste, pollution prevention and control, and the protection and restoration of biodiversity and ecosystems; (b) the production of agricultural products in ways that reduce the use of pesticides and manage risks resulting from such use, or that reduce the danger of antimicrobial resistance in agricultural production; and (c) animal health and animal welfare.

4. Agreements, decisions and concerted practices that fulfil the conditions referred to in this Article shall not be prohibited, no prior decision to that effect being required.

5. The Commission shall issue guidelines for operators concerning the conditions for the application of this Article by 8 December 2023.

6. From 8 December 2023, producers as referred to in paragraph 1 may request an opinion from the Commission concerning the compatibility of agreements, decisions and concerted practices as referred to in paragraph 1 with this Article. The Commission shall send the applicant its opinion within four months of receipt of a complete request. If the Commission finds at any time after issuing an opinion that the conditions referred to in paragraphs 1, 3 and 7 of this Article are no longer met, it shall declare that Article 101(1) TFEU shall apply in the future to the agreement, decision or concerted practice in question and inform the producers accordingly. The Commission may change the content of an opinion at its own initiative or at the request of a Member State, in particular if the applicant has provided inaccurate information or misused the opinion.

Annex: Article 210a - Text of the derogation (3)

7. The national competition authority as referred to in Article 5 of Regulation (EC) No 1/2003 may decide in individual cases that, in the future, one or more of the agreements, decisions and concerted practices referred to in paragraph 1 are to be modified, discontinued or not take place at all, if it considers that such a decision is necessary in order to prevent competition from being excluded or if it considers that the objectives set out in Article 39 TFEU are jeopardised.

For agreements, decisions and concerted practices covering more than one Member State, the decision referred to in the first subparagraph of this paragraph shall be taken by the Commission without applying the procedures referred to in Article 229(2) and (3).

When acting under the first subparagraph of this paragraph, the national competition authority shall inform the Commission in writing after initiating the first formal measure of the investigation and shall notify the Commission of any resulting decisions without delay after their adoption.