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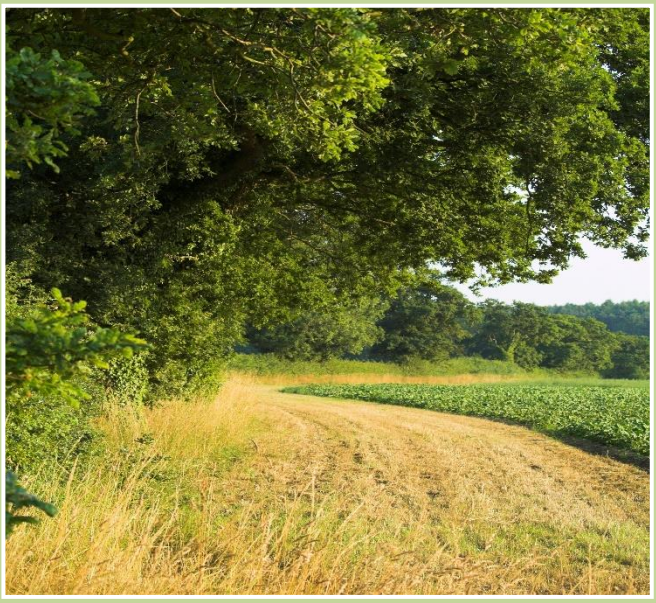

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Keeping track of climate delivery in the CAP?

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The Multiannual Financial Framework (MFF) proposals for 2021-2027 include a commitment to 'mainstream' climate change across different policy areas and for at least 25% of the EU budget to support climate change related activities, both mitigation and/or adaptation. This builds on the current 20% commitment under the 2014-2020 MFF. To track progress against this target, a system has been developed to track climate related expenditure under all programmes and funds financed out of the EU budget. This includes the Common Agricultural Policy (CAP).

This briefing paper is intended to help inform the ongoing debates around the CAP post 2020. It provides an introduction to the international climate markers, the EU climate tracking system and how it is applied to the European Agricultural Guarantee Fund (EAGF) - Pillar 1 of the CAP - both currently and as proposed for the 2021-27 period. It outlines some of the limitations of the tracking methodology for assessing the contribution of the CAP budget to climate action and explores how the proposed basic income support scheme and associated conditionality requirements could be revised to improve their contribution to climate mitigation and adaptation.

The climate expenditure tracking methodology used by the European Commission has been developed from the approach taken by the OECD for measuring the climate flows of funding under the Rio Conventions. It uses three categories to 'mark' or 'score' EU funds *ex ante* in terms of whether they are anticipated to make a significant (100 %), a moderate (40 %) or insignificant (0 %) contribution towards achieving climate change outcomes - both mitigation and adaptation. The allocation of these climate markers or coefficients to the different funds is determined by the European Commission. The figures for the proportion of each fund that is considered climate relevant are included in the Commission's 'Statement of Estimates' document each year, a document setting out the draft budgets for each fund under the MFF. It should be noted that the tracking methodology only provides an indication of the proportion of a fund's budget that is climate focussed. It does not provide an accurate picture of the precise level of expenditure spent on climate related activities in practice. For this, a different methodology would be required to assess how expenditure is spent on the ground *ex post*.

CAP climate tracking for 2014-2020: For the 2014-2020 period, 19.46 % of the European Agricultural Guarantee Fund (EAGF) has been identified as climate-relevant by the European Commission, using the climate tracking methodology. This is based on an application and adaptation of the three climate markers/coefficients to the three greening measures as well as to a proportion of the Basic Payment Scheme, based on the existence of climate relevant cross-compliance requirements that must be adhered to by farmers in order to receive direct payments. This equates to a **total of €45.5 billion over** the 2014-2020 period, which is equivalent to 22% of the total climate related expenditure under the MFF. Independent assessments have concluded that this is likely to be an overestimate, particularly the estimates of the likely climate benefits to be achieved by the proportion of direct payments that are not allocated to the greening measures.

CAP climate-tracking proposals for 2021-27: The CAP legislative proposals state that 40% of the CAP's total expenditure is anticipated to contribute to climate objectives. To achieve this, the climate markers have been applied slightly differently compared to the current situation. For the EAGF, the comparison is set out in the table below. The key difference is that the marker applied to the core direct payments (basic income support) has doubled. The proposals to make the conditions for receipt of these payments more ambitious is the main justification for this.

Marker	CAP 2014-2020- pillar 1 (EAGF)	CAP 2021-27 - proposals- pillar 1 (EAGF)
100% marker	- Greening measure: o Permanent grassland	- Schemes for climate and the environment (eco-schemes)
40% marker	- Greening measure: o Ecological focus areas - 20% of the remaining 70% of direct Payments, including coupled support	- Basic Income Support Scheme for Sustainability & Complementary Income Support (BISS)
0% marker	- Greening measure: o Crop diversification	- Coupled income support - Crop specific payment for cotton

Although the proposals for basic income support (BISS) for 2021-2027 may appear to be a little more ambitious on paper[1], **this does not seem sufficient to justify a doubling of the existing climate marker which in itself was already criticised as likely to be an overestimate under the current period.**

In most cases indeed this potential is heavily dependent on how Member States will choose to apply the conditionally rules. As such therefore the estimates made about the proportion of the BISS that is delivering climate benefits are at best provisional, pending the decisions yet to be taken by Member States about the specific rules they set.

For the 40% marker to be applied to the BISS, as proposed in the draft legislation, significant improvements and clarifications would have to be made to the proposed conditionality elements (GAEC) and there would need to be no weakening of these conditions during the ongoing negotiation process, an issue that remains a significant risk at the time of drafting.

[1] For example, the removal of existing exemptions for both cross-compliance and the greening measures; the proposal to introduce new Good Agricultural and Environmental Conditions (GAEC) standards that have some potential to improve the delivery of climate benefits (in particular the addition of a new GAEC for peatland and wetland protection; and the nutrients tool) and the requirement for all conditionality standards to be approved by the European Commission.

Glossary of terms

BISS	Basic Income Sustainability Scheme
CAP	Common Agricultural Policy
CSP	CAP Strategic Plan
EAGF	European Agricultural Guarantee Fund
EAFRD	European Agricultural Fund for Rural Development
ECA	European Court of Auditors
EFA	Ecological Focus Area
ESPG	Environmentally sensitive permanent grassland
GAEC	Good Agricultural and Environmental Conditions
MFF	Multiannual Financial Framework
OECD	Organisation for Economic Co-operation and Development
SMR	Statutory Management Requirement

1 Introduction and purpose of the briefing

The proposed Multiannual Financial Framework (MFF) for 2021-2027[2] includes a commitment to 'mainstream' climate change across different policy areas and for **at least 25% of the EU budget to support climate change related activities, both mitigation and/or adaptation**. This builds on the 20% commitment under the 2014-2020 MFF.

To calculate the proportion of the different EU funds that support climate related activities, a tracking system has been developed which essentially scores individual elements of each fund according to their anticipated contribution to achieving climate change objectives[3]. There are three scores which can be applied which indicate whether the fund's objectives are fully (100%), partially (40%), or not at all (0%) intended to address climate change objectives. These scores are often referred to as 'Rio markers' or 'climate markers' as they were developed from an OECD system for monitoring the degree of climate focus of aid flows in the late 1990s.

This briefing provides an introduction to the climate markers and how they are transposed and used for budget reporting at EU level, with a focus on how they are applied to the basic payment under Pillar 1 of the CAP, both currently (CAP 2014-2020) and as proposed for the CAP post 2020. It outlines some of the shortfalls of the way in which the climate markers are used by the European Commission for assessing the contribution of the CAP budget to climate action, examining the validity of allocating the 40% marker to the basic payment scheme post-2020. Finally, it explores how the basic payment scheme and associated conditionality requirements, could be revised to improve their contribution to climate mitigation/adaptation, if the 40% marker is to remain. A check list of the necessary steps to follow to ensure that CAP Strategic Plans (CSPs) are climate-proofed is included at the end of the briefing in the form of box.

The briefing is intended to help inform the ongoing debates around the CAP post 2020 and in particular the positioning of the European Parliament (with a vote in Plenary now scheduled for June/Summer 2020) and the one of the Council of the EU.

[2] COM(2018) 321 final Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Modern Budget for a Union that Protects, Empowers and Defends The Multiannual Financial Framework for 2021-2027, https://ec.europa.eu/commission/sites/beta-political/files/communication-modern-budget-may_2018_en.pdf

[3] It is important to note that the climate markers applied are intended to provide an indication of the extent to which the objectives of different funds are directed towards climate objectives *ex ante*. They do not indicate the proportion of actual spending on climate actions in practice.

2 Introduction to climate markers and how they are applied to tracking climate expenditure in the CAP (2014-2020)

2.1 The climate markers in a nutshell

The approach of establishing climate markers was established in 1998 by the OECD to monitor flows of aid focussing on the objectives of the Rio Conventions in relation to external development aid for climate mitigation, biodiversity and desertification aid. In 2009, this approach was extended to track flows of aid relating to climate change adaptation. Due to the link to the Rio Convention objectives, they became known as the 'Rio Markers'.

The markers are intended as a means of indicating the intended strength of a donor's policy objectives in relation to each type of aid activity and are therefore *ex ante* in nature. Scores are allocated depending on whether the extent to which the aid activity identified is anticipated to contribute to the aims of a particular convention. Three scores can be applied to the activity as follows:

- Rio Marker 2 (100%): An activity can be marked as "principal" when the objective (e.g. climate change mitigation, climate change adaptation) **is explicitly stated as fundamental in the design of, or the motivation for, the activity.**
- Rio Marker 1 (40%): An activity can be marked as "significant" when the objective (e.g. climate change mitigation, climate change adaptation) is **explicitly stated but is not the fundamental driver or motivation for undertaking and designing the activity.**
- Rio Marker 0 (0%): Not targeted means that the activity was examined but found **not to target the objective in any significant way.**

In relation to climate change mitigation and adaptation, the OECD 2011 guidance established definitions to identify whether an activity is classified as climate-change related as follows:

- An activity is classified as **climate change mitigation**-related if "*It contributes to the objective of stabilisation of greenhouse gas (GHG) concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system by promoting efforts to reduce or limit GHG emissions or to enhance GHG sequestration*"
- An activity is considered **climate change adaptation**-relevant if "*it intends to reduce the vulnerability of human or natural systems to the impacts of climate change and climate-related risks, by maintaining or increasing adaptive capacity and resilience*".

2.2 Applying climate tracking to the EU budget (2014-2020) – principles and methodology

The 2014-2020 MFF introduced a commitment to 'mainstream' climate change across different policy areas and for at least 20% of the EU budget to support climate change related activities. Mitigation and adaptation are not split out separately so both activities can count towards the commitment.

In order to track and report against the 2014-2020 commitment, the European Commission developed a **climate expenditure tracking methodology** based on a modified version of the OECD 'Rio' markers (see section 2.1) which 'marks' (*ex-ante*) or 'scores' EU funds in terms of their contribution to pursuing climate mitigation and adaptation objectives. This methodology was already used by the Commission for reporting external aid and has now been applied to all areas of EU expenditure, including the CAP.

To do this, the Commission applies a weighting system[4] to the budgets of each fund. Three Climate coefficients are assigned to the funds on the basis of whether the objectives of the fund are intended

[4] The Commission's Statement of Estimates for the 2020 financial year

to make a significant (100 %), a moderate (40 %) or insignificant (0 %) contribution towards achieving climate change outcomes. For example, if an EU fund is considered to have the potential to make a significant contribution to climate mitigation and adaptation, then the full 100% would be counted as climate relevant. However, if the fund is considered to have the potential only to make a moderate contribution, then 40% of the budget would be counted as climate relevant. This methodology is applied *ex-ante* to budgets. The way the weightings are applied does **not distinguish between climate mitigation and climate adaptation.**

The allocation of the climate markers to the different funds is determined by the Commission. Although they are intended to be applied to all EU funds following a consistent logic, in reality the specificities of each funding programme mean that the way they are assigned to different funds differs. For example, the markers may be applied differently to particular interventions, objectives or thematic areas. For the 2014-2020 period, the climate markers for most of the EU funds are set out in various EU regulations[5]. The way in which they are applied to the CAP is set out in Section 2.3 below.

The figures that derive from the use of the coefficients under the EU's climate tracking methodology are often misunderstood. Because they lead to estimates of expenditure in euros they can be mistaken as figures representing the actual amount of expenditure that has delivered climate benefits under a particular fund. However, in reality, at best the figures provide an indication of the proportion of a fund's budget that may be, or is likely to be, climate focussed. They do not provide any degree of precision on the actual level of expenditure on climate related activities in practice. For this, a different methodology would be required to assess how expenditure is spent on the ground *ex post*.

Although the methodology can generate figures by fund at both Member State and EU level, it is currently used only to report against progress with the EU MFF target for climate mainstreaming by fund at EU level. The figures for the proportion of each fund that is considered climate relevant are included in the Commission's 'Statement of Estimates' document each year[6], a document setting out the draft budgets for each fund under the MFF. For example, the 2020 document, outlining the draft EU budget for 2020 shows that, through applying the climate tracking methodologies to the different EU funds, the total planned contribution to climate mainstreaming is expected to reach €34.4 billion in 2020 (21% of proposed total commitment appropriations) and that on average over the 2014-2020 period, 19.7% of the EU budget would have contributed to climate mainstreaming.

2.3 Applying the climate tracking methodology to the CAP (2014-2020)

The CAP consists of two funds:

- The European Agricultural Guarantee Fund (EAGF) – mainly Pillar 1 expenditure; and
- The European Agricultural Fund for Rural Development (EAFRD) – Pillar 2 expenditure.

The focus of this briefing paper is the EAGF, specifically the basic payment scheme element.

[5] For example, the way the climate markers are applied to the European Structural Funds is set out in Commission Implementing Regulation (EU) No 215/2014 of 7 March 2014 laying down rules for implementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund with regard to methodologies for climate change support, the determination of milestones and targets in the performance framework and the nomenclature of categories of intervention for the European Structural and Investment Funds

[6] The Commission's Statement of Estimates for the 2020 financial year

To track climate expenditure under the CAP, **the European Commission has applied the climate markers[7] fairly generously** to the EAGF (see Figure 1). This means that the **margin of approximation is very high and tends to overestimate** the likely significance of the contribution of the CAP instrument or measure to climate mitigation and adaptation objectives.

For Pillar 1 in the 2014-2020 period, **19.46 % of the EAGF is identified as climate-relevant by the European Commission.** Figure 1 below sets out how this is estimated[8].

First, the EAGF is broken down into two parts – the greening measures (accounting for 30% of its budget) and the other direct payments (accounting for the remaining 70% of the budget).

Greening measures: The climate markers are applied separately to each of the three greening measures because they each have different objectives. In doing so it is assumed that each of the greening measures is assigned an equal proportion of the greening budget. From the figure below, it can be seen that:

- The permanent pasture greening measure is assumed to make a **significant** contribution to climate objectives and therefore the 100% co-efficient is applied to one third of the greening budget, i.e. 10% of the overall EAGF budget.
- The Ecological Focus Areas measure is assumed to make a **moderate** contribution to climate objectives and therefore the 40% co-efficient is applied to one third of the greening budget, i.e. 4% of the overall EAGF budget).
- The crop diversification greening measure is assumed to make no real contribution to climate objectives and therefore the 0% co-efficient is applied to one third of the greening budget, i.e. 0% of the overall EAGF budget).

Other direct payments: For the other direct payments (70% of the total EAGF budget), the only anticipated climate effects relate to the cross-compliance requirements with which farmers must comply to receive the payments. Only a proportion of these cross-compliance requirements potentially deliver climate benefits[9]. The Commission therefore applies the 40% co-efficient to 20% of the total direct payments budget, to reflect the fact that only about a fifth of the direct payment budget is likely to make a moderate contribution to climate change. This equates **to 5.6% of the total direct payments budget.**

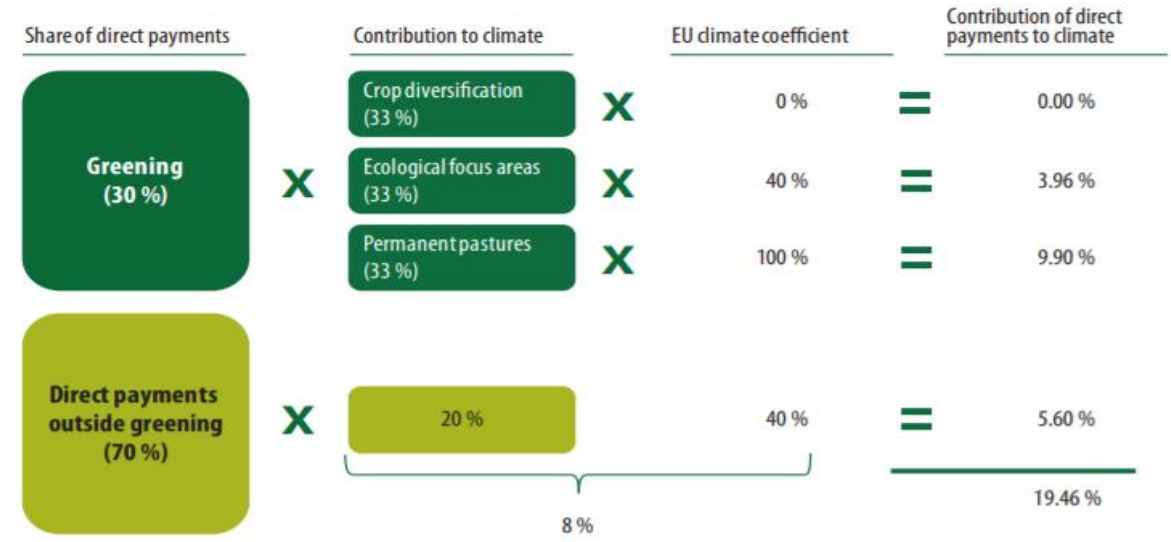
Climate mitigation and adaptation are not assessed separately. An assumption is made that the proportion of the EAGF deemed to be climate relevant, contributes equally to mitigation and adaptation.

[7] The terminology 'climate marker' is being used here for the European Commission's adaptation of the Rio markers to the CAP

[8] ECA (2016) Special report no. 1, 2016 "Spending at least one euro in every five from the EU budget on climate action: ambitious work underway, but at serious risk of falling short". European Court of Auditors., http://www.eca.europa.eu/Lists/ECADocuments/SR16_31/SR_CLIMATE_EN.pdf

[9] Four of the standards of Good Agricultural and Environmental Condition (GAECs 4, 5, 6, 7) out of a total of eight GAEC standards and 13 SMRs

Figure 1: Overview of the method designed by the Commission to calculate climate funding from agricultural direct payments



Source: Explanation of the methodology for applying climate tracking to direct payments (European Commission).

Source: ECA, 2016

2.3.1 Limitations of the current approach to tracking climate expenditure for the EAGF

As highlighted above, the climate tracking methodology is not a precise science. The figures, derived from the application of the climate coefficients, provide only a broad estimate *ex ante* of the likely potential of the EAGF to have an effect on climate mitigation and adaptation. As there is no *ex post* assessment of whether the expenditure has actually been used to deliver climate benefits, it is not possible to compare the *ex-ante* estimate with what has happened in practice. Several studies[10] have proposed that the tracking methodology applied to the different EU funds should be refined over time, moving from the broad brush to the measure and then project level over time as more information becomes available. However, this does not appear to have taken place in practice.

Using this methodology, over the 2014-2020 period €45.5 billion is estimated to have been allocated for climate purposes under the EAGF[11] (with the EAFRD calculated as contributing €57.7 billion). This means that Pillar 1 of the CAP is estimated to contribute to over one fifth (22%) of the total EU budget used for climate mainstreaming.

This would appear rather high, given that a recent evaluation[12] assessing the impact of CAP measures on agriculture's greenhouse gas emissions and on the sector's ability to adapt to climate change found that for Pillar 1:

[10] Withana, S., Baldock, D., Illés, A., Rayment, M., Buchner, B., and Medarova-Bergstrom, K., (2013) *Tracking system for climate expenditure in the post-2013 EU budget: Making it operational*, Final report for the European Commission - DG CLIMA, Institute for European Environmental Policy, London/Brussels; Ricardo Energy and Environment, IEEP and Trinomics (2017) Climate mainstreaming in the EU Budget: preparing for the next MFF Final report

[11] The Commission's Statement of Estimates for the 2020 financial year and Alan Matthews, 2020, Climate mainstreaming the CAP in the EU budget: fact or fiction, capreform.eu

[12] Alliance Environnement, 2018 Evaluation of the impact of the CAP on climate change and greenhouse gas emissions. Evaluation produced for DG Agriculture and Rural Development. ISBN 978-92-79-85797-3

- The overall impact of the Basic Payment Scheme on greenhouse gas mitigation was likely to be low;
- The greening measures were likely to bring about some overall emissions reductions, but mainly through one element of the permanent grassland measure (Environmentally Sensitive Permanent Grassland - ESPG) and to a lesser extent Ecological Focus Areas; and
- Voluntary Coupled Support to livestock was likely to lead to a net increase in greenhouse gas emissions although this could not be quantified.

Both the European Court of Auditors, 2016[13] and an independent study on climate mainstreaming (Ricardo et al, 2017[14]) criticised the markers applied to the EAGF, particularly those applied to the non-greening portion of direct payments. Both reports argued that the assumption that 20% of direct payments were delivering climate benefits based on a small number of climate-related cross-compliance standards was questionable, with no evidence put forward as to how this figure had been reached. Indeed, with no evaluation of the implementation or enforcement of cross-compliance having been carried out since 2006, there is very little evidence available about what the actual impacts of cross-compliance requirements have been over the years.

In addition, those farmers who had opted for receiving a lump sum payment under the Small Farmer Scheme were exempt from complying with cross-compliance requirements (= 4.4 million ha). Ricardo et al, 2017 also notes that part of the cross compliance requirements (the Statutory Management Requirements) are already legal obligations on farms (derived from existing directives) and that it is difficult to argue that any additional benefits relevant to climate are achieved through that mechanism.

Additionally, in relation to the greening measures, the focus and area covered by the measures limit the climate benefits that can be attributed to them. Although the funds are distributed to all farmers eligible for CAP support (with the exception of those in the small farmers scheme), a number of exemptions apply[15], which mean that in reality only 79% of agricultural land is subject to at least one greening measure and in practice, far fewer hectares are subject to climate-beneficial management.

For example:

a) Only the ESPG part of the permanent grassland measure prevents ploughing, whereas the 'maintenance of permanent grassland' requirement[16] permits land to be ploughed and reseeded straight back to grassland, and still count as permanent grassland. In addition, the area of permanent grassland does not have to remain in the same location as long as the ratio of permanent grassland to total agricultural area does not decline by more than five per cent. Therefore, applying the 100% coefficient to the whole of the permanent grassland greening measure creates a significant overestimate of the likely climate benefits.
b) Under the EFA measure only a proportion of the EFA elements are climate related (hence the 40% marker), in addition, 16.4 million ha of arable land were exempted from the EFA measure in 2018, the majority of which were farms with fewer than 15ha of arable land.

[13] ECA, 2016, ibid

[14] Ricardo Energy and Environment, IEEP and Trinomics (2017) ibid

[15] For example there are no greening measures applicable to land under permanent crops and for the EFA and crop diversification measure, farms with arable land below a certain threshold are exempt. In addition, organic farms are 'de facto' considered to be green and therefore do not have to comply with the requirements in order to receive the payments.

[16] This measure requires Member States to limit any reductions in the area of eligible permanent grassland as a proportion of total eligible agricultural land to a maximum of 5%.

The Ricardo et al (2017) report recommended that a more conservative approach to applying the makers should be taken in future, one that reflects the nature of the obligations placed on land managers and based on an assessment of the expected (and quantified) contribution to climate mitigation and adaptation objectives. They also propose that these projections should be checked *ex post* to see whether the anticipated benefits have been achieved in practice.

However, the European Commission, in responding to the ECA report[17], said that it considered the application of the climate markers was appropriate and did not lead to an over-estimate of the proportion of CAP expenditure that was used for climate purposes.

Box 1: The limitations of the current approach to tracking climate expenditure in a nutshell

The assumption that approximately 20% of direct payments are delivering climate benefits is questionable and likely is an overestimate for the following reasons:

1. ***Cross compliance limitations:***
   - Part of cross-compliance requirements (the Statutory Management Requirements) are already legal obligations on farms (derived from existing directives) - there is therefore no climate added value achieved via that mechanism;
   - 4.4 million of hectares are exempted from cross-compliance (those receiving a lump sum payment under the small farmers scheme); and
   - There is very little evidence available about what the actual impacts of cross-compliance requirements have been over the years.

2. ***Greening measures' scope and land coverage limited:***
   - Only 79% of agricultural land is subject to at least one greening measure and in practice, far fewer hectares are subject to climate-beneficial management;
   - Only the ESPG element of the permanent grassland measure can definitely be identified as delivering climate benefits; and
   - 16.4 million ha in 2018 were exempted from the Ecological Focus Areas (EFA) measure.

3. ***The overall impact of Pillar 1 on climate mitigation and evaluation is likely to be low:***
   - The climate markers attributed to the greening measures are likely to be an overestimate, given the exemptions in place and the fact that only one element of the permanent grassland measure (ESPG) is likely to bring positive impacts on emissions reductions;
   - The climate benefits of cross-compliance are likely to be over-estimated; and
   - Voluntary Coupled Support to livestock has the potential to lead to an increase in GHG emissions.

4. ***The limit of the ex-ante approach***
   - As there is no *ex post* assessment of whether the expenditure has actually been used to deliver climate benefits, it is not possible to compare the *ex-ante* estimate with what has happened in practice. Climate tracking, therefore, always remains at best an estimate of potential, not an indication of actual climate benefit.

[17] ECA, 2016, ibid

3 Climate tracking proposals for the CAP post 2020 and their limitations

3.1 An overview of the proposed methodology

The proposed MFF for 2021-2027[18] builds on the climate mainstreaming commitments in the current MFF and increases the proportion of the EU budget to support climate change related activities, both mitigation and adaptation to at least 25%. The CAP is expected to contribute a significant proportion of this, given that **the CAP legislative proposals state that '*actions under the CAP are expected to contribute 40% of the overall financial envelope of the CAP to climate objectives*'** (preamble 52).

For the 2021-2027 period, the legislative proposals for the CAP post 2021, introduced in June 2018, set out how those markers are proposed to be applied to the different CAP instruments and measures (article 87). Despite the limitations highlighted in the previous section**, a 40% marker is proposed for all expenditure under the Basic Income Support Scheme for Sustainability & Complementary Income Support under the new CAP, double the marker provided for the basic payment scheme and greening combined in 2014-2020.** The enhanced climate ambition of the new enhanced conditionality compared with its predecessors - greening and cross-compliance - has been advanced as the justification. Coupled support will receive a 0% marker. These changes are summarised in Table 1.

Table 1: Climate markers applied to Pillar 1 CAP interventions in 2014-2020 and proposed for 2021-2027

Marker	CAP 2014-2020[19]	CAP 2021-27[20] - proposals
100% marker	- Greening measure: o Permanent grassland	- Schemes for climate and the environment (eco-schemes)
40% marker	- Greening measure: o Ecological focus areas - 20% of the remaining 70% of direct Payments, including coupled support	- Basic Income Support Scheme for Sustainability & Complementary Income Support (BISS)
0% marker	- Greening measure: o Crop diversification	- Coupled income support - Crop specific payment for cotton

Source: own compilation

[18] COM(2018) 321 final Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Modern Budget for a Union that Protects, Empowers and Defends The Multiannual Financial Framework for 2021-2027, https://ec.europa.eu/commission/sites/beta-political/files/communication-modern-budget-may_2018_en.pdf

[19] see section 2.3 above

[20] COM(2018) 392 final Proposal for a Regulation of the European Parliament and 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

3.2 Is the doubling of the marker for the Basic Income Support Scheme for the post 2020 CAP justified?

In order to assess whether or not the 40% marker proposed for basic income support post-2020 is justified, it is necessary to compare the likely benefits (or costs) of the proposed post-2020 arrangements for climate action under the BISS with those in place under the current Basic Payment Scheme (BPS). It should be noted that coupled support is not investigated here as the proposals suggest that this should receive a 0% marker. This is a positive change and takes on board the findings of the recent evaluation of the CAP's climate impacts[21].

In the sections below, first the potential climate effects of income support payments are reviewed, followed by those that flow from the conditions attached to these (called enhanced conditionality in the post 2020 CAP proposals and cross-compliance in the current period).

3.2.1 Potential climate impacts of basic payments and eligibility criteria

- The impact of income support payments themselves (as opposed to any conditionality requirements which accompany them) on climate action is unclear. Modelling work[22] suggests that under the current rules around six per cent more land is farmed in the EU as a result of such payments being available, but the consequences of farming this extra land for GHG emissions can be either positive or negative, depending on site specific factors and management techniques. As a result, a 2018 evaluation of the climate impacts of the CAP[23] concluded that the overall impact of the Basic Payment Scheme on greenhouse gas mitigation was likely to be low. There are no significant changes to the nature of income support payments in the proposals for the post 2020 period, and therefore no reason to suggest that this conclusion has changed.

- Eligibility rules also have an unclear impact since there is evidence that they can incentivise the removal of ineligible woody landscape features and so cause GHG emissions. These become the responsibility of Member States under the new proposals, with no guarantee that they will adopt rules which would remove this perverse incentive.

Conclusion: There is little evidence that income support payments and eligibility rules are *per se* beneficial for climate and evidence suggests that in some cases they can be counterproductive. There is therefore no justification to be found for the proposed doubling of the climate marker in the nature of the payments themselves. Any justification would therefore have to relate to the additional benefits expected from the proposed conditionality requirements compared to the current greening and cross-compliance rules.

[21] Alliance Environnement, 2018 – ibid

[22] Brady, M, Hristov, J, Höjgård, S, Jansson, T, Johansson, H, Larsson, C, Nordin, I and Rabinowicz, E (2017) *Impacts of direct payments - lessons for CAP post-2020 from a quantitative analysis*. AgriFood Economics Centre, Lund, Sweden.

[23] Alliance Environnement, 2018, ibid

3.2.2 Potential climate effects of the proposals for extending cross-compliance: 'enhanced' conditionality

- The draft CAP legislation post-2020 makes the receipt of BISS (and other payments on agricultural land) conditional on a series of basic standards and regulations, called 'conditionality'[24] and which replace the current cross-compliance requirements and the Pillar 1 greening measures[25]. Member States will be required to demonstrate how they will apply these conditions in their CSPs.

- Unlike in the current CAP there are no exemptions from conditionality[26], which means that all land on which direct payments are claimed must meet any applicable requirements of conditionality.

- Under the current regime, Member State's choices about how to implement cross-compliance and greening are notified by the Member State to the Commission, with the European Commission only having limited powers to intervene on certain elements of greening[27]. In contrast, for the future period, **Member States' proposed conditionality rules will have to be approved by the European Commission within the frame of their CSPs, against their needs and EU nine specific objectives[28]** . In theory this should ensure that there is a degree of quality control on the standards that Member States put in place and a greater chance that they deliver climate benefits. However, whether this happens in practice will depend on:
    a) the rigour of the Commission's approval process; and
    b) the extent to which farmers comply with the requirements.

- The climate benefits of the proposed conditionality relate only to certain of the GAEC standards. The SMRs simply add a potential financial penalty to existing legal requirements and so cannot be regarded as justifying a climate coefficient other than zero. The GAEC standards relevant for climate are set out in the box below.

[24] Conditionality, like cross-compliance under the current CAP, comprises both Statutory Management Requirements (SMRs) – requirements deriving from EU Directives as applied in Member States (and therefore legally binding) and 28 standards of Good Agricultural and Environmental Conditions (GAECs) which are additional standards that may or may not be covered by national legislation.

[25] To note that there is also a new eco-scheme - optional for farmers and compulsory for Member states that is a separate intervention under the EAGF/Pillar 1

[26] Under the current period, those under the small farmer scheme are not required to comply with cross-compliance and there are a number of exemption criteria that apply to the greening measures (see Chapter 2).

[27] For example approving equivalent measures and checking that certain aspects of EFA elements chosen are appropriate.

[28] The nine key objectives will be the basis upon which the future CAP Strategic Plans. These are:

1. *to ensure a fair income to farmers*
2. *to increase competitiveness*
3. *to rebalance the power in the food chain*
4. *climate change action*
5. *environmental care*
6. *to preserve landscapes and biodiversity*
7. *to support generational renewal*
8. *vibrant rural areas*
9. *to protect food and health quality*

Box 2: Overview of the proposed GAECs under the CAP post 2020

The detail of the GAEC standards that Member States must set is in Annex III to the CSP proposed Regulation[29] and in the case of climate mitigation and adaptation covers three topics:

- GAEC 1: Controlling the extent of **permanent grassland** through limiting any reductions in the total area of eligible permanent grassland as a proportion of total eligible agricultural land (percentage not defined) - the objective of this GAEC standard is to provide a 'general safeguard against conversion to other agricultural uses to preserve carbon stock'. The extent to which this standard protects carbon stock in practice, depends on whether permanent grassland is ploughed and reseeded (which is permissible within the EU definition). If it is, then the carbon benefits are lost once ploughing takes place;
- GAEC 2: **Appropriate protection for peatlands and wetlands** - the objective of which is to protect carbon-rich soils. This is a new standard which could make a significant difference, particularly in some countries where losses of these areas continue and lead to high carbon release in the atmosphere. However, it is controversial because of the uneven distribution of wetland and peatland in the EU. Attempts were made to introduce a similar standard during the 2013 reform, but it did not make it through the negotiations and this standard is facing similar opposition currently.; and
- GAEC 3: **A ban on stubble burning** other than for plant health, with the objective to maintain soil organic matter.

The first of these is taken from the current greening requirements and the ban on stubble burning is already a compulsory element of cross-compliance. The protection for peatlands and wetlands is a new requirement (although it is partially covered currently under the ESPG greening element).

In addition to these GAECs, several others have the potential to contribute to climate mitigation and/or adaptation:

- GAEC 5 – the introduction and use of the **Farm Sustainability Tool for Nutrients** – has the potential to reduce excess applications of nitrogen fertilisers which can give rise to emissions of N_2O;
- GAEC 6 – **tillage management**, especially on slopes – and GAEC 7 – **no bare soil** during sensitive periods - have the potential to reduce soil erosion and hence the loss or organic matter, potentially affecting both GHG emissions and the soil's resilience to climate change;
- GAEC 8 – **crop rotation** – has the potential to improve resilience to climate change depending on the nature of the rotation which is required;
- GAEC 9 – minimum share of agricultural area devoted to **non-productive features or areas, and retention of landscape features** – has potential to mitigate GHG emissions where woody biomass is retained for longer than would otherwise have been the case; and
- GAEC 10 – **ban on converting or ploughing permanent grassland in Natura 2000** areas – strengthens protection for existing stored carbon.

Table 2 compares the proposed GAEC standards for the CAP post 2020 with the corresponding requirements of the current greening measures and cross-compliance (where these exist), to give a picture of the extent to which the proposed conditionality rules offer an improvement or not. Overall, the proposed GAEC standards have some potential to improve the climate benefits delivered (in particular the addition of a new GAEC for peatland and wetland protection and the nutrient management tool), but in most cases this potential is dependent on how Member States choose to apply them and also depends on the standards not being weakened during the negotiation process[30].

[29] COM(2018) 392 final

[30] During the reform 2014-2020 indeed, during the co decision process, co legislators added lots of flexibility to the proposed new greening rules and several layers of exemptions which in fact led to a watering down of the level of the environmental and climate ambition

Table 2: Comparison between current and proposed future "conditionality"

Topic	Existing Greening/cross-compliance	Future proposed Conditionality	Better/same/worse/inconclusive
Permanent grassland ratio	Minimum ratio to arable land, with exemptions including organic	Minimum ratio (although a % is not specified), and no exemptions	Inconclusive – uncertain climate benefits due to no minimum percentage set in the regulation and no ban on ploughing, although applies to a larger area of land (removal of exemptions that currently apply to 4.76 million ha.
Protection for peatlands and wetlands	Possible to ban ploughing by designation as environmentally sensitive permanent grassland, although not widely applied outside Natura areas	"Appropriate" protection compulsory	Inconclusive. Having a separate category should make it more difficult for MS not to protect such land, but "appropriate" protection may fall short of a ploughing ban and gives lots of room of manoeuvre for MS to define what 'appropriate' means.
Stubble burning ban	Compulsory under cross-compliance	Compulsory	Same
Nutrients tool	Absent	In the Commission's proposal Member States must make the Tool available to farmers	Potentially better, but only if farmers are required to use the tool and this is enforced. The Commission's impact assessment claims a potential net reduction of N. surplus[31].
Tillage management/cover crops	Compulsory under cross-compliance	Compulsory	Same
Crop rotation	Can be required under GAEC, but usually isn't. Diversification required under greening.	Compulsory	Potentially better for benefits to adaptation (greater resilience to pests and diseases) if requirements for rotation are widely applied, but for mitigation this will depend on which crops are included in the rotation and this is not specified.
Minimum share of arable farms to be non-productive areas	EFAs required under greening but with productive options allowed.	Commission proposal limited to genuinely non-productive options.	Potentially better, but only if sufficient proportion of arable land[32] is under appropriate measures options and the requirement is not amended to include productive elements.

Conclusion: The way the current climate markers are applied to the various interventions under the EAGF leads to an overall climate marker of 19.46% being applied to the EAGF as a whole. Any justification for applying an increase in the climate marker to the BISS should depend on the new conditionality rules having the potential to deliver significantly greater climate benefits than is currently the case, especially since the current climate marker has already been criticised as being too high. The application of these coefficients *ex-ante* (as with all climate markers), means that they only provide an indication of whether the climate benefits are likely to be 'significant' or 'moderate'. **As**

[31] an average reduction for the EU of close to 4% of N-surplus in the most constraining scenario

[32] Evidence suggests 10% of non productive EFAs

such, the estimates made about the proportion of the BISS that is delivering climate benefits are at best provisional, pending the decisions yet to be taken by Member States about the specific rules they set.

Nonetheless, given the analysis above, overall the **proposed changes do not seem sufficient to justify a doubling of the climate marker,** despite the positive moves to improve aspects of the conditionality requirements, remove exemptions and to make Member States' conditionality rules subject to Commission approval. For the 40% marker to be applied to the BISS, as proposed in the draft legislation, significant improvements and clarifications would have to be made to the proposed conditionality requirements and there would need to be no weakening of the conditions during the ongoing negotiation process, an issue that remains a significant risk at the time of drafting (see section 4).

4 How to improve the climate ambition of the BISS - suggested ways forward

The proposals for the 2021-27 CAP require Member States to design their interventions under the CAP in such a way so as to achieve a greater overall contribution to the achievement of the specific environmental- and climate-related objectives than provided through support under the EAGF and the EAFRD in the period 2014 to 2020 (article 92). Indeed, if a 40% climate marker is to be applied to the BISS (doubling of the current marker), then a significant change in the way it is implemented on the ground will be required to justify such a large proportion of CAP expenditure being identified as delivering climate mitigation and adaptation outcomes.

There are several ways in which this could be achieved. These are set out below (4.1 and 4.2).

4.1 Improving the climate benefits of the CAP eligibility rules

From a climate perspective, it is important to make sure that areas of land that are part of a farm and can help store and sequester carbon are eligible for support. The definitions of agricultural land and the eligibility criteria on what sort of land can receive funding are therefore important to get right, both in the EU legislation as well as the way they are interpreted nationally and regionally. In the future, Member States will have a lot more freedom to determine the details of these criteria, within the framework set at EU level. Therefore, it is important that:

a) Member States should be required to justify in their CSP what areas of land are excluded from CAP support payments as a result of the definitions that they have chosen to apply. They should demonstrate that the criteria specified for the eligibility of land for CAP payments does not inadvertently incentivise the removal of trees, scrub or other woody biomass.

b) The definition of agricultural land should ensure that it covers land that has been rewetted and is still suitable for very low intensity production methods

c) The definition of permanent grassland should not permit the ploughing and reseeding of grassland to count as permanent grassland.

4.2 Improving the climate benefits from the basic payments (BISS)

In order to ensure that the flexibility given to Members States to tailor the GAEC requirements[33] to their local circumstances does not lead to a race to the bottom in terms of climate ambition and that the Commission is empowered to climate proof them before approval is given, a number of changes to the proposals need to be made:

- First, partial approvals of elements of the CSPs (and in particular of the BISS) should not be allowed to avoid different parts of the plans being developed separately, potentially resulting in inconsistencies and a lack of coherence between the different elements of the plan and between the different needs (climate, biodiversity and others) of the Member states/Regions. Most importantly it could prevent a strategic approach being adopted in which the various instruments of the green architecture build on each other for optimal positive impacts on climate and environment.

[33] SMRs simply add a potential financial penalty to existing legal requirements and so cannot be regarded as justifying a Rio Marker other than zero.

- Second, all Member States should demonstrate that their choices as regards the different GAEC standards are climate proofed against a series of pre-defined criteria[34] that the Commission could then use to inform its approval procedure.
- Finally, the current suite of GAEC standards should be retained, not watered down during the negotiations but further specified in the final CAP agreement and properly implemented and enforced in Member States with the following improvements:

GAEC 1: **Permanent grassland protection:** The rules related to the maintenance of permanent grassland should be set out clearly and should not permit the ploughing and reseeding of grassland.

GAEC 2: **Protection for peatlands and wetlands:** More clarity should be provided on what is meant by 'appropriate protection of wetland and peatland' - a definition of what is meant by 'appropriate' should be provided and a minimum list of types of wetland and peatland habitats that should be protected should be set out.

GAEC 5: **Farm sustainability tool for nutrients**: It is positive that Member States are required to offer that tool to farmers but those should also be required to use it and the details of what is proposed under it should be further specified. This tool should give the possibility to farmers to quantify the reduction of N_2O achieved (besides the economic benefits due to reductions in input costs)

GAEC 7: **No bare soil:** The Commission should set out criteria that Member States should use to determine the 'sensitive period'. Guidance on the types of soil cover that would be acceptable should be provided[35].

GAEC 8: **Crop rotation**: More detail on minimum standards for crop rotation should be added. As Leguminous crops in the rotation fix atmospheric nitrogen and bind it in the soil, increasing fertility and reducing the need for synthetic fertilisers, all Member States should be required to include leguminous crops or a fallow period in this GAEC.

GAEC 9: **Ecological Focus Areas**: The minimum share should be, as proposed, only targeted at non-productive features or areas and a minimum share of 10% should be set at EU level

GAEC 10: **Protection of permanent grasslands in Natura 2000 area**: The ban on converting or ploughing permanent grassland in Natura 2000 areas should be extended to all types of permanent grassland outside the Natura 2000 sites that are listed under Annex 1 of the Habitats Directive.

[34] E.g : level of adequation with the climate needs identified in the evaluation, no (adaptation and mitigation) negative impacts of non climate focused GAECs, coherence with the overall green architecture: ecoscheme and Pillar 2 agri environment schemes

[35] For example, in England currently under cross-compliance in 2019, minimum soil cover must be provided by the following crops unless justification is provided not to do so:

- vegetative cover by all types of crop, grass and herbaceous forage;
- cover crops and leguminous and nitrogen fixing crops (green manures);
- game cover and crops planted for biodiversity;
- trees, coppice, fruit crops, hops, nursery crops, vines;
- overwintered stubble from combinable crops;
- other stubbles and crop residues such as vegetable, maize and sugar beet.

5 Conclusion and recommendations

Based on our analysis of the current limitations of the way in which the climate markers are applied by the European Commission to the first Pillar of the CAP and our assessment of the content of the legislative proposals post 2020, this briefing paper concludes that the proposed changes are not sufficient to justify an increase in the climate marker applied to the BISS from 20% to 40%.

The evidence suggests that the 20% marker currently applied to the EAGF is already likely to be an overestimate for four main reasons.

The first two of these relate to the overestimates of the climate benefits likely to be delivered by cross compliance and greening. For cross-compliance, only four of the eight GAEC standards currently are climate-related and all 13 SMRs are already legal obligations. In addition, over four million hectares of land are exempted from these requirements and there is little evidence about the actual impacts cross compliance had over the years on climate. With respect to the greening measures, only 79% of agricultural land is subject to at least one greening measure and in practice, far fewer hectares are subject to climate-beneficial management. Despite the permanent grassland greening measure being given the 100% coefficient, in reality it is only the ESPG element that can definitely be known to deliver climate benefits (due to the ban on ploughing) and 16.4 million ha of arable land were exempted from the requirements of the Ecological Focus Areas (EFA) measure in 2018.

Thirdly Pillar 1 of the CAP also contains the potential for Member States to offer coupled support to farmers. Where this is provided to livestock production, this has the potential to lead to an increase in GHG emissions, where it encourages more livestock to be grazed that might otherwise be the case.

Finally, the nature of the climate tracking approach itself has serious limitations. The application of just three markers and the fact that they are applied *ex ante* means that any assessment of the 'climate-relevance' of expenditure is very broad brush and should not be taken as an accurate figure of the funds delivering climate benefits in practice. Indeed, in the absence of any *ex post* assessment, it is impossible to assess whether the expenditure has actually been used to deliver climate benefits.

Some improvements have been made in the June 2018 proposals for Pillar 1 of the CAP (notably moves to remove exemptions, put in place additional GAECs and the making of Member States' conditionality rules subject to Commission approval) to improve its climate performance. However, this analysis has shown that those relating to the basic income scheme for sustainability (BISS) *do not or not sufficiently* tackle the current limitations listed above to justify an increase, let alone a doubling, in the climate marker applied to basic income support.

The potential climate impact delivered by the conditionality requirements will still be dependent predominantly on Member states' own level of ambition and there is no proposal to rectify the limitations of the *ex ante* approach.

Our report therefore makes several recommendations (safeguards) to increase the climate ambition of the BISS in an attempt to get closer to a proper tracking and proofing of CAP Pillar 1 expenditure. Key here are recommendations to improve the climate benefits delivered through the application of the CAP eligibility rules and enhancing the ambition of the conditionality requirements (see **Erreur ! Source du renvoi introuvable.**).

Table 3: Recommendations to improve climate benefits of Pillar 1-BISS

Improving the climate benefits of the CAP eligibility rules	
Recommendation 1	In their CSPs, Member states should demonstrate that the criteria specified for the eligibility of land for CAP payments does not inadvertently incentivise the removal of trees, scrub or other woody biomass.
Recommendation 2	Ensure that 'agricultural land' definition covers land that has been rewetted and is still suitable for very low intensity production methods.
Recommendation 3	Ensure that 'permanent grassland' definition does not permit the ploughing and reseeding of grassland to count as permanent grassland.
Improving the climate benefits from the basic payments (BISS)	
Recommendation 4	GAEC 1: permanent grasslands The rules should not permit the ploughing and reseeding of grassland.
Recommendation 5	GAEC 2: protection of peatlands and wetlands A definition of what is meant by 'appropriate' should be provided and a minimum list of types of wetland and peatland habitats that should be protected should be set out.
Recommendation 6	GAEC 5: Farm sustainability tool for nutrients Ensure that the tool is also mandatory for farmers and that the details of what is proposed underneath it is further specified.
Recommendation 7	GAEC 7: no bare soil Ensure that criteria are set for Member States to determine the 'sensitive period'. Guidance on the types of soil cover that would be acceptable should also be provided by the Commission.
Recommendation 8	GAEC 8: Crop rotation Member States should be required to include leguminous crops or a fallow period in this GAEC.
Recommendation 9	GAEC 9: Ecological focus areas Maintain the focus on non-productive features or areas only and set a minimum share of 10% at EU level.
Recommendation 10	GAEC 10: protection of permanent grasslands in N200 areas The ban on converting or ploughing permanent grassland in N2000 areas should be extended to all types of permanent grassland outside N 2000 sites, listed under Annex 1 of the Habitats Directive.

In addition to these specific recommendations targeted at the eligibility rules and conditionality, there are horizontal prerequisites for the increase of the climate ambition of Pillar 1, such as the removal of the proposed ability for Member States to submit their CSPs for partial approval. This should not be allowed to avoid the risk of Member States not taking a strategic approach to the design of their CAP interventions, in which the various instruments of the green architecture build on each other to optimise their positive impacts on the climate and environment.

Finally, however, it is important to highlight that even if these recommendations help increase the climate ambition and potential delivery of Pillar 1 in terms of GHG reductions from the agricultural sector and adaptation post 2020, the nature of the climate tracking methodology (broad brush and *ex ante*) means that the match between the 40% marker and actual level of climate expenditure on the ground will remain only a very rough indication of the proportion of the CAP's budget that has the potential to be climate focussed. For the climate marker to match the level of expenditure that actually delivers climate benefits, a different methodology would be required **to assess how expenditure is spent on the ground *ex post*.**