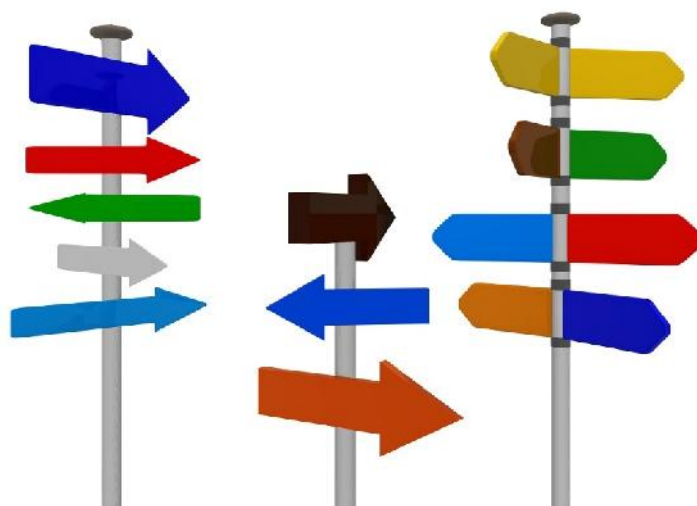


Research for AGRI Committee – The CAP beyond 2020: appraisal of the EC legislative proposals



STUDY

Requested by the AGRI committee



Research for AGRI Committee – The CAP beyond 2020: appraisal of the EC legislative proposals

Abstract

On the basis of the European Commission's proposals on the CAP after 2020 published on 1st June, the Committee on Agriculture and Rural Development and Policy Department B of the European Parliament have organised a Workshop on the "*The Common Agricultural Policy beyond 2020: appraisal of the EC legislative proposals*" in October 2018. This Workshop was structured in three parts:

1. The CAP Strategic Plans beyond 2020 : assessing the architecture and governance issues in order to achieve the EU-wide objectives;
2. The CAP support beyond 2020: assessing the future structure of direct payments and the rural development interventions in the light of the EU agricultural and environmental challenges; and
3. The sectoral approach in the CAP beyond 2020 and possible options to improve the EU food value chain.

This document was requested by the European Parliament's Committee on Agriculture and Rural Development

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CONTENTS

1. The CAP Strategic Plans beyond 2020: assessing the architecture and governance issues in order to achieve the EU 5
2. The CAP support beyond 2020: assessing the future structure of direct payments and the rural development interventions in the light of the EU agricultural and environmental challenges 59
3. The sectoral approach in the CAP beyond 2020 and possible options to improve the EU food value chain 113

STUDY

Requested by the AGRI committee



Research for AGRI Committee – The CAP Strategic Plans beyond 2020

Assessing the architecture and governance
issues in order to achieve the EU-wide
objectives

Research for AGRI Committee – The CAP Strategic Plans beyond 2020

Assessing the architecture and
governance issues in order to achieve
the EU-wide objectives

Abstract

The study is assessing the design of the new CAP Strategic Plans as foreseen in the proposal COM (2018) 392. The proposed strategic planning is a step forward in evidence-based policy-making, enabling greater flexibility for Member states and the efficiency of the policy. The remaining challenges are associated with the complexity of the process and limited capability, or willingness, of the policy system to implement it. Suggested improvements relate to analytical support, inclusive preparation process, smooth implementation and rewarded ambition.

This document was requested by the European Parliament's Committee on Agriculture and Rural Development

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CONTENTS

LIST OF ABBREVIATIONS	5
LIST OF FIGURES	7
LIST OF TABLES	7
EXECUTIVE SUMMARY	9
1. RESEARCH QUESTIONS AND OBJECTIVES	13
2. RESEARCH APPROACH AND PRESENTATION OF THE LEGISLATIVE PROPOSAL	17
2.1. Methodology	17
2.2. Theoretical frame: the concept of <i>Evidence-based policy-making</i>	18
2.3. Strategic plans – summary of legal framework	20
3. ACHIEVEMENT OF EU-WIDE OBJECTIVES	25
3.1. Literature review and stakeholders' views	25
3.2. Assessment and open issues	28
4. ASSESSMENT OF STRATEGIC PLANNING FROM NATIONAL PERSPECTIVES	31
4.1. Literature review and stakeholders' views	31
4.2. Assessment and open issues	35
5. RECOMMENDATIONS TO THE LEGISLATORS	39
5.1. Literature review and stakeholders' views	39
5.2. Final assessment and recommendations to co-legislators	43
REFERENCES	51

LIST OF ABBREVIATIONS

AGRI	Agriculture and Rural Development Committee
AKIS	Agricultural Knowledge and Innovation Systems
CAP	Common Agricultural Policy
EBPM	Evidence-based policy making
EAFRD	European agricultural rural development fund
EAGF	European agricultural guarantee fund
EC	European Commission
EP	European Parliament
IACS	Integrated Administration and Control System
MS	Member States
SP	Strategic plans

LIST OF FIGURES

Figure 1:	The generic policy cycle	17
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LIST OF TABLES

Table 1:	The proposed general and specific goals of the CAP in the period 2021-2027	19
Table 2:	Elements of the Strategic Plans	20

EXECUTIVE SUMMARY

The proposed EC Regulation (COM (2018) 392) is introducing comprehensive strategic planning at the MS level as one of the key new elements of the future CAP. The goal of this study is to assess the design of the new CAP Strategic Plans with a specific focus on Title V of the proposal COM (2018) 392. The analysis is based on a qualitative assessment of the CAP new delivery model, detecting possible risks at both, EU national levels in pursuing the CAP specific objectives and elaborating suggestions for improvements. The study draws on the complementary use of three main sources of information: i) meta-analysis, i.e. an in-depth review of available primary and secondary resources; ii) primary data-gathering to additionally explore positions and opinions of stakeholders; iii) qualitative assessment based on the Evidence-based decision making (EBDM) theoretical framework.

General assessment of the proposed Strategic planning governance

The new delivery model is seen as a step in the right direction, as this is the foundation of modern public policy governance. There will be also greater acceptance of the legitimacy of these policies.

The proposal draws on the established model of strategic planning of Rural Development policy. The proposal gives some prospects for simplification, but essentially the governance system is not changed and contains all the shortcomings of the previous arrangements. The key question should therefore be how the proposed Strategic plans will be applied in the real world and whether it will bring about a more effective policy.

Necessary accountability mechanism for strategic planning is weak

Limited accountability and ability to establish efficient intervention logic are serious gaps of the new delivery model. The current legal proposal does not frame the proposed CAP specific objectives in a results-oriented manner. Three objectives relevant to the environment and their relating indicators are not directly linked to existing environmental legislation. The current proposals are also not clear on to the method of quantifying the baseline situation. The study also questions the proposed exemption of background documents and analyses envisaged in the annexes of national Strategic plans from the evaluation process.

The process of strategic planning is left to the capacities and ingenuity of the Member States, without guarantees that the performance at the EU level will be measurable as the national priorities emerge from SWOT analysis and may not necessarily reflect the EU-level priorities. There are limited compelling incentives for Member states to make efforts for better policies. The procedure related to the approval of the Strategic plan is practically the only mechanism in the EC's power for ensuring targeted and ambitious strategic planning. Therefore, it is of importance the Commission is empowered to make a proper qualitative assessment of the Strategic plans. CAP strategic plans should contain a satisfactory and balanced level of consultation between stakeholders and involvement of other public authorities, and that the Commission is well equipped to assess the plan within a reasonable period's length. The adoption procedure should be more formalized, with the stakeholders' opinions at national level taken into account. This can improve the quality of the design, as well as the legitimacy of the document. Additionally, effective cooperation between different public authorities will be essential to ensure the successful drafting and implementation of the strategic plans.

Clearer objectives and division between EU and national levels

Objectives should be quantified at the EU level and if associated legislation and objectives exist in other EU policies, these should be incorporated into the quantified definition of objectives in the CAP legal proposals. The legislative proposal requires a better demarcation of common EU and national objectives. In principle, commonly defined should be those objectives that add value when implemented on a common scale, while the objectives where the principle of subsidiarity is more salient should remain at the national level.

The current system in designing measures is restrictive: Member states can only choose measures and adapt them. Moreover, some measures are compulsory in order to prevent renationalisation of policies and to achieve societal goals.

Flexibility and quality of strategic planning at Member states level

Striking a right balance between flexibility, subsidiarity, a level playing field at the EU level and policy control is a very complex task. Given that CAP funds have historically been based on a 'measure by measure' approach, Member states have little experience in programming various CAP instruments in an integrated way. Developing planning and implementation capacities will be a major challenge for all Member States, especially for small ones and those acceding EU after 2004. Empowering Member states with greater subsidiarity may result in substantial administrative burden at MS level. Within chapter V of the proposed regulation, the section on simplification is empty and left completely to MSs, which means that the Commission is leaving this at their discretion.

The risks derive also from the varying capacity of actors in different Member States. Flexibility may also be associated with risks of a departure from the pursuit of common goals at the EU level. Therefore, the CAP proposals need to be accompanied by safeguards at the EU and MS level, in particular by ensuring the effective engagement with civil society both in contributing to the design and in monitoring the progress of Strategic plans. Without serious investment in personnel, processes, analytical support and inclusive preparation of Strategic plans, there may be considerable differences in policy implementation between individual countries. This could conceivably cause falling standards and negative trends in individual MS, which would in turn result in further weakening of the common policy. An enlarged "technical assistance" budget could be used to improve the depth and quality of data collection. This budget should be extended to Pillar 1 of the CAP.

Improved monitoring of agricultural policy

The monitoring and evaluation procedures need to be defined more precisely and their quality improved in both parts of the policy cycle. The period 2021-2027 is a period of learning, in which the quality of data sources must be significantly increased, with systematic monitoring of the measures and their effects. Both Member States and EU bodies (JRC, EEA, Eurostat) have a role to play here. They see the utmost importance of strengthening the data sources related to needs analyses, and in particular, it is necessary to thoroughly reflect the appropriate data that will be employed as indicators for identifying and monitoring objectives.

We explicitly emphasize the role of data, indicators, knowledge and analyzes for more effective strategic planning and therefore a better agricultural policy. European Commission and Member states need to be required to provide reputable and independent scientific and technical evidence to support their choices. This will require establishment of a common platform with an open access to all strategic plans, progress and evaluation reports.

Proposed amendments to the regulation

Proposals for amending the draft regulation are the following:

-)] Strengthening the principle 'no backsliding' with the requirement to maintain at least absolute and relative share of support for climate and environmental objectives (art. 92);
-)] Strengthen the requirement to include the quantified objectives of the Strategic Plans resulting from environmental legislation and commitments;
-)] Strengthen the stakeholder consultation process with more binding requirements concerning the composition of parties involved in the process, joint decision-making, monitoring and evaluation. (Annex III);
-)] Include the criterion (Article 106) about "ambition and reachability of national targets in line with needs and the consistent use of intervention logic on the basis of available data";
-)] Strengthen the Governance and Coordination System section with the contents of Annex III (or alternatively include the annexes for evaluation);
-)] In the Simplification section of the draft regulation, specify the reasons and relevance of the EU objectives;
-)] Include the mandatory annexes to the plan for the training and education of civil servants and stakeholders for the implementation of the Strategic Plans;
-)] Inclusion of impact and contextual indicators in the reporting and monitoring system, and reporting on their changes;
-)] The obligatory part of the report is also independent quantitative and qualitative public assessment of independent experts and groups at the EU and national level; and
-)] Compulsory share of technical assistance should be devoted to establishing databases and analytical support for strategic planning.

Final remarks

The period 2021-2027 will have to be a 'deployment' period for CAP Strategic planning where no major adjustment of the measures, nor particularly improved results can be expected. The range of changes is so profound that a more long-term view should be taken, stressing out the importance of collective learning and system building, in order to be able to implement better in the future.

The co-legislators should determine what the new delivery model is expected to achieve in political sense. If the aim is to provide more flexibility and political responsibility, we must act accordingly: to enable transparency, stakeholder involvement and positive competition between countries. Strategic plans should therefore be seen as a step towards strengthened capability and accountability of the policy on the long run.

1. RESEARCH QUESTIONS AND OBJECTIVES

KEY FINDINGS

The European Commission's proposal which foresees the MS to prepare national CAP Strategic plans is one of the key features of the post-2020 CAP, applying the principle of strategic planning to the entire CAP. We may expect significant differentiation in the quality of implementation of the new CAP delivery model among MS. The CAP stakeholders (representatives of the MS, farmers and environmental organisations) recognised several challenges connected with the new delivery model which deserve a deeper insight.

The study provides a qualitative assessment of CAP strategic planning detecting the risks at the EU and national levels and elaborating the recommendations to legislators.

In December 2017, the European Commission published a Communication announcing a new round of changes to the CAP post-2020, which has also been officially initiated by its legislative proposals published June 1st, 2018. The proposals, more specifically the proposed Regulation¹ (COM (2018) 392), introduce an important new element to the CAP delivery model, namely comprehensive strategic planning at the Member State (MS) level. Many see it as the crucial element of the proposal, one that is to turn a new page in the CAP's history.

The Agriculture and Rural Development Commissioner Phil Hogan elaborated this by saying (Agra Focus, 2018a): *"Rather than rules & compliance the focus will shift to results & performance /.../ moving away from a 'one-size-fits-all' to a more tailor-made approach"*. Applying national strategic planning to the entire CAP (it was already done for Rural Development policy in previous programming periods) certainly represents the greatest novelty and merits careful consideration and debate. Will there be minimal requirements for Member States to prevent backsliding and ensure that they pursue the key objectives of the CAP reform route? What kind of obstacles and risks can be expected when implementing the strategic logic at the national level?

Within the new delivery model, common overarching CAP goals, indicators, eligible interventions and some other elements will be set at the EU level. Member States will operate in this framework and form strategic plans, in which they will determine national operative goals based on the assessment of particular needs, adaptations of measures and provisions for monitoring progress, all based on a clearly established intervention logic. They will have to ensure that their actions, including those outside the CAP framework, do not distort the common market or create excessive administrative burdens. This implies that the responsibility for a prudent approach and performance will be transferred to MSs, while the Commission's role will mainly be limited to validating strategic plans and monitoring their implementation, including imposing appropriate sanctions in case of unjustified actions or insufficient progress.

¹ European Commission (2018): Proposal for a Regulation of the European Parliament and of the Council establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Regulation (EU) No 1307/2013 of the European Parliament and of the Council.

At the MS level, the quality of actual strategic plans will depend on the integrity and quality of the policy system in place. The process should be based on an open public debate on the subject and active engagement of the agricultural community and other relevant stakeholders, competent implementing apparatuses and good analytical support systems (expert analyses, suitable databases), as well as a broad strategically oriented management culture amongst the authorities and decision makers. All these elements will be needed to make the shift to evidence-based policymaking (EBPM), i.e., policymaking that is built on measurable facts and formed in a regular, functional policy cycle.

Based on the discussions so far and the varying success of previous Rural development programmes, on which the CAP strategic planning actually builds, we may expect significant differentiation in the quality of implementation of the new CAP delivery model among MS. Namely, we assume that while some countries will be able to use this greater flexibility to create more targeted measures and better policy, for others it may represent a considerable planning and implementation challenge. This applies to both decision-makers and beneficiaries. These predictions represent a considerable risk that should be carefully managed, either by introducing necessary amendments to the legislative process or via implementing acts.

For a number of MSs, the transition towards a strategically oriented and performance-based agricultural policy will prove to be a daunting task that will require increased efforts in terms of substantially upgrading strategic, analytical and administrative capacities, procedures and methods of work. At the level of EU institutions, this is often overlooked or not given sufficient consideration. Meeting the environmental and conservation objectives, which will be a sort of a litmus test for the new approach, represents a particularly critical point in this sense.

The European Commission regards strategic planning at the MS level as something that will preserve the “common features” of the CAP, while allowing for adaptation to diverse conditions on the ground where appropriate. The Commission considers its role to be limited to that of a guardian (gatekeeper), whose role in the process of the implementation of the new delivery model will be to safeguard the pursuit of common strategic objectives and promote mutual learning between MS. This new role makes sense in light of the strengthening flexibility, which is emerging as a long-term trend in the CAP’s development.

The first responses of MS and representatives of agricultural stakeholders to the new implementation model have been rather reserved and critical. Many do not regard it as a real simplification, mainly ignoring the aspect of simplification that stems from the possibility to shape rules at the implementation level. Representatives of environmental NGOs have also been highly critical towards the proposal, perceiving the new approach as an increase in subsidiarity without the accompaniment of the necessary accountability mechanisms, which could create a ‘race to the bottom’, leading to a decrease in the standards of delivery. They believe that the proposed model in its current form can bring about renationalization and see the result-oriented policy as potentially being “an empty shell” without necessary safeguards, especially for the environment (Agra Focus, 2018b).

The goal of this study is to assess the design of the new CAP Strategic Plans beyond 2020 with a specific focus on Title V of the proposal COM (2018) 392 (European Commission, 2018). The analysis is based on a qualitative assessment of the new EC approach, detecting possible risks at the EU level (i.e. “achievement of EU-wide objectives and/or control of performance”) and at the national level (i.e. “flexibility of internal policy priorities, capacity of programming and/or implementation”) as identified by the financer of this study. Based on this, the authors have been tasked to explore „whether the integrated policy roadmaps and tailor-made national pathways will be able to respond effectively to farmers’ and wider rural communities’ concerns as well as to achieve the EU environmental and climate-related objectives”.

In an attempt to analyse the proposed governance system and the process of CAP strategic planning, this study is especially interested in the way that the suggested approach and architecture of strategic planning can affect achieving set goals. Questions guiding this research are as follows:

-)] What is the **quality of the proposed CAP strategic planning**? How rigorously is the system of strategic planning conceived in the sense of abiding by the principles of EBPM? How are the needs supposed to be determined and how will the indicators and objectives be defined? What is the criterion of correspondence between measures and the targets set and what are the alternatives available? What are the steps to establish a robust intervention logic?
-)] What are the **key challenges with regard to achieving goals at the EU level**? Which are the systemic risks stemming from governance of strategic planning? What are the main risks for achieving economic, environmental and societal goals? What is the ability of the proposed system to provide for effective control of policy performance at the EU level?
-)] Does the proposed system allow sufficient flexibility to ensure that Strategic plans meet the needs and achieve **adequate effectiveness and efficiency of policy at the national level**? Do the Member States demonstrate sufficient capability for adopting the strategic and evidence-based approach in all segments of agricultural policy, thus contributing towards the strategic objectives at the EU-level?
-)] What are the **recommendations to legislators regarding governance of strategic planning**? Which legal solutions could be considered in order to improve the quality of policy outcome, enable achievement of strategic objectives at national and EU level and increase ability to accommodate policy to the specific national needs and conditions?

These research questions were tackled by combining (a) a robust theoretical framework, (b) desk research, involving a thorough review of legal and policy documents, studies and analyses, and (c) a survey of experts. The study outlines risks and challenges associated with the achievement of the EU-level objectives, as well as the objectives of agricultural policies at the MS level. We end the study by critically outlining the challenges inherent in the proposed system of CAP strategic planning. The conclusions of the study focus primarily on developing recommendations to the legislators.

2. RESEARCH APPROACH AND PRESENTATION OF THE LEGISLATIVE PROPOSAL

KEY FINDINGS

The conceptual design of CAP Strategic planning is based on the theoretical concepts of policy cycle and evidence-based policy-making (EBPM). In real-world situations characterized by incomplete information and often conflicting policy goals, it is difficult for these two concepts to be fully realised; this must be taken into account to avoid exaggerated expectations. There are several reasons why decision-makers are not always able, or willing, to take evidence into account.

The point of departure in determining the objectives and interventions of CAP Strategic plans are SWOT analyses and elaborations of needs in accordance with individual specific CAP goals. This is followed by the determination of intervention logic (setting target values and benchmarks for indicators and consideration of contribution of selected mechanism). Based on these, Strategic plans outline eligible CAP, including quantified targets and financial plans.

2.1. Methodology

The study draws on the complementary use of three main sources of information: i) meta-analysis, i.e. an in-depth review of available primary and secondary resources; ii) primary data-gathering to additionally explore positions and opinions of stakeholders; iii) qualitative assessment based on the EBPM theoretical framework.

Literature review is based mainly on the analysis of written contributions and position papers of different stakeholders circulating both before and after the publication of the legislative proposals. In most cases, this type of information is available in specialised publications, such as Agra-Facts, Agra-Focus and Agra-Europe, which report on opinions of the European Commission, MEPs, MS (especially within the Council of the EU) and European farming and environmental interest groups. To our knowledge, independent sources (e.g. experts, think tanks) have yet to deal specifically with the question of CAP strategic planning; at best, the issue is briefly addressed in general analyses of the post-2020 CAP.

In order to obtain a better understanding of viewpoints and opinions, additional inquiry was carried out as part of this research. A specific questionnaire was designed and sent to various members of the policy expert community. These include members of the Special Committee on Agriculture (SCA), Council of the EU, key interest organisations (mainly farmers' representatives and environmental organisations) at the EU level and some representatives of the research community dealing with the CAP. We invited them to answer questions based on the tasks presented in the introduction (Chapter 1):

-)] In your estimate, will the proposed system of CAP strategic planning be able to ensure meeting **EU priorities**? What are the **main risks**, especially in the area of economic, environmental and societal goals? What is your evaluation of the proposed legal framework and its ability to provide for effective **control of policy performance** at the EU level?

- J In your opinion, do Member States have sufficient, excessive or insufficient capacity to achieve the necessary **flexibility of internal policy priorities**? What do you think is the **capacity** for programming and implementation of the new CAP delivery model at the national level? Are there **differences between countries** and can these differences jeopardise the meeting of societal goals at the EU and national level?
- J What is your general assessment of the proposed **approach to CAP strategic planning**? What **legislative amendments** do you recommend that could reduce risk and improve the potential efficiency and effectiveness of the new CAP delivery model?

In addition to answering these questions, stakeholders have also been asked to provide any additional resources at their disposal.

The query has been replied to by:

- J 1 Member State representative (Luxembourg);
- J 2 (out of 3 asked) representatives of agricultural interest representatives (COPA-COGECA and CEJA);
- J 2 (out of 4 asked) environmental organisations (Birdlife and EEB); and
- J 8 (out of 10 asked) researchers actively engaged in CAP analysis (Allan Matthews, Ants-Hannes Viira, Roel Jongeneel and for the IEPP: Anne Maréchal, David Baldock, Kaley Kart, Faustine Bas-Defossez and Stephen Meredith).

A relatively modest response rate may be attributed to the topic of our interest, which is highly specific and politically complex, as well as to the short time provided for replies. Regardless, the survey unveiled some important additional aspects, which were integrated into this study.

As indicated, the theoretical framework of the research is based on the concept of evidence-based policy-making, EBPM (Cairney, 2016). Below we briefly present its framework. We used it primarily to evaluate the proposals taken from the meta-analysis and analysis of the survey, as well as to develop our own assessments and recommendations. It has to be noted that we have also expanded the scope of the discussion of the legislative framework for the Strategic plans within the relevant section beyond the Chapter V to the extent of briefly assessing the linkage with elements established within other chapters (i.e. 'new' policy objectives, flexibility of measures and the system of evaluation).

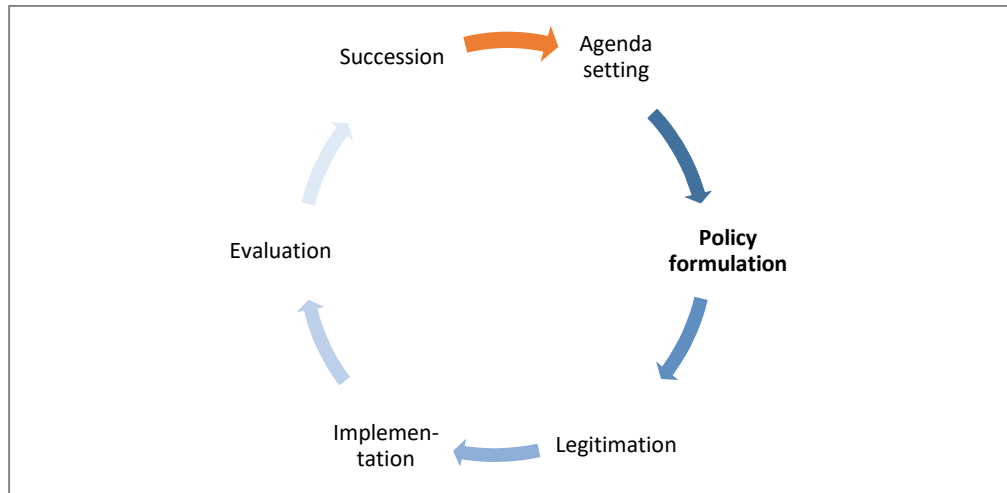
2.2. Theoretical frame: the concept of *Evidence-based policy-making*

The conceptual design of CAP Strategic planning is based on the theoretical concepts of policy cycle and evidence-based policy-making (EBPM) (Cairney, 2016). In real-world situations characterized by incomplete information and often conflicting policy goals, these two concepts are difficult to put into practice; this fact must be taken into account to avoid a large expectations-reality gap.

In short, the concept of policy cycle refers to stages in the policy process, i.e. agenda setting, policy formulation, legitimisation, implementation, evaluation and succession. Agenda setting serves to identify, categorize and rank problems by type and importance. This is followed by policy formulation, which includes setting objectives, choosing from a list of instruments, and identifying costs and effects. Legitimation is necessary to ensure that there is sufficient support by decision makers, the executive and stakeholders. Implementation means setting responsibilities, ensuring necessary resources and making sure things are carried out as planned. The purpose of evaluation is to assess the extent of

success, whether decisions were wrong and whether policy was implemented correctly (i.e. policy performance measured in terms of impact, results and outputs), based on which a decision is made to either continue, modify or discontinue the policy (Cairney, 2012).

Figure 1: The generic policy cycle



Source: Cairney, 2012, p. 34

Cairney (2012, p. 35) lists the following conditions to be met for the proper application of the policy cycle:

-)] The policy's objectives are clear, consistent and well-communicated and understood;
-)] The policy will work as intended when implemented;
-)] The required resources are committed to the programme.
-)] Policy is implemented by skilful and compliant officials;
-)] Dependency relationships are minimal;
-)] Support from influential groups is maintained; and
-)] Conditions beyond the control of policymakers do not significantly undermine the process.

The policy cycle is based on the broader concept of EBPM, according to which policymaking should be based on objective scientific evidence. While this sort of logic is hard to resist by scientists and public administrations alike, it is in fact ambiguous, as it tries to apply the abstract way of thinking to complex political realities, which involve not only rational but also emotional logic. Thus, policy cycle as an analytical tool tends to oversimplify the complex reality of policymaking, which often takes place in conditions of uncertainty and decentralised systems with division of responsibilities (Cairney, 2016). Such systems are also typical of the CAP.

According to Cairney (2016, 2015), there are several reasons why decision-makers are unwilling or unable to take evidence into account. The decision-making environment is in fact one of multiple issues, routine is present in its subsystems and there are specific internal rules of the game. These

problems add to the general issue of uncertainty, resulting in the process of debate being ignored, reliance on coalitions, lobbying, manipulation and specific framing.

When faced with the complex environment, decision-makers often decrease the cognitive load by employing heuristics. Two such approaches can be pointed out. The first one is to rationally pursue clear goals while prioritizing certain kinds and sources of information. There is substantial evidence on using the rational approach to address the uncertainty problem, which arises due to incomplete information, including in CAP policy-making. The problem can be tackled by involving more expert knowledge and by improving the quality of information, which the EU institutions have tried to do during the past years and decades. In contrast to the 'rational' approach, the second shortcut draws on emotions, deeply held beliefs and decision-making under time pressure and has been less researched, though several authors working on CAP do provide some anecdotal evidence with this regard. While science cannot reduce the ambiguity of the political process, it can engage in the persuasion via joining the coalitions or translating evidence into framing.

In order to get the EBPM closer to real-life conditions, Cairney (2016) proposes to:

-)] recognize that there are different views on EBPM;
-)] accept rational and irrational shortcuts as practice;
-)] accept the reality of complex decision-making, which is not top down;
-)] take into account other good governance principles based on pragmatic thinking such as search for consensus, combining scientific advice with values, sharing responsibility, allowing ownership of ideas by stakeholders; and
-)] set the limits, such as should EBMP refer to the use of evidence in the process or to policy as such?

2.3. Strategic plans – summary of legal framework

To receive EU support under the EAGF and the EAFRD, MS will have to establish Strategic plans. Each MS will set a single plan for its entire territory (with possible regional elements), covering the period from 1 January 2021 to 31 December 2027.

The CAP Strategic plans will presumably draw on analyses of strengths, weaknesses, opportunities and threats (SWOT) and elaborations of needs in accordance with individual specific CAP goals (Table 1). In this regard, forming the environmental and climate objectives will have to take into account the relevant sectoral legislation, and special attention will be given to risk management. All needs addressed by the CAP Strategic plan will have to be described in detail, prioritized and their choice justified on the basis of the latest available and most reliable data. Funds from the current EAFRD technical assistance can be used for these purposes (European Commission, 2018).

In the next step, the intervention logic will have to be determined for each specific goal. This means setting target values and benchmarks for all common and specific indicators listed in the Annex to the Regulation and choosing and justifying the choice of instruments from the offered set based on a sound intervention logic. The contribution of existing mechanisms will have to be considered (impact assessment of interventions so far) and comprehensiveness and conformity with goals in environmental and climate legislation will have to be demonstrated.

A review of the environmental and climate architecture of the strategic plan will have to be enclosed, as well as a review of interventions pertaining to the specific goal of generational renewal and facilitation of business development. Where relevant, MS are encouraged to involve measures within

national jurisdiction notwithstanding the obligations concerning the common market principle. To improve integration of measures and transparency, the Commission expects from MS to describe the interplay between CAP-supported measures with national and regional interventions, including the description of accompanying activities to achieve the above mentioned specific goals.

Table 1: The proposed general and specific goals of the CAP in the period 2021-2027

Fostering a smart and resilient agricultural sector ensuring food security	Bolstering environmental care and climate action and contributing to the environmental- and climate-related objectives of the EU	Strengthening the socio-economic fabric of rural areas
(1) Support viable farm income and resilience across the EU territory to enhance food security	(4) Contribute to climate change mitigation and adaptation, as well as sustainable energy	(7) Attract young farmers and facilitate business development in rural areas
(2) Enhance market orientation and increase competitiveness including greater focus on research, technology and digitalisation	(5) Foster sustainable development and efficient management of natural resources such as water, soil and air	(8) Promote employment, growth, social inclusion and local development in rural areas, including bio-economy and sustainable forestry
(3) Improve farmers' position in the value chain	(6) Contribute to the protection of biodiversity, enhance ecosystem services and preserve habitats and landscapes	(9) Improve the response of EU agriculture to societal demands on food and health, including safe, nutritious and sustainable food, as well as animal welfare
Fostering knowledge, innovation and digitalisation in agriculture and rural areas		

Source: European Commission, 2018

MS will independently define common elements of interventions in the Strategic plans within the given framework, including the definitions of agricultural activity, agricultural area, eligible area, genuine farmer, small farm and young farmer. To some extent, MS will also independently delineate between coupled and decoupled support (through their own definition of minimum requirements) and define requirements of the new system of conditionality. As regards production-coupled support and/or the intensity of support, MS will have to take into account existing international commitments, e.g. within the WTO. In order to avoid double funding, an appropriate delineation with other funds (e.g. the ESF) operating in rural areas will also have to be taken into account.

According to Article 92, there should be no backsliding with regard to environmental and climate-related objectives in the current period (European Commission, 2018):

"Member States shall aim to make, through their CAP Strategic Plans and in particular through the elements of the intervention /.../ a greater overall contribution to the achievement of the specific environmental- and climate-related objectives /.../ in comparison to the overall contribution made to the achievement of the objective /.../ in the period 2014 to 2020."

Finally, procedures on drawing up plans should be transparent, effectively involving competent authorities for the environment and climate, relevant regional and local authorities, economic and social partners and bodies representing civil society and relevant bodies responsible for promoting social inclusion, fundamental rights, gender equality and non-discrimination.

The Content of CAP Strategic plans

The mandatory elements of the CAP Strategic plans are listed in Article 95 and further detailed in Articles 96-103 of the proposed legal text. They will contain overview tables with goals, measures and funding, a chapter on governance and coordination, a section on the AKIS and digitalisation strategy, and enclosed will be the entire SWOT analysis, ex-ante evaluation and description of the process and results of public consultation with stakeholders.

Table 2: Elements of the Strategic Plans

(a) Assessment of needs	<p>Summary of the SWOT</p> <p>Identification of needs for each specific objective (specifically for risk management and vulnerable geographical areas)</p> <p>National environmental and climate plans</p> <p>Sound justification of choices</p>
(b) Intervention strategy	<p>Targets and milestones based on a common set of result indicators for each specific objective</p> <p>Overview of planned interventions contributing to results, incl. financial allocations and explanations of how the intervention contributes to targets based on a sound intervention logic, coherence and compatibility</p> <p>Consistency and complementarity in climate and environment (no backsliding), generational renewal, sectorial overview, risk management, interplay between national and regional interventions</p>
(c) Common elements	<p>Definitions such as Agricultural Area, Agricultural Activity, Genuine and Young farmer</p> <p>Minimum requirements for decoupled aids</p> <p>Conditionality: description of GAECs and their contribution to objectives</p> <p>Technical Assistance and CAP network</p> <p>Other implementation information: entitlements, product of reductions, coordination and demarcation between the EAFRD and other Union funds</p>
(d) Interventions	<p>The description shall include elements such as:</p> <p>Territorial scope</p> <p>Requirements</p> <p>Eligibility conditions</p> <p>WTO green box compliance (where relevant)</p> <p>Planned outputs, financial allocations (annual breakdown)</p> <p>Variation of unit amount (area and animal payments) and method</p> <p>State Aid considerations (where relevant)</p>
(e) Target and financial plans	Overview tables
(f) Governance and coordination systems	Governance bodies

	Control system and penalties including IACS, conditionality, bodies responsible for checks, monitoring and reporting structure
(g) Modernisation	Description of the organisational set-up of the AKIS and provision of advice and innovation support services Strategy for the development and use of digital technologies
(h) Simplification	A description of the elements related to simplification and reduced administrative burden for final beneficiaries.

Source: European Commission, 2018

Approval and amendments of CAP Strategic plans

Strategic plans, which should be submitted no later than 1 January 2020, will be assessed by the Commission based on the following criteria (Article 106): *“the completeness of the plans, the consistency and coherence with the general principles of Union law, /.../ their effective contribution to the specific objectives /.../, the impact on the proper functioning of the internal market and distortion of competition, the level of administrative burden on beneficiaries and administration.”*

The process of approval will not cover the annexes; consequently, the Strategic plans not containing all the elements may also be approved if justified. If requested, MS should provide additional information and revise the plans, with the total procedure not taking longer than eight months. The time limits for the Commission do not include the time needed by MS to provide all the necessary information to comply with the requirements. Strategic plans may be amended up to once a year, with the procedure lasting for no more than three months (Article 107).

A common set of impact, result & output indicators agreed at the EU level for the annual performance clearance is included in the accompanying Annex *“to ensure a level playing field in assessing the effectiveness of the measures used”*.

Monitoring of the implementation of CAP Strategic plans

Concurrent review of the implementation of the CAP's strategic plans will be carried out using annual reports in which MS will describe their progress through a system of output (referring to the implementation and use of finance) and outcome (referring to immediate result produced via application of a measure) indicators to be agreed at the Union level. In case of a more than 25-per cent deviation from the respective milestone for the reporting year in question, the Commission may request the MS to draw up an action plan with corrective measures and the expected timeframe for their implementation. In extreme cases, when a MS formulates no or an inadequate action plan, it may even be possible to withhold payments.

A system of rewarding performance in the field of environment and climate change will also be introduced. With an appropriate level of performance in these areas, countries will receive a "bonus" of 5% of their allocated rural development funds for 2027. Not meeting objectives will therefore not yet be the cause for a financial penalty, but failing to secure an additional 5% will surely cause some public pressure and a worse negotiating position in the next EU budgetary perspective. However, Matthews (2018a) points out that the system of rewarding, in the presence of too little internal and external pressure, may work negatively, in particular in terms of encouraging too unambitious targets in strategic plans.

Comparing the expected dynamics and quality of monitoring with existing Rural development programmes, we may notice that the proposed approach is more strategic and more result-oriented, demanding quick action and corrective measures in case of non-compliance. Currently, a similar dynamic of reporting is only used for outputs and spending in rural development planning, which is actually more of a technical activity than a substantive, political task. To be implemented effectively, such an approach demands competent human resources (e.g. strategic workgroups), effective coordination and organisation of the process, a well-established culture of democratic dialogue and learning that involves a broad spectrum of stakeholders, as well as sufficient external analytical and expert support.

3. ACHIEVEMENT OF EU-WIDE OBJECTIVES

KEY FINDINGS

The proposed system follows the fundamental logic of evidence-based policy-making, but we can identify some disadvantages and risks that can reduce the effectiveness of the new delivery model of the CAP. One of the risks is associated with the accountability gap of the new delivery model and the systemic weakness of intervention logic. There are also limited incentives or little compelling necessities for Member states to make efforts for better policies.

In the legislative proposals for CAP strategic planning, structures and mechanisms need to be improved. Objectives require quantification at the EU level and if associated legislation and objectives exist in other EU policies, these should be incorporated into the quantitative definition of objectives legal proposals. The role of the Commission in the approval process of the national Strategic plans may be strengthened in order to ensure the quality of the process.

3.1. Literature review and stakeholders' views

The proposed CAP approach has resulted in a variety of stakeholder responses to achieving EU-wide objectives. Critical opinions are expressed, in particular by representatives of environmental groups and individual representatives of the research community, while representatives of Member States and of farmers' organizations are more focused on the operative perspectives, risks and limits of the preparation and implementation of Strategic plans at the national level.

In their responses to the survey, COPA and COGECA, umbrella organisations representing the interests of the farming community, are *"overall positive about the proposed legal framework, nonetheless one must ensure that indicators included in this framework are reliable, workable and not influenced by factors outside farmers' control"* (COPA-COGECA, 2018). They also reiterated that *"COPA and COGECA are confident that the proposed system could ensure that the future CAP meets its objectives. However, their fulfilment will also greatly depend on the way Member states will design their national strategic plans, especially when considering the CAP specific objective (a) support viable farm income and resilience"*. In public statements, their representatives specifically point out that Strategic plans of Member States should secure a balanced approach among the three key pillars of sustainability. They also expressed concerns over the *"differences in implementations between Member states (which) could lead to distortions of competition and/or fragmentation of the single market"*.

The latter concern was also expressed by the FoodDrinkEurope, umbrella body representing the manufacturing sector, which reportedly stated that *"only a truly common agricultural policy can guarantee a strong and well-functioning single market"* and emphasised the need for a strong role of the Commission during the approval process of the national Strategic plans (Agra Focus, 2018b).

Similarly to COPA-COGECA, the position of CEJA (2018) (European Council of Young Farmers) emphasises the economic interests of the farming community: *"Linking the CAP to performance through the new delivery model is an ambitious bet from the European Commission which we hope will be truly beneficial to farmers. However, the control framework still needs to be specified /.../."*

Conversely, representatives of the environmental NGOs Birdlife International, European Environmental Bureau, Worldwide Fund and Greenpeace were highly critical towards the CAP Strategic Plans

proposal. Agra Focus (Agra Focus, 2018b) summarised their first reactions that they perceived the proposed planning system as increased subsidiarity without putting in place necessary accountability mechanisms, which may result in a *“race to the bottom”*. They assessed the EC proposal to bring renationalization of CAP and proposed policy being *“an empty shell /.../ compared with the more results-based approach”*.

In their latest joint publication in the form of a leaflet ‘Last chance CAP’ (EEB et al., 2018), all four environmental NGOs call for a stronger enforcement of legislation, financial support for the environment and the countryside, and for the end of *“perverse subsidies”*. It also specifically highlights the need for *“improving the governance of the CAP and the performance framework”*. The environmental groups warn that, according to the Commission’s proposal, the MS reporting obligations are modest, as it is sufficient to report only the percentage of farmers/beneficiaries or hectares that are subject to climate and environment-related measures. Their concern is that the percentage of enrolment has no direct link with actual environmental or climate performance. For this reason, they express doubts about the new strategic planning of CAP and corresponding practice being result-based: *“The way the delivery model is structured merely incentivises weakly designed environmental commitments in order to maximize enrolment and be recognised by the EC as a ‘good performer’.”* (EEB et al., 2018).

Environmental NGOs also emphasize the importance of stronger involvement of environmental authorities, the scientific community and environmental NGOs in the programming and implementation of the future CAP. In their opinion, to achieve environmental EU-wide objectives the MS must use *“robust scientific methodology”* in drawing up their plans. Special attention is given to the greater role of the European Commission, which should allocate enough time and resources for national plans assessment (Agra Focus, 2018c). On the other hand, during the implementation phase *“a strong governance and accountability framework and sufficient penalties and incentives systems for MS”* should be ensured (EEB et al., 2018).

The influential think-tank Farm Europe is also critical of the Commission's proposals for governance of the CAP (Agra Focus, 2018d; Farm Europe, 2018). Similar as environmental NGOs, they propose that a stronger effort should be made to quantify targets and call for key parameters on environmental baselines to be set in the legal texts at the EU level. They point out that the proposed solutions will lead to situations where farms with similar characteristics at different locations will face different environmental requirements, depending on the choices that MS will make in their Strategic plans. They also warn that MS will be tempted to reduce environmental requirements and ambitions in order to secure the additional 5% of the envelope for environmental performance, as well as to provide a cost advantage for their farms. In their opinion, the Commission will hardly control and limit these expected “distortions”.

So far, the research community has not added much to the public debate on the new CAP governance model. This makes the opinions received from the respondents to our survey who have a research background all the more interesting. Without exception, they see the new delivery model as a step in the right direction, as it potentially brings more strategic logic and an evidence-based approach to the policy process. In their joint opinion, IEEP researchers (Maréchal et al., 2018) regard CAP strategic planning as *“potentially a bold move to ensure that all streams of agricultural support are fully utilised to achieve environmental, economic and social sustainability in a coherent and locally tailored way”*. At the same time, researchers also point out that there is a number of risks linked with the way this approach is currently set out for meeting the EU-wide objectives. The risks relate to questions such as how the proposal leads to a clear and quantified definition of objectives, what are the legal frameworks of monitoring and, in particular, how the accountability frame is defined.

As IEEP researchers (Maréchal et al., 2018) develop further, in order for the CAP measures to contribute to the achievement of the objectives (effectiveness), "specific objectives" should be sufficiently concrete and measurable so that *"quantified, measurable milestones and targets can then be established in Member States' CAP plans and subsequently monitored"*. In their opinion, the legal proposal does not meet these expectations as none of the proposed CAP specific objectives are framed in a results-oriented manner. They illustrate this problem on the case of environmental protection, where three objectives relevant to the environment and their relating indicators are not directly linked to existing environmental legislation, while such an alignment could have ensured better integration (Hart et al., 2018). There is also limited incentive or little compelling MS to make efforts to identify and address potential synergies or undesirable trade-offs between different economic, environmental and societal goals.

IEEP researchers reiterate that this raises concerns about the nature of the targets that MSs are likely to set, as well as in what kind of position they will be to assess their progress and identify any gaps in issues requiring action, particularly in those countries that lag behind in a particular area. Clarity in what these priorities are is an important first step, alongside capacity building, to help engender a culture of continuous development in meeting EU priorities. Similarly, it will be difficult for the Commission to assess Member States' performance properly and hold them accountable in case objectives are not achieved, if these are not articulated more clearly.

In his responses to the survey, Alan Matthews (2018b) shares similar views. To him, the problem mainly lies in how to align national priorities with EU targets and priorities. National priorities namely emerge from a SWOT analysis and may not necessarily reflect EU-level priorities. He illustrates the point on the case of the National Energy and Climate plans, where a specific quantitative target for emission reductions is set at the EU level. If the national CAP Strategic plans individually do not add up to the required EU target, he sees there is *"a clear basis for the Commission to engage in an iterative process with MS to raise the national targets"*. His views again expose the problem that no specific quantitative targets are outlined for the nine CAP specific objectives and that no formal procedures are defined that would enable the Commission to define these targets in dialogue with Member states.

Another set of associated risks refers to the fact that the new delivery model leaves a lot of flexibility and discretion to MS. While a certain level of flexibility is necessary to move towards a results-based approach rather than an approach based on strict compliance with pre-set rules, a certain level of responsibility is equally important. IEEP representatives (Maréchal et al., 2018) warn that the current development of the CAP has shown that flexibility is often used by MS to opt for the least ambitious approach (cf. Alliance Environnement and Thünen Institute, 2017). The problem is particularly relevant for environmental and climate targets. Furthermore, the current proposals are not clear on the method of quantifying the baseline situation. They lack a strong accountability mechanism and give no reference for how MS will be held accountable for not reaching objectives. To them, an open question remains how the Commission will determine the non-fulfilment of the objectives (regression clause), in particular with respect to ill-defined baselines: *"without clarity on what this clause means, any evaluation of whether 'no regression' is achieved risks being left to the discretion of desk officers and could be applied in an inconsistent manner"*.

Matthews (2018b) believes that this flexibility and discretion to MS links to the more general question of how to incentivise MS to be ambitious in setting national targets for the nine specific goals. Experienced observers of the CAP have little doubt that an important motivation for many agricultural

ministries is to get the money to the farmers with minimum administrative effort and minimum requirements to be observed.

Here the Commission is putting a lot of weight on the potential of a participative process with a wide range of stakeholders to push MS to a high level of ambition. In particular, environmental organisations feel that there is a likelihood of a high level of heterogeneity in the "quality" of the participatory process among various MSs, which, according to Alan Matthews, will reflect the maturity of civil society and different political cultures. He proposes that a similar approach be taken for the CAP Strategic Plans as was done with the Cohesion Funds Partnership Agreements, where the Commission issued a delegated regulation on a code of conduct for how the partnership process must be implemented. Something similar might be necessary here.

In his response to the survey, Matthews (2018b) also considers other ways to encourage the ambition of Member states to achieve EU-wide objectives. Given the current regulation proposal, the "stick and carrot" approach is ruled out by the pre-allocated nature of CAP funding. As an alternative, he proposes a portion of the Pillar 1 allocation be top-sliced before it is pre-allocated, and put into a separate fund where the funds would be allocated on a quasi-competitive basis. He further draws attention to the fact that the Commission will be approving Strategic Plans concerning a much higher amount of funding than the existing rural development policy.

As a likely implication, the Commission may try to use this leverage to alter Member states' preferences and priorities as part of this process, which would seem to make this a highly political process. At any rate, we can expect a very demanding process of adopting CAP Strategic plans, both in political and in organizational terms. Undoubtedly, there seems to be a need for a major upgrading of skills in national (and regional) Ministries, but also at Commission level to handle the preparation of these plans and their approval (Mottershead et al., 2018).

3.2. Assessment and open issues

Based on a review of literature, views expressed by survey respondents and our own reflection, we attempt to give an assessment of the extent to which the proposed governance system of CAP strategic planning can lead us to the desired level of achievement of EU wide objectives, and which challenges are associated with this process. As a starting point, our estimate is that the proposed system follows the fundamental logic of EBPM, but we can identify some of the disadvantages and risks that can reduce the effectiveness of the new delivery model of the CAP.

The primary and fundamental issue is the **accountability gap** in the new delivery model. A complex two-tier approach (EU: Member States) is proposed, which requires a very precise distribution of tasks in individual phases of the policy cycle. Although the vast majority of critique in this respect has been related to the environmental dimension, we can upscale the issue to all 9 CAP specific objectives. Objectives should be quantified at the EU level and if associated legislation and objectives exist in other EU policies, then these should also be incorporated into the quantitative definition of objectives in the CAP legal proposals.

Environment and climate change, as well as other goals such as generation renewal, are explicitly mentioned several times in the legislative proposal. Will the envisaged "soft approach" in defining the needs and objectives required by the specific strategy for these areas be sufficient? Would it not be better to strengthen quantitative commitments on the basis of an appropriate methodology? Is the 'no-backsliding' commitment strong enough? It speaks about the efforts of MS to achieve goals on the basis of an ex-ante analysis, and thus depends on the evaluation of the current state and goals but fails to instruct on how to define the situation and goals.

The question naturally follows how the implementation of quantified objectives will be transmitted to the level of Member States? This will require special attention and probably also legal solutions, in particular with respect to the transparency of procedures and the comparability of approaches. We expect significant problems with data sources in individual cases, as well as lacking expertise in defining links between needs, goals and measures.

The second question is the systemic weakness of **intervention logic**. We outline two dimensions of this issue. The first one applies to the process of defining needs at the EU and MS level. The specific objectives of the EC proposal are set rather loosely, with no indicators or targets explicitly determined in values. This leaves the process to the capacities and ingenuity of the MS, without guarantees that the performance at the EU level will be measurable. In light of previous experience, in absence of rigorously defined objectives, MS will likely focus their efforts on the selection of measures and modalities of implementation, while the definition of needs and objectives, which is the essence of EBPM, will not be taken into account in a satisfactory manner.

Furthermore, it is worth emphasizing that the current proposal anticipates the definition of needs based on SWOT analyses. Relying solely on this 'soft' approach may lead to ill-defined and poorly substantiated needs, and potentially increases the chance of non-rational decisions. A more precise, scientifically sound and quantitatively substantiated definition of needs is not foreseen in the CAP Strategic plans, which poses a serious risk for the given governance system.

The other weakness of the proposal for CAP strategic planning stems from the choice of measures; in the proposed system, decision-makers will have to choose from a given set of measures. Especially in the area of direct payments (with the exception of the eco-scheme), the choice is rather limited and MS are likely to seek justification for the continuation of current measures.

Due to the loose approach envisaged in defining the needs and objectives in the Strategic plans, which is likely to be accompanied by a rigid structure of selected interventions, the entire system of strategic planning is moving away from the concept of evidence-based policy-making. Justification of the intervention logic, which is based on a (mainly qualitative) assessment of needs and path-dependent approach in defining objectives and measures, renders CAP strategic planning rather unconvincing and poses a serious risk to the fulfilment of EU-wide objectives.

The third set of issues relates to the risks associated with the **approval of Strategic plans**. The procedure related to the approval of the Strategic plan is practically the only mechanism in the Commission's power for ensuring targeted and ambitious strategic planning. At the same time, the whole process will take place under a time constraint, and it will also be faced with limited data coverage and lack of experience. Taking into account also considerable political pressures that can be expected in the process, this represents a series of risks that may reduce the potential of CAP strategic planning for achieving its intended goals.

Adding to all this, background documents and analyses envisaged in the annexes of national Strategic plans will not be subject to evaluation. Current legal proposals allow the plans to be approved without all the required elements. The evaluation criteria are defined in a rather general manner and leave considerable space for manoeuvring. These issues increase the risk that policy will focus primarily on smooth implementation, corresponding expenditure and outputs.

It is therefore necessary to clarify and strengthen the Commission's role in the adoption procedures. The Strategic plans themselves should formally obtain the opinion of the environmental authorities. In terms of accountability, it would be worthwhile to consider the establishment of independent expert

bodies that would evaluate programmes in terms of quality and achievement of the objective at the EU level.

It is also necessary to obtain the views of national organizations in the fields of environment, agriculture and rural development. Moreover, strategic plans, evaluations and results should be made available to EU stakeholders and the public, preferably in a single place that is regularly updated, to facilitate comparative engagement, peer pressure and mutual learning, hopefully turning the trend towards a sort of a 'race to the top'.

The fourth set of risks is related to the guiding principle of **flexibility of national Strategic plans**. The considerable flexibility of MS in setting agricultural policy objectives and measures is not a problem in itself. In fact, if tailored to specific national needs and conditions, subsidiarity can increase the efficiency of interventions, while contributing to the objectives of EU agricultural policy. However, such an outcome should by no means be taken as granted. Given the current political and economic climate in several MS, flexibility may also be associated with risks of a departure from the pursuit of common goals at the EU level. Several respondents to our survey are concerned with the renationalisation of agricultural policy and the departure from what has already been achieved. Namely, the Strategic plans may address only a part of the pinpointed needs based on insufficient data sources, resulting in a limited set of measures with corresponding objectives.

For this reason, it is realistic to expect that at least some Strategic plans will be driven primarily towards outputs, with interventions focused primarily on successful absorption and distribution of funds. From the viewpoint of intervention logic and the theory of EBPM, this is not sufficient. Moreover, if trapped in such a situation, the entire CAP strategic planning process would deteriorate into an administrative task, with no instruments and policy approaches to provide adequate ambition. For this reason, it is necessary to strengthen the roles of the partnership approach, expert support and a formal assessment of plans.

The fifth issue pertains to **analytical support and a partnership approach** in the formulation of Strategic plans. As regards the participation of the relevant stakeholders, the main commitments are laid down, but there are no specific requirements (i.e. the annex with the description of the consultation will not be subject to evaluation). The adoption procedure should be formalized in the form proposed above (code of conduct), where the stakeholders' opinions at national level are seriously taken into account. This can improve the quality of the design, as well as the legitimacy of the document. Another room for the improvement of strategic planning is by strengthening the process by improving the analytical background at both EU and national levels. The legislative framework could highlight this issue more openly. Strategic planning is an intellectually demanding task, which, in addition to democratic decision-making, requires top-level knowledge and the ability of key decision-makers to search for compromise decisions.

We can conclude that in the legislative proposals for CAP strategic planning, **structures and mechanisms need to be improved**. This is needed for a thorough preparation and evaluation of national Strategic plans, to strengthen transparency and information, to involve stakeholders at national level, to upgrade the competence of implementing institutions, to exchange practices and approaches, and to ensure independent revision of plans and achievement of targets.

4. ASSESSMENT OF STRATEGIC PLANNING FROM NATIONAL PERSPECTIVES

KEY FINDINGS

Strategic planning will lead to more effective policies as they will be designed closer to the information available on what the real constraints and problems are. It increases the potential to result in more differentiated responses reflecting the heterogeneity of farming practices and rural areas across Europe. There will be also greater acceptance of the legitimacy of these policies.

Specific risks arise from the programming capabilities of the MS, and also the European Commission. Given that the predominant part of CAP has historically been based on a 'measure by measure' approach, Member states have little experience in the programming of various CAP instruments in an integrated way. The risks stem from the rigidity of the planning and implementing bodies, accustomed to the current ways of work, the power of the administration and all those involved in the decision-making process.

Without serious investment in personnel, processes, analytical support and inclusive preparation of Strategic plans, considerable differences may develop in the quality of policy planning and implementation between individual countries. This could conceivably cause falling standards and negative trends in individual Member states, which would, in turn, result in further weakening of the common policy.

4.1. Literature review and stakeholders' views

In the view of EU Agriculture and Rural Development Commissioner Phil Hogan, the new CAP delivery model is *"not a mere shift of responsibilities from the Commission to Member States"*. Member states *"would have the possibility to tailor the tools and measures available to reflect the reality of your own conditions and the particular challenges which you face /.../ This is achieved through less prescription, fewer detailed provisions at EU level, less complexity and few exceptions and more clarity"*, he outlined (Agra Focus, 2018e, p. 3).

The optimistic stance of the Commission about the roles and possibilities of MS in CAP strategic planning at the national level has not only been faced with the scepticism of environmental organizations regarding the possibility of achieving the EU-wide objectives, as discussed in the previous chapter, but MS themselves have also raised concerns. MS mainly highlight the question of whether the new delivery mechanism will lead to real simplification for beneficiaries and national administrations and are expressing concerns over renationalisation of agricultural policy.

These concerns are reflected in the statement of French Minister Stéphane Travert (Agra Focus, 2018f, p. 3) who *"favoured the simplified approach"*, but said the new CAP 'Strategic Plans' were *"complex and in complete contradiction with the desire for broader simplification"*, a point echoed by Ireland, Germany, Austria, Belgium, Denmark, Estonia, Czech republic, Slovenia, Poland, Portugal and Romania at the June Council meeting. Many considered Strategic Plans too complex and warned of delays in approving and paying out direct aids and called for a transitional period (Agra Focus, 2018f). Countries such as Spain, Portugal, Slovenia, Slovakia, Lithuania, Latvia, Estonia, France, Italy, Finland, Hungary, Poland,

Malta and Cyprus had similar budget-related fears for the period post-2020 and urged against any possible delays in approving 'Strategic Plans' and paying out direct aid to farmers (Agra Focus, 2018g).

The views of MS on the overall ambition of Strategic plans differed significantly. A minority of representatives from more reform-oriented countries like the Netherlands, Sweden and Denmark wanted more clarification on how the new greening architecture would enhance the policy's environmental ambition (Agra Focus, 2018f). The Dutch delegation supported *"the general direction and the new division of labour between the EU and Member States"*, but would like to see *"more ambition and less tradition"*. Similarly, Sweden's representative at the June Council meeting fully supported *"the higher level of ambition on climate and greater focus on targeted environmental measures under the 2nd Pillar"* (Agra Focus, 2018f). The Swedish representative also said the new delivery model must not lead to distortion of competition but achieve *"results and common objectives"*. The representatives of the reform-oriented Member States would like to see even greater subsidiarity, as the current plans including compulsory measures are *"too prescriptive"*. Although this is acknowledged and confirmed by the respondents to our survey, most countries would like more guidance from the Commission, but also a more simple approach.

Generally speaking, MS are not reluctant about the prospect of greater flexibility itself. What concerns them, as the representative of Luxembourg in our survey (Schmit, 2018) puts clearly, is how to find the right balance and the appropriate level of ambition for the economic, environmental and social goals. In practical terms, it will not be possible to avoid conflicts between food production and environmental protection targets, which politicians want to avoid. MS' representatives also point out that strategic planning is a significant innovation, and, according to their views, quite demanding in terms of programming, reporting and monitoring. The said Luxembourg representative further states that *"a lot of figures will have to be produced, brought together, processed and analyzed. Different sets of indicators will have to be put in place concerning output, result and performance of the measures that will be implemented in the MS. In theory these tools should provide for an effective control of policy performance although they are very burdensome. There are also factors outside the scope of CAP that can and will have an influence on whether the targets and objectives are achieved"*.

In the view of Member States, striking the right balance between flexibility, subsidiarity, a level playing field at the EU level and policy control is a very complex task. The new delivery model, states Schmit (2018), *"offers in theory a lot of flexibility but the adoption process of the strategic plan, the monitoring and the types of interventions that the Member states have to implement on a compulsory basis restrict this subsidiarity"*. In-depth review of available resources and survey findings confirm that developing planning and implementation capacities will be a major challenge for all MS, especially for small ones and those acceding EU after 2004. The representative of Luxembourg said, *"the human resources and information infrastructure costs will be very high and the time frame envisaged for the implementation is not realistic"*.

Similarly, Members of the European Parliament in the debates held so far have supported greater flexibility but rejected renationalization to prevent distortions to competition on the common market (Agra Focus, 2018h). MEPs in the AGRI Committee share the views of the majority of MS and express concerns over whether simplification will actually happen. Several members of the AGRI Committee believe that the proposal is not realistic, and could in fact worsen bureaucracy and red tape. Some were critical towards a stronger environmental orientation, whereas on the other hand, members of the EP Committee for the Environment (ENVI) pushed for strengthening the environmental and climate dimension in the national Strategic Plans (Agra Focus, 2018i).

To this point, we have primarily been concerned with the views of Member States. Concerns about "excessive flexibility", as reported in the previous chapter, were also raised by other stakeholders in the policy process, starting with the opinions of farmers' organizations.

COPA-COGECA is of a similar opinion as the majority of MS and has called for real simplification and preserving a common policy (Agra Focus, 2018j). It has expressed concerns over performance measures and indicators on the environment and opposition to bureaucracy monitoring performance. More information on their views was obtained through a questionnaire. In their responses, they estimate that developing joint programming of first- and second-pillar measures could lead to an excessive volume of information and rules, which would be neither simple nor beneficial for farmers. They also expect that differences among countries could occur, a view shared by the majority of researchers. COPA and COGECA (2018) doubt that the procedure for approval of the CAP strategic plan by the Commission will effectively ensure compliance with EU objectives. On the other hand, they find it important that the CAP strategic plans adequately reflect the diversity of MS in terms of structural conditions (both domestic and external) and market situations and can be adjusted accordingly.

The ability of MS to adapt to the new delivery model and perform within this framework is also at the core of young farmers' concerns (CEJA, 2018). CEJA has expressed concerns that delays of payments to farmers are likely to occur due to problems in strategic planning.

Additional insights were provided by the researchers participating in the survey. Building on the EBPM concept, which is rational and scientifically sound, the new CAP delivery model is well-accepted. The greater subsidiarity for MS can be justified on a number of grounds. Mathews (2018b) has expressed this in a very convincing way:

- J *"That it will lead to more effective policies because they will be designed closer to where the information is available on what the real constraints and problems are, and will also result in more differentiated responses reflecting the heterogeneity of farm issues, structures etc. across Europe; and*
- J *That as a result of better-designed policies there will be greater acceptance of the legitimacy of these policies which I think is part of the debate about simplification. Farmers and others complain about red tape and bureaucracy when what they really mean is that the rules do not make sense from their point of view;*
- J *That it is a response to the Brexit vote which showed a desire for people to take more decisions at more national and local levels; and*
- J *That it forces MS to make explicit choices about priorities and which farmers to support, thus avoiding the shifting of blame for these choices to the EU which had helped to undermine the legitimacy of the EU in many countries."*

While the general direction of change should be welcomed, clearly there are potential weaknesses and risks that need to be addressed. Some were mentioned in the previous chapter, where we presented the potential EU-level effects of flexibility given to MS. In the continuation, we elaborate the risks from the MS perspective.

Drafting the Strategic Plans, which cover both Pillar 1 and Pillar 2, will be a new task for all Member States that could result in a more effective and integrated way of utilising CAP funds. Nonetheless, there are significant risks associated with the expected differences and ways countries address the

process of conceiving a strategy. This derives from varying capacity of actors in different Member States (Jongeneel, 2018; Viira, 2018). Thus, it is difficult to imagine that all CAP Strategic plans will contribute to both (a) the EU specific objectives and (b) addressing national needs in a better way. It is unrealistic to expect that there will be no major qualitative difference between individual MS in this regard.

There are fears about insufficient capabilities inducing decision makers to water down the requirements (as has been the case in the previous round of reform with ‘greening’, which the Council and EP found too complicated for farmers, Jongeneel, 2018). In general, there would seem to be a need for dramatic improvement of skills in national (and regional) Ministries but also at the Commission level to handle the preparation of these plans and their approval, as for example, the IEEP’s report to the European Parliament argued (Mottershead et al., 2018).

Maréchal et al. (2018) argue that if objectives were to become more result-oriented, this would require a change in MS’ programming processes and monitoring regimes as well as in the ‘control culture’ which would need to become much more balanced (in line with the proportionality principle). Given that CAP funds have historically been based on a ‘measure by measure’ approach, MS have little experience in programming various CAP instruments in an integrated way. This means there will very likely be deficiencies in current MS’ capacity with respect to the approach of the new delivery model. This is as relevant for the European Commission as it is for MS, which will also have to invest significantly to adapt to the new culture and mission around SP approval and monitoring of performance. This will require significant capacity building and knowledge exchange both at the EU and national/regional levels, to create a culture more conducive to thinking through the optimal design and combination of measures (in both Pillars) to deliver outcomes, rather than to comply with EU rules.

A sufficient period of preparation will also be required for both the European Commission and national ministries, and this needs to start soon if the Strategic plans are to be drafted, approved and made operational by 2021. Maréchal et al. (2018) warn that, in order *“to be effective, the new approach envisaged with the SPs must be well embedded in appropriate cultures and institutions within the Member States as well as the Commission. It entails a commitment to an ambitious programme of change, a sequence of well coordinated and supervised changes, and it is unclear at the moment who will supervise this process and ensure it is carried out transparently”*.

Maréchal et al. (2018) also point out the need for a more effective cooperation between relevant authorities at different levels and across policy areas. Effective cooperation will be essential to ensure the successful drafting and implementation of the strategic plans. Cooperation between environmental and agricultural authorities is particularly important here. The authors believe that it should be strengthened at all levels (EU, national, regional). This will be particularly important under the new delivery model, as environmental authorities often possess competencies in the design and use of environmental planning tools as well as monitoring; this should not be seen as a threat but rather as *“an asset by agricultural authorities for the development of the strategic plans”*.

The requirement to elevate capacity and strengthen cooperation for efficient implementation of the new delivery model requires additional investments in facilitation, cooperation, capacity building and knowledge exchange for stakeholders involved in programming, implementation and monitoring, in particular for working with farmers and other land managers (Maréchal et al., 2018).

Given the differences in capacity and related weaknesses highlighted, the proposed greater subsidiarity threatens to undermine the potentials and sustainability of the Strategic plans. With respect to this, Maréchal et al. (2018) mention that the CAP proposals need to be accompanied by safeguards at the EU and MS level, in particular by ensuring the effective engagement of civil society organisations both in contributing to the design and in monitoring the progress of Strategic plans. IEEP

researchers illustrate this with the current experiences with Rural Development programming, where the level of stakeholder consultation and engagement vary significantly from one country to another – even if the rules are common and fall under the European code of conduct on partnership. In the future, the CAP strategic plans will no longer fall under the code of conduct on partnership set out in the Common Provisions Regulation. Therefore, it will be even more important that a strong framework on partnership and common rules be inserted into the proposals. As it stands, while there is a requirement for MS to consult adequately with ‘relevant’ stakeholders, the annex on consultation will not be part of the approval process of the plans.

This needs to be rectified, as does the level of discretion given to MS to decide what is relevant and not – as they stand, the current proposals leave too much discretion to the MS, with the associated risks as set out above.

Finally, we can agree with Matthews (2018b), who believes that EU farmers can live with some differentiation in support policies across MS, due to the fact that the EU has had such differences now for over a decade. Nevertheless, the more uneven the level of ambition across MS, both in the design and implementation and execution of their Strategic plans, the more legitimate complaints about an uneven playing field become. We should therefore endeavour to *“ensure that all Strategic plans demonstrate a high level of ambition”*; this *“is not only desirable in terms of outcomes but is also necessary in terms of process”*.

4.2. Assessment and open issues

Review of the relevant literature and views of the survey respondents has demonstrated two dimensions in reflecting on the national dimension of the EC proposal. The first group is formed by representatives of the majority of Member States and representatives of the farmers' organizations, as well as representatives of the AGRI Committee EP, who emphasize that strategic planning can lead to additional administrative burden with negative effects for beneficiaries due to delayed payments and long-standing procedures of the European Commission, resulting in income pressures on farmers and others. Although these arguments usually lack a direct reference to individual elements of strategic planning, there are clearly misgivings about its introduction. That is understandable in a way. Strategic planning is a systematic departure from the established practices of the distribution of agricultural policy assets, which are characterized primarily by 'fulfilling conditions' and the historical logic of distribution of assets that favours certain producers based on the amount of their resources and production orientation. Strategic planning thus clearly threatens a particular type of producer, since practically any change in agricultural policy that entails increasing rationality and result orientation disturbs the current distribution of resources.

Secondly, strategic planning might result in substantial administrative burden at MS level. Moreover, there is no guarantee that MS will be able to reduce these burdens for themselves and for beneficiaries in the given time. Balancing between public objectives and risks in line with the new performance-oriented approach will in fact be an administratively demanding process, especially if it is coupled with the equally demanding task of identifying and ranking national needs and linking them via intervention logic to nationally tailored measures within the 'reformed' CAP, which have yet to be agreed (!). It seems likely that the process will result in limited to no change at the implementation level at best (at least in the 2021-2027 period); in the worst case, administrative burden could actually increase, including for beneficiaries. Interestingly enough, within chapter V of the proposed regulation, the section on simplification is empty and left completely to MS, which means that the Commission is

leaving this at their discretion. However, since risks related to governance and administrating the new delivery model cannot be separated from the rest of the objectives, the issue of bureaucratic burdens and governance should be addressed explicitly and based on proper risk assessments.

On the other hand, representatives of the professional public and environmental organizations point out the risks arising from loosely defined principles of strategic planning defined in the legislative proposals, which could result in failing to achieve goals defined at the EU level. Some of these risks have already been highlighted in examining the Member States' flexibility in strategic planning and achieving EU-level targets, so we will not repeat them at this point. We reiterate that flexibility is envisaged at the level of determining national needs and objectives, and above all within the level of implementation (definitions, requirements, controls), while the framework of measures remains quite similar.

However, we can agree with the opinions mentioned above, which underline that specific risks arise from the programming capabilities of the MS and the European Commission. These risks stem from the rigidity of the planning and implementing bodies, accustomed to the current ways of work, the power of the administration and all those involved in the decision-making process, the willingness to participate in various bodies and the involvement of stakeholders. Adequate analyses of needs, adaptation of measures, establishment of monitoring, preparation and reception of documents all require time, sufficient and well-trained human resources, an adequate institutional framework and an established culture of public consultation.

The scope of strategic planning is namely crucially dependent on the programmers and administrators of agricultural policy. Both are in the hands of state and regional administrations which have until now been strongly engaged in meeting legislative and institutional demands (mainly driven by the EC), living in fear of audits and low absorption of funds. Though differences between parts of the EU in the quality and functioning of administrations are enormous, certain challenges are common. The current implementation of strategic logic through Rural Development Programmes indicates not only large differences in quality, but also ensnarement in a bureaucratic, emulating logic, and a legacy of distributing funds based on historical rights.

Strategic planning is supposed to be a creative, intellectual and democratic endeavour, which requires excellent staff and a comprehensive approach. Will civil servants in Member States be up to the challenge? How to build a newly required culture of action and cooperation? In truth, probably in most Member States, civil servants are not sufficiently trained for quality strategic planning. Deficiencies also arise from the weak position of agricultural officials in society, inappropriate and narrow education, lack of training and practical experience, poor quality of management and politicized state administrations.

The complexity of modern agricultural policy, as reflected in the European Commission's proposal, also requires science and knowledge, multi-disciplinarity, good analytical bases, creative solutions and, of course, a democratic exchange of views on the various options and effects of the proposals. The proposal for a European Network for Agricultural Policy, which would upgrade the existing Rural Development Network, should support the exchange of opinions and democratic decision-making, but it will not in itself provide a higher quality of planning. More radical moves are needed, and above all, more investment in human resources and modes of operation of the responsible ministries.

There are additional obstacles to the future strategic planning of the CAP. We may expect the new approach to widen the East(South)/West(North) divide. Agricultural policy discourses and their understanding are quite different. They are influenced by objective historical, structural and economic

differences in the agriculture and rural areas in different parts of the Union. These differences have not yet been adequately recognized by the EU decision makers.

Measures to compensate for the lagging economic development of the agriculture of the East(South) states behind the West(North) have only been partially successful. Moreover, the CAP is unable to address rural (un)employment, depopulation and poverty in the East(South). The developmental needs here are different and the implementation of the CAP so far has been administratively and financially too demanding to benefit the majority of the rural population, with the exception of rural elites with the capacity to acquire extensive EU funding. This is, of course, a harsh statement based on the authors' personal experience and difficult to prove, owing to a lack of good records.

The established practice, where in many cases decision on the choice of measures is tailored to the preferences of individual stakeholders certainly does not contribute to a clear intervention logic. It is neither proper nor democratic to ask someone who depends on the public purse for his or her survival, how much funding and under which conditions they should receive. All too often, such approaches are hidden behind income- and production-related considerations, but so far, for most CAP measures, they have not been clearly defined. This is where the real CAP policy problem is hidden. While environmental objectives may be linked to actual issues that are also covered by the general legislation, the income and production part is not clear - neither at the EU level nor at the MS level. The fact is that any more precise definition of policy priorities will lead to a redistribution of support and, consequently, to considerable political and economic tensions. Therefore, as already mentioned, it is necessary to have a clear commitment at the EU level for all dimensions of the CAP.

To conclude, in the view of the authors of this study, there are significant differences between MS in the capacity for strategic planning in the field of agricultural policy and without serious investment in personnel, processes, analytical support and inclusive preparation of Strategic plans, there may be considerable differences in policy implementation between individual countries. This could conceivably cause falling standards and negative trends in individual MS, which would in turn result in further weakening of the common policy that could have dramatic consequences for the future of CAP. It is an open question whether this can lead to the pressure for renationalisation in more developed countries of the EU due to 'unfair competition' (i.e. by abandoning some environmental standards in some Member States) and not wanting to pay for "bad practices" elsewhere, the deterioration in the quality of the public debate in less developed countries and further bad compromises. Vaguely defined criteria and ambiguities arising from the legislative proposal on Strategic Plans represent a significant risk of unequal treatment and, essentially, an increase in disparities between MS.

5. RECOMMENDATIONS TO THE LEGISLATORS

KEY FINDINGS

Strategic planning should be regarded as a process. The key question should be how the proposed Strategic plans will be applied in the real world and whether it will bring about a more effective policy. The greatest opportunity arising from the proposed approach is greater flexibility for Member states and efficiency for the EU. Risks are associated with the complexity of the process resulting in administrative burden of planning for MS. The envisaged system of rewarding the performance may reduce the ambition of set objectives and the associated risk of 'race to the bottom'.

The legislative proposal requires a better demarcation, which objectives should be set at the EU level and which ones at the national one. The current system of designing measures is restrictive: Member states can only choose measures and adapt them. This limits strategic planning and flexibility of Member states in adapting to their situations.

One of the key conditions for the improvement of Strategic plans lies in the improvement of evidence bases and in actually applying these data in policy planning, monitoring and evaluation. Quality of the new delivery model demands substantially more work with staff, institutions and decision-making structures.

The co-legislators should determine what the new delivery model is expected to achieve in a political sense. If the aim is to provide more flexibility and political responsibility, EU must act accordingly: to enable transparency, stakeholder involvement and positive competition between countries.

5.1. Literature review and stakeholders' views

Some recommendations on possible refinements to the current legislative proposal on CAP strategic planning can be understood from the discussions in Chapters 3 and 4. Nevertheless, before embarking on a more detailed implementation of the recommendations to legislators, we are adding some additional substance deriving from our own survey and literature review. Although public discourse on CAP strategic planning is largely dominated by lively exchange on the three CAP specific objectives for the environment, we will attempt to develop broader recommendations in the direction of improving and directing in result-based and evidence-based policymaking.

In public discussion, the principle of strategic planning is not questioned. Furthermore, Maréchal et al. (2018) emphasize that there are positive elements in the CAP proposals that should be kept in. With respect to this, they outline the proposal for an enhanced conditionality with new elements such as *"crop rotation and the more explicit links to the Sustainable Use of Pesticides Directive and the Water Framework Directive"*. The overall move to results-based approach and programming of the entire policy is also a step forward but as highlighted in the sections above, there are several loopholes and risks associated with the new framework that should be tackled by the co-legislators. Amendments from the co-legislators can help ensure that the future design and monitoring of CAP Strategic Plans

meets the Commission's stated intentions and is not simply dependent on the political will of individual Member States.

The collected materials and survey responses give some further guidance for possible improvements of the current legal proposals; to a large extent, they lead in similar directions as some findings discussed already in the previous chapters. They can be outlined into following theses for recommendations:

-)] a clearer definition of objectives;
-)] improved policy accountability;
-)] more consistent, more transparent and targeted approval process of Strategic plans;
-)] upgraded system of data collection and data management in support of strategic planning;
-)] capacity building, improvement of training and knowledge exchange in support of strategic planning; and
-)] improvements in the institutional context, which is reflected in improved cooperation in programming and implementation of Strategic plans.

Representatives of environmental NGOs and researchers are unanimous in their assessment that the CAP new delivery model should have far **clearer objectives** than envisaged in the current regulation proposal. Maréchal et al. (2018), as well as BirdLife International (2018) share the opinion that specific objective should be in line with the EU environmental acquis and SDGs. Especially, compliance with legislation should continue to be the baseline for all payments. According to BirdLife International (2018) this means *"maintaining current Statutory Management Requirements (SMRs) under the new conditionality system, making penalties much more dissuasive and correcting the widespread malpractice highlighted by the Court of Auditors⁵ (e.g. violations such as habitat conversion by farmers being considered involuntary by authorities)"*.

With respect to this BirdLife International (2018) further argue against bringing *"together the climate and environmental and biodiversity objectives as these must be pursued in parallel while there should be cross-check mechanism ensuring there are no trade-offs"*. They understand this in a way that while MS will inevitably have to set priorities in terms of allocating money to different schemes, they will have to demonstrate that they are pursuing all objectives in a balanced and efficient way, tackling the most severe problems in the most relevant regions and farming systems. They also believe that achieving environmental goals requires as a *"minimum ring-fencing of money for environmental action, and particularly for biodiversity, as 40% of the Natura 2000 network is farmland that requires tailored farming practices to achieve the objectives of the EU Birds and Habitats Directives"*. The social and economic objectives need to be *"nature/climate-proofed"*. Each Strategic Plan *"should undergo a Strategic Environmental Assessment (SEA) and be subject to Appropriate Assessment under Article 6 of the Habitats Directive to ensure some basic internal coherence, e.g. with the existing Natura 2000 network, but the Commission must actively screen draft plans"*.

As regards **accountability**, according to Maréchal et al. (2018) there should be a reduction in the level of discretion which MS are currently proposed to have, especially *"in relation to the setting of their level of ambition and targets; clearer rules on what happens if Member States do not meet the set targets should be spelt out; and the 'no regression' clause should be strengthened and made operational (linked to expenditure and measures)"*. IEEP researchers propose some further concrete ideas. The attractiveness of the eco-scheme should be strengthened through the introduction of a ring-fencing. There must be an obligation on MS to give significant weight to environmental objectives in relation to other

objectives. This requires CAP funds to be spent in a very different way and for sufficient budget to be allocated to relevant interventions in order to ensure key economic, environmental and societal goals are achieved.

The same authors (ibid.) opine that *"this is critical, for example, to ensure eco-schemes and agri-environmental schemes are capable of supporting a shift towards the redesign of agricultural systems, backed by independent knowledge as well as support agricultural systems that deliver truly sustainable outcomes"*. To ensure the Strategic plans set a sufficiently high level of ambition, the "no regression clause" should be made operational. Same applies for the new monitoring and reporting regimes and *"a change in the control culture to become much more proportionate"*. To deliver its objectives, the CAP needs *"a concrete set of results-orientated objectives grounded on meeting EU targets and international commitments"*.

BirdLife International (2018) refers to the current weakness of the EU Rural Development policy as an unpromising basis for new strategic planning: *"[an unnamed] report found that during the last programme less than one third of the Rural Development Programme (RDP) evaluation documents stated clearly how the RDP measures applied were intended to deliver the desired public benefits"*. This indicates the need for flexibility given to the MS within the new delivery model is used in the most efficient way and *"help achieve the objectives instead of systematically deviating from them. Smart, well-designed accountability is strongly needed"*. In order to achieve the CAP objectives set at EU level on the environment (biodiversity, water, soil, air and climate), Birdlife claims that the EU should require MS to include certain elements of EU legislation as part of their CAP strategic plan on a non-tradable basis. The rationale for the elements is *"based on scientific evidence of which issues are indispensable for Member States to take action on if certain environmental objectives are to be reached"*. According to this international environmental organization (BirdLife International, 2018), the key elements are:

-)] a nature conservation plan for Natura 2000 sites, coherent with MS' Priority Action Frameworks (PAFs) setting out how objectives of and funding for Natura 2000 sites management will be delivered under the CAP (similar to the current requirement in the Rural Development Regulation);
-)] a plan for how the objectives of the River Basin Management Plans under the Water Framework Directive are to be achieved;
-)] a climate mitigation plan, to explicitly and obligatorily look at no CO₂ livestock and fertilizers emissions, CO₂ emissions and sinks, and therefore to consider the management of grasslands, landscape elements, agroforestry, peatlands etc. Under this, permanent pastures and landscape features should be strictly protected (ban on ploughing, ban on cutting etc.); and
-)] a strategy for organic farming. Member States should be required to include a strategy for supporting organic farming and for increasing organic farming area (relative to need) in their CAP Strategic plan.

A major component of this accountability mechanism, according to international environmental organisations (BirdLife International, 2018; EEB et al., 2018) is the power given to the Commission within the **approval process of the national plans**. According to their belief without a proper mix of incentives and actual disincentives to submit good quality Strategic plans, there is a risk that the new delivery mechanism will fail for the environment and sustainable farming. They also list numerous proposals in this area. EEB et al. (2018) suggest raising the transparency about the EC review of national Strategic plans by introducing an obligation to have a discussion on the EC remarks in the Monitoring

Committees. According to them, the MS shall oblige MS that minutes of each meeting and other exchanges with stakeholders must be kept by the national authorities and be made available upon request, all this in order to oblige MS to be able to justify possible circumvention of stakeholders' views or evidence provided.

Similar requirements are also made by BirdLife International (2018), which specifically requires that the Commission is empowered to make a proper qualitative assessment of the plans. The need for an active role of EC is suggested in various steps. It should be strictly determined whether or not there is a mismatch between the EU objectives and the ones set at national level, making the national objectives less ambitious than the EU ones. If there were serious divergences, BirdLife International (2018) suggest that the Commission should *"withhold the whole of the national budget until the Member state submits a plan that is in full coherence with the EU objectives"*. EC should also strictly evaluate interventional logic, the level of ambition and the quality of all measures proposed in the Plan and assess them against the objectives. This assessment is made jointly with the relevant services in the Commission such as the DG Environment, the European Environmental Agency and the Joint research centre.

To ensure that the environmental assessment is carried out appropriately and that an effective engagement with civil society organisations takes place at different levels of decision making, Maréchal et al. (2018) suggest that all the annexes are part of the approval process of the Strategic plans, including in particular the Strategic Environmental Assessment (Annex I) and the description of how the consultation with partners is intended to be carried out (Annex III).

Available policy documents Stress the importance of effective monitoring and evaluation. Maréchal et al. (2018) sees that both Member States and EU bodies (JRC, EEA, Eurostat) have a role to play here. They see the utmost importance of strengthening the data sources related to needs analyzes, and in particular, it is necessary to thoroughly reflect the appropriate data that will be employed as indicators for identifying and monitoring objectives. BirdLife International (2018) stresses that continued assessment is needed of the suite of CMEF indicators to ensure that they are fit for purpose and cover all relevant areas. Challenges exist both in gathering reliable data for indicators and in the way that certain indicators are linked to policy objectives, especially when multiple measures may be implemented across the same land area. They emphasize that *"this makes it hard to quantify the net impacts of CAP programmes at the macro level, especially given that these may occur in the longer term and be an indirect effect of the intervention. This serves to undermine the intervention logic for the policy as a whole."* BirdLife International (2018) adds the following:

"Lack of clarity over how the data that MS are required to collect is used has also led to disillusionment, and the characterisation by some of the monitoring and evaluation requirements as an excessive "administrative burden". To avoid monitoring becoming simply a box-ticking exercise, used to justify continued payments, it should feed into the debate at both the national and EU levels on how to improve policy, its impact, and how to measure this. The CMEF should be driving developments in monitoring and evaluation at MS level which will require greater effort and focus on how the framework is constructed. This would create a sense of shared responsibility between MS and the Commission, as well as continuing to create a culture of robust, credible data gathering from MS for aggregation and use in EU-level evaluation."

An enlarged "technical assistance" budget could be used to improve the depth and quality of data collection. This budget should be extended to Pillar 1 of the CAP: currently, it is confined to Pillar 2 (Maréchal et al., 2018).

The study further proposes adding amendments to proposed regulation to provide that significant resources are allocated to **advice, guidance, capacity building and knowledge exchange** at the EU and national/regional levels (BirdLife International, 2018; Maréchal et al., 2018). In the view of BirdLife International (2018) Member states must be obliged to consult the scientific community (universities, research institutes, academies of science, scientific societies) and to seek evidence openly (e.g. calculation of costs, quantification of problems, and effectiveness of schemes). Although more detailed

proposals in this area are not provided, such views signal possible deficiencies in capacities for strategic planning at the Member states' and EU level which require wider involvement of experts and professional public.

Previous chapters already indicated the need for **a step change and a genuinely new approach to delivery** at the farm, or territorial levels. In opinion of Maréchal et al. (2018) these changes are "*essential to achieve sustained environmental and climate action at the scale required to meet EU priorities and commitments and to ensure that this is sustainable in the longer term*". This should necessitate greater cooperation, including active and positive engagement with farmers, stakeholders and the private sector, underpinned by investments in capacity building at different levels. Same authors share the opinion that the CAP proposals do not stress the scale of the change required and this will need to strengthen if the CAP is to become a policy meeting societal demands.

Due to the urgent and profound change in the paradigm of strategic planning and corresponding requirements for evidence-supported definition of needs, MS need to commit to spending money on facilitation, cooperation, analytical support, capacity building and knowledge exchange. Maréchal et al. (2018) believe that this will provide the basis for greater cooperation, including active and positive engagement with farmers, stakeholders and the private sector, which will be a key ingredient in making the SP approach work and is currently not stressed enough in the CAP proposals.

Chapters 3 and 4 already highlight the importance of the partnership principle in Strategic planning. According to BirdLife International (2018), at MS level full consultation with all stakeholders, including NGOs and especially environmental NGOs, must be legally binding, with clear minimum standards set at EU level. They believe that comprehensive involvement of environmental stakeholders helps to ensure that "EU funds deliver on EU environmental objectives and sustainability in wider sense, which will be of increased importance in the new results-based model of the CAP". Their involvement also helps to increase transparency and hold MS accountable for their commitments and reveal any breaches. In doing so, international environmental organization explicitly emphasizes that national environmental authorities must be responsible for the environment part of national/regional CAP programmes, or at least fully involved, and the Commission should be able to contest decisions that go against the recommendations of competent authorities and agencies or are not coherent with national planning tools on the environmental side.

5.2. Final assessment and recommendations to co-legislators

CAP strategic planning proposed by the European Commission exhibits many flaws and faces many limitations. Its problems range from being caught in the logic of past measures, weak evidence bases, conflicting in not clearly defined priorities, and especially to deficiencies in planning and implementing structures; the list goes on. There are also realistic fears that similarly to "Greening" in the previous CAP reform (ECA, 2017) some decision makers and stakeholders may also consider strategic planning simply a new pretext to preserve the redistribution approach of the CAP, with at best marginal changes in its functioning and effects. But does this mean we should oppose the Commission's proposal in general?

The principle of strategic planning is not in itself under question, as this is the foundation of modern public policy governance. Furthermore, it is important to take into account that, in accordance with Cairney (2016, 2015), there is no ideal EBPM. For this reason, strategic planning should be regarded as a process. Instead, the key question should be how the proposed Strategic plans will be applied in the real world and whether it will bring about a more effective policy. If we are pursuing this goal, it is necessary to adequately supplement the proposed regulation on CAP strategic planning. This is in fact

also the main purpose of this study; drawing proposals, based on a review of relevant documents, survey of stakeholders and experts, and own expertise. But before continuing with this, let us take a look at some conceptual dilemmas.

The proposed new model of policy delivery draws on the established model of strategic planning of Rural Development policy. This is characterised by (i) a two-tier approach (EU vs. Member state/programming region); (ii) a predetermined hierarchy of objectives; (iii) loosely defined needs through SWOT analysis and (iv) selection of measures from a legally binding list of eligible interventions with corresponding implementing provisions. The current proposal gives some prospects for simplification, but essentially the governance system is not changed. We can therefore say that the proposal contains all the shortcomings of the previous arrangements of strategic planning. Given the currently proposed legal arrangements and with respect to the current institutional capacities it is not realistic to expect immediate establishment of an effective and complete policy cycle and intervention logic. The preconditions presented in the introduction of this chapter (Cairney, 2012) are not met. Partly, this can be attributed to the wider political framework of the European Union, additionally hindered with the restrictions and rigidities of the EU Common agricultural policy

The previous discussion in this study presented several ideas and suggestions which, according to the authors can improve the management of CAP strategic plans. A number of these suggestions derive from the proposals obtained from a special survey designed for this purpose.

More strategic thinking with a balanced approach across the objectives

Who responded to our survey on CAP strategic planning and the way how the responses have been shaped largely reflects how this debate unfolds in the general public. The question of strategic planning of the CAP is technical in substance, but also requires expertise and active engagement in the subject, which leaves the discussion confined in a relatively narrow circle. With the introduction of strategic planning, the gap is evidently deepening in European agricultural policy. It unveils the fundamental question of agricultural policy, whether the policy should narrow the focus primarily to the production and income-related objectives of agricultural producers, or the policy should regard a broader view on social goals related to agriculture, primarily seeking for a more consistent achievement of environmental objectives.

The current debate clearly presents this ambiguity. Concrete criticisms and proposals of the legislative framework of Strategic Plans are presented almost exclusively by representatives of environmental organizations and researchers, while state representatives and farmers point out the consequences of a more rigorous strategic planning. Although they do not seem to oppose the principle of strategic planning, they point to the political-economic reality, revealing certain discomfort with possible changes to the current arrangements. Therefore, the fundamental conceptual contradiction in the EU agricultural policy is reflected also in the current debate on CAP strategic plans.

It is fair to emphasize that the integration of environmental elements into the EU Common agricultural policy is constantly increasing since early 1990s, reflecting its attempts to be more societally relevant. This is in stark opposition to its scope in the past, when the agricultural policy was strictly sectoral, in the domain of agricultural ministries and agricultural pressure groups. At the Community level, common concerns about the environment are undisputed and are embedded in the Treaty of the European Union in fundamental.

Many commentators, especially representatives of environmental organizations, criticize the Common agricultural policy for exploiting this (legitimate) societal concern primarily to maintain the size of the agricultural budget, its distribution patterns to specific farmers and Member states and thus the political power of the agricultural sector.

Most of the proposals from the discussion on strategic planning touch on environmental issues and thus to 3 out of 9 specific objectives of the CAP. There are virtually no proposals on how to improve the policy planning process on the economic and social goals, which gives a somewhat worrying picture about the importance given to those issues by the actors in EU agricultural policy. This of course does not mean that it is necessary to implement only proposals to improve strategic planning in the field of the environment and to ignore other aspects. In fact, most of the proposals that originally refer to environment can be extended to the entire set of CAP strategic objectives. Strengthening dialogue, partnership approach, professionalism, quantification of goals and more pronounced intervention logic applies to the whole policy.

Moreover, we even argue that the necessary paradigm changes in the CAP will not occur until the complete strategic logic is incorporated into the whole framework of modern agricultural policy. The "correction" of only one part of the strategic planning is condemned to failure unless we consider that any change must be politically forced. Further, we consider that further tightening of the trench warfare between the "defenders" of production/economic and environmental interests in agricultural policies is counter-productive. Truly effective logic of strategic planning can only be realized if stakeholders engage in a dialogue with a genuine interest to reach commonly agreed strategic goals.

Different objectives and measures at EU and national levels

The CAP policy objectives are relatively clear, what is missing is only their quantification. However, the division between the EU and national objectives to which national flexibility refers should be more precisely defined. Tangermann (in Horseman, 2018) emphasises that the development and assessment of the national strategic plans should be taken sufficiently seriously. He sees subsidiarity as a good idea as there are certain policy objectives that should be pursued at the EU level (such as allocation via market forces) while others, such as environmental issues should be pursued nationally or regionally. However, proper division of responsibilities would require national (co)financing, which is not part of the Commission proposal.

The instruments are more or less well known, although their actual effects have been surrounded with certain controversies. Moreover, as demonstrated from the current experience of the CAP Greening component of direct payments, the objectives have been criticized for being used to legitimize the existing instruments while it should be the other way around (i.e. selection of instruments should follow the objectives) (Erjavec et al., 2015). In addition, the decision-making practice has shown that package deals on budget and CAP have led to less ambitious design of instruments in return for a lower budget (ibid.). All this had led to severe criticisms sparked particularly by the environmental NGOs. The implementation will now also depend more on the national administrations, which will result in the diverging quality of the process and policy results.

Therefore, the legislative proposal requires a better demarcation of common EU and national objectives. In principle, commonly defined should be those objectives that add value when implemented on a common scale, while the objectives where the principle of subsidiarity is more salient should remain at the national level. Same principle could apply for both objectives as well as measures/interventions. The demarcation should be taken into account in assessing the actual extent of flexibility at national level and thus in measuring performance. If the state reaches poor results with the minimum possible flexibility of the measure, this is not a problem of the MS, but of a measure. On the contrary, when a MS is given a greater flexibility and the objectives of an intervention are not met, the responsibility is on the MS.

For future, more innovation should be allowed in designing measures. The current system is restrictive: MS can only choose measures and adapt them; moreover, some measures are compulsory. In a way, this is understandable and intended to prevent renationalisation of policies and to achieve environmental goals. On the other hand, it limits strategic planning and flexibility of MS in adapting to their situations. In an appropriate framework, proposals could be bolder and allow for innovative concepts (e.g. cooperation for addressing environmental issues or for strengthening agri-food chains). The crucial constraint here appears to be the instruments supporting farm income and resilience is the income support, where the discourse to be narrowed down into various modalities of (area-based or even production-based) direct payments.

It should be borne in mind that the measures to be adapted by the MS at the implementation level are still a matter of negotiations. The period 2021-2027 will thus have to be a 'deployment' period where no major adjustment of the measures, nor particularly improved results can be expected. The range of changes is so profound that a more long-term view should be taken by pointing to the importance of collective learning and system building, in order to be able to implement better in the future.

More precisely, our proposal is that the proposed regulation defines:

-)] CAP objectives relevant at the EU-level, with corresponding indicators and methodologies to define Member states' monitoring requirements and upscaling methods;
-)] where appropriate, EU-wide objectives defined in conjunction with other sectoral legislation;
-)] CAP objectives monitored at the national level, with corresponding indicators, related EU-level objectives and indicators; and
-)] the need for evidence-supported (ie. quantitatified) intervention logic.

Proposals related to monitoring and evaluation

The monitoring and evaluation procedures need to be defined more precisely and their quality improved in both parts of the policy cycle. The period 2021-2027 is a period of learning, in which the quality of data sources must be significantly increased, with systematic monitoring of the measures and their effects.

We explicitly emphasize the role of data, indicators, knowledge and analyzes for more effective strategic planning and therefore a better agricultural policy. European Commission and MS need to be required to provide reputable and independent scientific and technical evidence to support their choices. Burden of proof must be on the MS; they should be able to make a credible case that the spending would be efficient and would add value. The European Commission should empower the process by strengthening MS' capacities with investments in data systems and analytical support system.

Many questions regarding the needs assessment, the relationship between the measures and the impacts of policies have not been explored or there are no permanent monitoring systems covering the whole territory of the EU. Improvements in this respect would allow a more strategic orientation of the agricultural policy and, in particular, the preparation and implementation of effective strategic plans.

For this reason, one of the key conditions for the improvement of Strategic plans lies in the improvement of evidence bases and in actually applying these data in policy planning, monitoring and evaluation. This does not apply solely for the most exposed objectives (eg. income- and environment-related), but also of those pertaining to social issues (e.g., indicators for rural poverty, quality of knowledge creation and transfers), where the supporting data framework is relatively poor and

incomplete. These indicators should also be given a much higher level of importance in the general debate about the agricultural policy in EU (step change needed also in this sense), as well as macroeconomic indicators, which respond to the wider societal objectives and are the basis of every economic policy. Decision makers at all relevant levels should be encouraged to contribute, but also to make good use of better data support for better-informed decisions.

In order to support ambition rather than compliance with the objectives, a mechanism should be considered to reward those MS that will achieve the greatest progress with regard to their baseline situation, and not merely with respect to the objectives they have set themselves. The current proposal for reporting on the effects of the Strategic plans is rather administrative. Improvements are needed in particular with respect to the quality and procedures of monitoring, resulting in more comprehensive monitoring of agricultural policies at national and EU level. Currently, there are considerable differences between MS in this respect. Technical assistance under the CAP (both pillars) should be applied to achieve this aim.

The level of monitoring and evaluation at EU level needs to be improved. This will require establishment of a common platform with an open access to all strategic plans, progress and evaluation reports. Preparation of independent impact studies on the new implementation model (at different levels) should be supported in order to provide the basis for an informed public debate involving stakeholders from different countries, benchmarking, mutual learning and taking good practice across countries to ensure positive competition 'race to the top'.

Approving, monitoring and evaluating programmes demands highly qualified, professional and cross-disciplinary staff. Quality of new delivery model demands substantially more work with staff, institutions and decision-making structures. The system of training, workshops, knowledge exchanges, analytical support at the level of administration and stakeholder should be strengthened and improved. Without belittling their important contribution, this goes beyond the purview of the competent EC desk officers, therefore also the Commission needs to raise the level and quality of operation in the field of approval and monitoring of Strategic plans. It is worthwhile considering engaging independent experts (ie. not related to official structures) as reviewers of the Strategic plans. Strengthening the internal and external think-tank apparatus is a prerequisite for a better governance with strategic planning.

More precisely, the proposed regulation of CAP strategic planning should define:

-)] inclusion of impact and contextual indicators in the reporting and monitoring system, and reporting on their changes;
-)] the obligatory part of the report is also independent quantitative and qualitative public assessment of independent experts and groups at the EU and national level;
-)] compulsory share of technical assistance should be devoted to establishing databases and analytical support for strategic planning;
-)] compulsory public reporting at EU and national level with key output data, results and impacts of policies; and
-)] creation of a permanent specific institutional support for programming and implementation at the EU and national level.

More precisely in relation to the Title V (contents, the process of adopting Strategic Plans)

Proposals for amending this part of the draft regulation are the following:

- J strengthen the principle of 'no backsliding' with the requirement to maintain at least absolute and relative share of support for climate and environmental objectives (art. 92);
- J strengthen the requirement to include the quantified objectives of the Strategic Plans resulting from environmental legislation and commitments;
- J strengthen the stakeholder consultation process with more binding requirements concerning the composition of parties involved in the process, joint decision-making, monitoring and evaluation. These requirements could be drafted in line with the provisions put in place in cohesion policy, and using the European Code of Conduct on Partnership as a basis (Annex III);
- J include the criterion (Article 106) about "ambition and reachability of national targets in line with needs and the consistent use of intervention logic on the basis of available data"; and
- J strengthen the Governance and Coordination System section with the contents of Annex III (or alternatively include the annexes for evaluation);
- J in the Simplification section of the draft regulation, specify the reasons and relevance of the EU objectives; and
- J include the mandatory annexes to the plan for the training and education of civil servants and stakeholders for the implementation of the Strategic Plans.

We emphasize that in order to ensure that strategic plans are of good quality and can deliver gradually more in line with social expectations; it is of importance the Commission is empowered to make a proper qualitative assessment of the Strategic plans. to the importance is seen in the fact that CAP strategic plans contain a satisfactory and balanced level of necessary consultation of stakeholders and involvement of other public (especially environmental) authorities, and that the Commission is well equipped to assess the plan within a reasonable period's length.

Final remarks: strategic planning is a process

We conclude this section with a thesis that the co-legislators should ask themselves what the new delivery model is expected to achieve in a political sense. Therefore, if the aim is to provide more flexibility and political responsibility, we must act accordingly: to enable transparency, stakeholder involvement and positive competition between countries. This is the direction proposed also by Matthews (2018b) who draws parallels with the cohesion policies in this respect. Another point of consideration relates to the extent to which it is possible to improve the quality of design in terms of improved data sources and intervention logic. More emphasis needs to be given to the training of the administration at national and EU level for demanding and complex tasks of strategic planning, as well as greater involvement of expertise in planning. All this also requires a step change in wider public perception with respect to social challenges, use of public funds, and the mode of operation of public administration.

The greatest opportunity arising from the proposed approach is greater flexibility for MS and efficiency for the EU. Risks are associated with the administrative burden of planning for MS and lowering standards or 'race to the bottom' for the EU. The legislators should pose themselves a question, what do we wish to achieve with evidence-based strategic planning. We dare to assert that all criteria for implementing the EBPM cannot be achieved. This is raising a sense of frustration to those participants who want more than the political-economic framework actually enables. In the worst case, it leads to

differences in implementation, deterioration of results and friction between countries. Strategic plans should, therefore, be seen as a 'political tool' which should lead to strengthened capability and accountability of the policy in the long run. The process is also helpful in the context of more informed public discourse, and thus raising more realistic expectations, depending on available resources and time.

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The study is assessing the design of the new CAP Strategic Plans as foreseen in the proposal COM (2018) 392. The proposed strategic planning is a step forward in evidence-based policy-making, enabling greater flexibility for Member states and the efficiency of the policy. The remaining challenges are associated with the complexity of the process and limited capability, or willingness, of the policy system to implement it. Suggested improvements relate to analytical support, inclusive preparation process, smooth implementation and rewarded ambition.

STUDY

Requested by the AGRI committee



Research for AGRI Committee - The CAP support beyond 2020

Assessing the future structure of direct
payments and the rural development
interventions in the light of the EU
agricultural and environmental
challenges

Research for AGRI Committee - The CAP support beyond 2020

Assessing the future structure of direct payments and the rural development interventions in the light of the EU agricultural and environmental challenges

Abstract

This essay provides an assessment of the structure and type of interventions as proposed by the European Commission on the CAP beyond 2020 (Title III of the proposal COM (2018) 392). All direct support and rural development interventions have been examined in the context of the main agricultural and environmental challenges the EU faces. A set of recommendation is made for the improvement of specific instruments and to address policy priorities and level playing field concerns.

This document was requested by the European Parliament's Committee on Agriculture and Rural Development

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CONTENTS

LIST OF ABBREVIATIONS	61
LIST OF BOXES	63
LIST OF FIGURES	63
LIST OF TABLES	63
EXECUTIVE SUMMARY	65
1. AIM AND APPROACH	69
1.1. Introduction	69
1.2. Positioning of the CAP after 2020 Reform	70
1.3. APPROACH	73
1.4. Set-up of the work	76
2. DIRECT PAYMENTS	77
2.1. Introduction	77
2.2. Basic income support	78
2.3. New green architecture	78
2.4. Reduction of direct payments: compulsory capping	81
2.5. Redistributive income support	81
2.6. Coupled income support and crop specific payments for cotton	82
2.7. Young farmers support	82
2.8. Small Farmers	82
2.9. Sectoral interventions	83
2.10. Discussion and conclusions	83
3. RURAL DEVELOPMENT POLICY	91
3.1. Introduction	91
3.2. RDP financing and contributions from Member States and private sector	92
3.3. Agri-environment, climate and other management commitments	93
3.4. Natural or other area-specific constraints	93
3.5. Area specific disadvantages resulting from certain mandatory requirements	94
3.6. Investments	94
3.7. Installation of young farmers and rural business start-up	94

3.8. Risk management	95
3.9. Cooperation	95
3.10. Knowledge exchange and information	96
3.11. Discussion and conclusions	96
4. RECOMMENDATIONS	101
4.1. Recommendations with respect to Direct Payments	101
4.2. Recommendations of Rural Development Policy-measures	103
4.3. Concluding remarks	103
REFERENCES	105

LIST OF ABBREVIATIONS

AECS	Agri-Environment and Climate Scheme
AKIS	Agricultural Knowledge and Innovation System
APO	Association of Producer Organisations
BIS	Basic Income Support
CAP	Common Agricultural Policy
CIS	Coupled Income Support
CMO	Common Market Organisation
COP	Conference of Parties
CV	Current Value
DP	Direct Payment
ECA	European Court of Auditors
EAFRD	European Agricultural Fund for Rural Development
EFRD	European Fund for Regional Development
FADN	Farm Accountancy Data Network
GAEC	Good Agricultural and Environmental Condition
IOI	Instrument-Objective-Impact
MCPI	Multi-Peril Crop Insurance
MS	Member State
NPI	Non-productive investment
PO	Producer Organisation
RDP	Rural Development Plan
SDG	Sustainable Development Goal

SMR	Statutory Management Requirement
SO	Standard Output
TV	Target Value
VCS	Voluntary Coupled Support

LIST OF BOXES

Box 1 Key findings: challenges, needs, approach and scope	69
Box 2: Key findings on Direct payments	77
Box 3: Key findings on Rural Development Policy	91
Box 4: Key findings with respect to recommendation	101

LIST OF FIGURES

Figure 1: Historical development of the Common Agricultural Policy	70
Figure 2: Policy optimization framework and CAP reform	74

LIST OF TABLES

Table 1: Comparison Pillar I Eco-schemes and Pillar II payments for environment, climate and other management commitments	79
Table 2. Summary table on Direct payments measures	88
Table 3. Summary table on Rural Development Interventions	99

EXECUTIVE SUMMARY

Background

The legislative proposals on the CAP beyond 2020, unveiled on 1st June, fleshes out details of EU's future Common Agricultural Policy. The European Parliament's Committee on Agriculture and Rural Development (AGRI Committee) wishes to organise a workshop on 15 October 2018 on the following subject: 'Towards the CAP of EU 27 beyond 2020: appraisal of main legislative and budgetary issues'. This study is a contribution to that workshop.

Aim

The primary aim of this study is to support the EP legislative works towards a new CAP post 2020. The study provides an assessment of the structure and types of interventions as proposed by the European Commission (Title III of the proposal COM (2018) 392). The analysis consists of a qualitative assessment on the main proposed changes in operational terms. The study tries to detect possible lacks and/or inconsistencies in the light of the CAP-wide objectives and/or societal priorities concerning agriculture. As such it describes the main changes proposed by the European Commission and detects lacks and/or inconsistencies in order to respond effectively to farmers' and wider rural communities concerns and to achieve the EU-wide environmental and climate-related objectives. In addition it provides a set of policy recommendations on how the EP, as co-legislator can improve the types of interventions and allocations proposed for the CAP beyond 2020.

Context and approach

The CAP needs to address existing and upcoming challenges and to account for shifts in the local and global contexts.

The EU faces still many challenges with respect to farm income, the environment and climate, and the rural areas, which underscore the need for targeted and tailored policy interventions, taking into account the heterogeneity over and within Member States.

The legislative proposals include changes in specific CAP objectives (increased emphasis on climate), the delivery model (subsidiarity), the architecture and key principles with respect to direct payments. As regards the RDP the changes with respect to the available instruments are limited, but priorities and budget allocation show changes.

As Title III provides a framework of interventions, within which Member States can operate and define their specific interventions, and which requirements they should respect, the assessment provided will approach the interventions at this level. Aspects that are included in the policy assessment are: analysis of the proposed interventions, their relationship to the current CAP (changes, adjustments, new), aspects, conditions and requirements of the measures that may impact their functioning, proposals and recommendations for improvements.

Direct payments

The EU's income support to farmers is suffering from inequalities and from a lack of targeting and need-oriented criteria. The new CAP proposals address this problem only to a limited extent, since the basic mechanism (hectare-based payments) is not changed.

The enhanced conditionality contributes to establishing a baseline with respect to climate, the environment, biodiversity, and health, which goes beyond the current level. The extended greening requirements apply to all holdings receiving direct payments.

Eco-schemes that are obligatory for Member States and voluntary for farmers create possibilities to reward farmers for actions improving climate and the environment, which go beyond the baseline as established by the enhanced conditionality. Arguments are provided to further enlarge their potential and coverage.

The obligatory reduction of direct payments (capping) is not likely to be very effective due to the mandatory side condition to deduct the salaries of paid workers and imputed labour costs of unpaid labour. Making the side condition optional rather than mandatory could make the measure more effective. To better recognize the contribution of this measure to redistribute income support an argument is made to exempt direct payments aimed at other objectives from being capped and an alternative formula for payment reduction is proposed.

Coupled income support for sustainability should be used in a targeted (or discriminatory) way rather than in a generic way, whereas otherwise it will distort the level playing field and go against the principle of the EU Single Market.

Level playing field concerns are identified for at least three types of interventions: i) the enhanced conditionality (potential differences in requirements between Member States, combined with differences in basic income support for sustainability); ii) the payments for eco-schemes which can overcompensate the costs of efforts made; iii) coupled income support and some types of support provided under the heading of sectoral interventions. In order to avoid this Member States should be requested to motivate their choices and it is recommended to consider introducing safeguards.

The interventions made available under Title III offers Member States a wide range of opportunities, the number and flexibility of which has been increased relative to those in the current CAP. Given the priority placed at addressing climate objectives the 'guidance' on interventions specifically addressing this objective is too limited.

Rural development

The main change in the Rural Development policy is the new delivery model (from compliance to performance). With respect to its core principles and its coverage there are only limited changes.

The Agri-environment, climate and other management commitments have a wide coverage (comprising measures contributing to all 9 specific objectives of the CAP), with a special focus on environment and climate (obligatory).

Natural or other area-specific constraints and Area specific disadvantages resulting from certain mandatory requirements interventions contribute to fairness to farmers and are crucial policy interventions in an EU with very heterogeneous production and regulatory conditions.

The investment intervention plays a crucial role in helping agriculture to address its many challenges and facilitating the transition to a more sustainable agriculture while ensuring its long term viability. When properly implemented it should primarily address market failure (non-productive investments) and restoring assets after crises. Its importance justifies introducing a minimum spending share requirement.

Investments and Young farmer support need a careful specification in order to ensure a level playing field and compatibility with WTO requirements.

Risk management need to be embedded in a broad approach (including awareness raising, farmer advice, accounting for interactions between various policy measures and private sector provisions) in order to contribute to a consistent, tailored and effective policy in which the proposed policy foresees.

Cooperation and Knowledge and information sharing interventions, when properly combined with other interventions, play a key role in an effective innovation and farm modernisation strategy. The support and extension of the coverage of farm advisory services is welcomed.

Recommendations

The income support urgently needs correction for reason of fairness, efficient use of financial resources, and increasing importance of other priorities than farm income.

To improve the capping instrument an alternative criterion based on a normative calculation of farm labour and a maximum compensation ceiling per unit of labour is recommended.

Coupled income support should be properly balanced with the EU Single Market concept (level playing field, specialization and least cost-provision of food) and for that reason the percentage of farmers receiving coupled income support (evaluated at sector level) should be bound to a maximum.

It is recommended to make eco-schemes more flexible and increase their coverage in order to strengthen a results/performance based approach in green and public services (entry level schemes) and also to make them subject to ring-fencing.

Investment support should be primarily targeted to addressing market failures. Its importance in relation to innovation, sustainability, and long-run farm viability justifies introducing a minimum spending share requirement (e.g. 5%).

Level playing field issues need attention in case of coupled income support, some sectoral intervention measures, eco-schemes, young farmer support and investments interventions. In the case of coupled income support and eco-schemes restrictions on support (rates) are recommended. Level playing field concerns are also a reason to do checks on WTO compatibility.

1. AIM AND APPROACH

Box 1 Key findings: challenges, needs, approach and scope

KEY FINDINGS

- J The Common Agricultural Policy (CAP) has continually evolved to better address existing and upcoming challenges and to account for shifts in the local and global contexts.
- J The EU faces still many challenges with respect to farm income, the environment and climate, and the rural areas, which underscore the need for targeted and tailored policy interventions, taking into account the heterogeneity over and within Member States.
- J The new legislative proposals include changes in specific CAP objectives (increased emphasis on climate), the delivery model (subsidiarity), the architecture and key principles with respect to direct payments.
- J As regards the Rural Development Policy (RDP) the changes with respect to the available instruments are limited, but priorities and budget allocation shows changes.
- J Whereas a full 'optimal policy' assessment includes considering more issues, this study focuses on the main changes in Direct Payments (DP) and RDP policy measures and deficiencies and potential improvements of these measures.
- J The assessment provided in this analysis focuses on Title III of the Legislative proposal for the new CAP (COM(2018) 392) which provides the interventions and common requirements, the obligations under 'conditionality' and the need to have a well-functioning farm advisory service.
- J As Title III provides a framework of interventions, within which Member States can operate and define their specific interventions, and which they should respect, the assessment provided will approach the interventions at this level. Aspects that are included in the policy assessment are: analysis of the proposed interventions, their relationship to the current CAP (changes, adjustments, new), aspects, conditions and requirements of the measures that may impact their functioning, proposals and recommendations for improvements.

1.1. Introduction

On 1 June 2018, the European Commission presented legislative proposals on the common agricultural policy (CAP) beyond 2020 (covering period 2021-2027). They aim to make the CAP more responsive to current and future challenges such as climate change or generational renewal, while continuing to support European farmers for a sustainable and competitive agricultural sector. This essay provides an appraisal of the CAP support beyond 2020, focusing on the proposed structure of the direct payments and rural development measures.

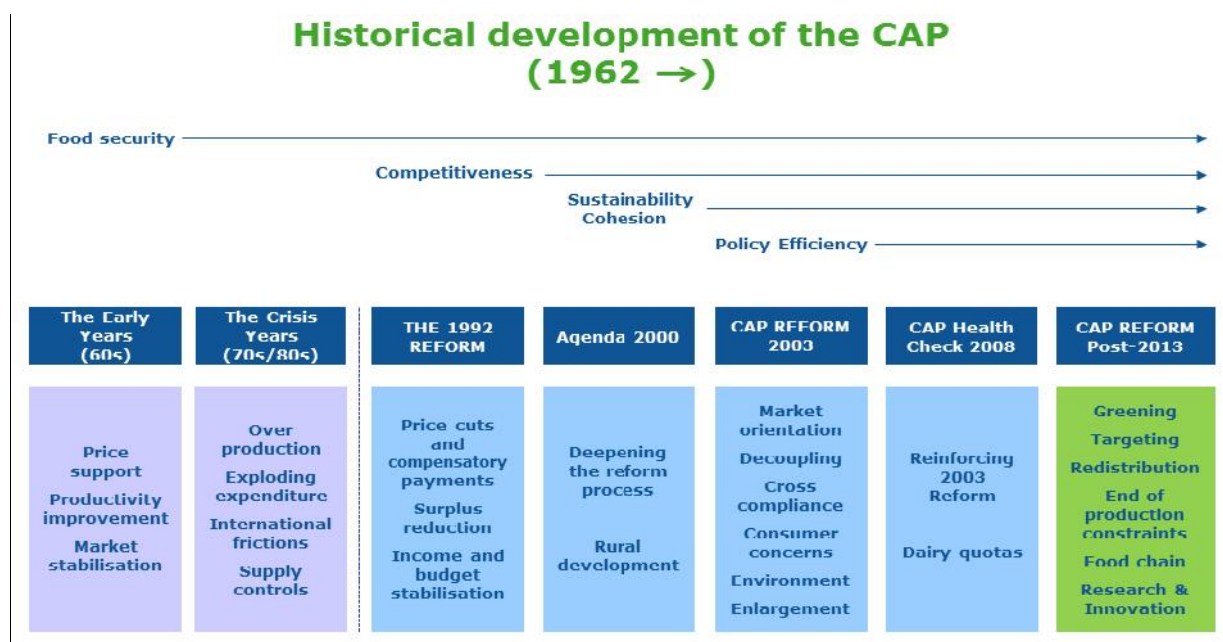
1.2. Positioning of the CAP after 2020 Reform

1.2.1. Historical development

The CAP post-2020 reform is one in a row of reforms. While focusing on the Treaty objectives, the Common Agricultural Policy (CAP) since its birth in the 1960s has continually evolved to better address existing and upcoming challenges and to account for shifts in the local and global contexts. Though **farm income** concerns are still important, the CAP covers a much wider range of aspects. It has also increased its emphasis on the environment, climate and the wider **rural** context in which farming operates. Policy challenges may result from changing contexts, such as the observed increased price volatility and instability in weather conditions as a consequence of climate change. Moreover, there have been changes with respect to the interactions with regard to the wider economy, for example due to biofuels (intensifying agriculture's linkage to energy markets) and innovations in the bio economy. Milestones were the transition from a classical price support system (including associated border measures) to a system of direct support (initiated with the 1992 Reform), the introduction of a second pillar on Rural Development Programs (Agenda 2000), the decoupling of direct payments from production (initiated with the 2003 reform).

The latest reform (CAP post 2013) offered a more holistic and integrated approach to policy support (emphasizing linkages between pillars) relative to the previous policy, while it also introduced a new architecture of direct payments, aimed at a better targeted, more equitable and greener CAP. As compared to the CAP post 2013-reform, the new CAP post 2020 proposals imply a rebalancing of the responsibility between the EU and Member States (MS), allowing more freedom with respect to measure implementation and design to MSs (subsidiarity), a shift in focus from compliance to performance, a fairer distribution of direct payments (DPs), a strengthening of the focus on innovation and enhancing ambitions with respect to the environment and climate by again revising the green architecture.

Figure 2. Historical development of the Common Agricultural Policy



Source: European Commission (2015).

1.2.2. Main challenges

Several studies have assessed main challenges with respect to the EU's agriculture and food sector (e.g. Pe'er et al, 2018; ECA, 2018). Using the three main objectives of the current CAP (viable farms, sustainable management of natural resources (environment), territorial balance) as a reference the following main challenges can be identified:

- J Farm income support is unequally distributed and poorly targeted. The main instrument used to support farm incomes are direct payments, which consume about 70% of the total CAP expenditure. In 2015 in the EU28 81% of the farmers received 20% of the direct payments (European Commission, 2017a and 2017b). Thus a large group of farmers receives a low amount of payments, whereas a small group receives a high amount of payments. About 75% of the farmers in the EU28 received less than €5000, whereas one quarter received less than €500. About 16 thousand farmers (0.2%) received a payment larger than €150,000. The share of direct payments in farm income varies considerably from about one third for the lower income size classes to more than half of the higher income classes (EU average is about 46 percent; EU Commission, 2018b). The provided income support is thus progressive: farmers with relative high incomes receive relative high payments, which contrasts with basic need for income support-principle. (Terluin and Verhoog, 2018). Shares of direct payments also vary over the type of farms (beef cattle and cereal, oilseed and protein-farms have the highest shares, whereas intensive livestock production (e.g. granivores such as pigs and poultry) and horticulture have relatively low shares) as well as over years (due to price volatility and varying production conditions). The inequality to a large extent reflects the inequality in farm size (measured in number of hectares per farm). Another factor contributing to the inequality are the specific criteria used by MSs to allocate the direct income payments, which still diverge over MS. However, even in the case an EU-wide uniform per hectare payment would be made the inequality would not reduce (then 86% of the farmers would receive 20% of the direct payment envelope; see Terluin and Verhoog, 2018).
- J The inequality of farm income support is not only hampering fairness, but is also a factor that negatively impacts on the preservation of a level playing field (the EU single market principle) as certain farms (larger ones) are favoured over others (small farms). To the extent that incomes of farms are supported for which there is no need for such income support, the inequality leads also to an ineffective use and a waste of scarce public resources. Moreover, it then raises land prices and are a barrier to entry for young farmers.
- J EU agriculture is frequently confronted with volatile prices, natural disasters, pests and diseases. The policy reforms leading to an increase in market orientation has not only created opportunities for EU agriculture to benefit from global markets, but also made the sector more vulnerable to international shocks and market disturbances. Every year, at least 20% of farmers lose more than 30% of their income compared with the average of the last three years (EU Commission, 2018b).
- J As regards the environment for a long time the CAP has had a classical productivist orientation (Thompson, 2017), which has been successful, but has also lead to high intensities of production in many sectors (e.g.), livestock, which is in some regions very dependent on cheap imports of feed), thereby disturbing the agro-ecology and imposing an increasing pressure on the environment. Agriculture is a major source of nitrogen losses, with the current nitrogen loss

estimated to be 6.5 - 8 million tonnes per year, which represents about 80% of reactive nitrogen emissions from all sources to the EU environment (Westhoek et al, 2018). These nitrogen losses take place mainly in the form of ammonia to the air, of nitrate to ground and surface waters and of nitrous oxide, a powerful greenhouse gas. Around 81-87% of the total emissions related to EU agriculture of ammonia, nitrate and of nitrous oxide are related to livestock production (emissions related to feed production being included).

- J The nitrogen surplus on EU farmland (averaging 50 kg nitrogen/ha) has a negative impact on water quality. Since 1993, levels of nitrates have decreased in rivers, but not in groundwater. Nitrate concentrations are still high in some areas, leading to pollution in many lakes and rivers, mainly in regions with intensive agriculture (ECA, 2018).
- J Ammonia is an important air pollutant, with farming generating almost 95 % of ammonia emissions in Europe. While emissions have decreased by 23% since 1990, they started to increase again in 2012 (ECA).
- J About 45% of mineral soils in the EU have low or very low organic carbon content (0-2 %) and 45% have a medium content (2-6 %). Soil trends are difficult to establish due to data gaps, but declining levels of organic carbon content contribute to declining soil fertility, and can create risks of desertification.
- J As regards the climate, greenhouse gas emissions from agriculture accounted for 11% of EU emissions in 2015. These emissions decreased by 20% between 1990 and 2013, but started to rise again in 2014. Moreover, net removals from land use, land use change and forestry offset around 7% of all EU greenhouse gas emissions in 2015.
- J Whereas there are several measures deployed which are targeted to biodiversity and landscape, they are criticized for their limited effectiveness. According to the ECA (2018) the conservation status of agricultural habitats is favourable in 11 % of cases in the period 2007-2012, compared to less than 5 % in the period 2001-2006. However, since 1990, populations of common farmland birds have decreased by 30%, and of those of grassland butterflies by almost 50%.
- J There are challenges in the rural areas. In terms of agriculture, it is argued that there is an investment gap which hinders restructuring, modernisation, diversification, uptake of new technologies, use of big data etc., thereby impacting on environmental sustainability, competitiveness and resilience. These bottlenecks also influences the ability to fully explore the potential of new rural value chains like clean energy, emerging bio-economy and the circular economy both in terms of growth and jobs and environmental sustainability (e.g. reduction of food waste). There are also consequences in terms of generational renewal in agriculture and more widely in terms of youth drain. Only 5.6% of all European farms are run by farmers younger than 35. Access to land, reflecting both land transfers and farm succession constraints, together with access to credit, are often cited as the two main constraints for young farmers and other new entrants (EU Commission 2018b).

1.2.3. Needs and objectives

The EU is strongly committed to action on the COP21 **Paris Agreement** and the United Nations' **Sustainable Development Goals** (SDGs), as many other countries have expressed their commitments in this regard. For climate, this calls upon the farming sector to contribute to economy-wide emission reduction targets. The **embeddedness** of agriculture in the ecosystem has led to a growing awareness about the importance of agriculture in the preservation of (agro) **biodiversity** as well as its sometimes

unique linkages with regions and **landscapes** (e.g., domestic-origin protected products). In the EU as well in other regions, agriculture is expected to contribute to a “better life in rural areas” (e.g., Cork 2.0 Declaration 2016), which requires investments in skills, public services, infrastructure and capacity building in order to generate vibrant rural communities.

The proposed CAP has three **general objectives** (Foster a resilient farm sector; Bolster environment and climate; Strengthen fabric in rural areas), which, though phrased differently, are similar to the current CAP’s general objectives. The following 9 specific objectives should guarantee that the future CAP will continue to ensure access to high-quality food and strong support for the unique European farming model:

-)] to ensure a fair income to farmers
-)] to increase competitiveness
-)] to rebalance the power in the food chain
-)] climate change action
-)] environmental care
-)] to preserve landscapes and biodiversity
-)] to support generational renewal
-)] vibrant rural areas
-)] to protect food and health quality

The objectives should also ensure the EU to live up to its commitments with respect to action on the COP21 **Paris Agreement** and the United Nations’ **Sustainable Development Goals** (SDGs) and the necessary contribution agriculture should make in this regard. Even though the objectives have hardly changed as a result of newly adopted commitments the priorities imposed on the objectives might have changed. The priority given to climate action has increased.

1.2.4. CAP: proposed main changes

As indicated by the Commission one of the main changes of the CAP beyond 2020 is the proposed new way of working: Member States will have more flexibility in how to use their funding allocations, allowing them to design tailor-made programmes that respond most effectively to farmers’ and wider rural communities’ concerns (subsidiarity). Member States have to develop **CAP Strategic Plans** covering the whole period, setting out how each Member State intends to meet 9 EU-wide economic, environmental and social objectives (see previous section for details), using both direct payments and rural development. The Commission will review and approve each plan to ensure consistency and the protection of the single market, and will closely follow each country’s performance and progress towards the agreed targets. A key part of the proposed CAP reform is a move to a results-based delivery model. While (rebalanced) income support will remain an essential part of the CAP, the proposal claims a higher ambition on environmental and climate action, and strengthen the possibilities to reward farmers for contributions that go beyond mandatory requirements.

1.3. APPROACH

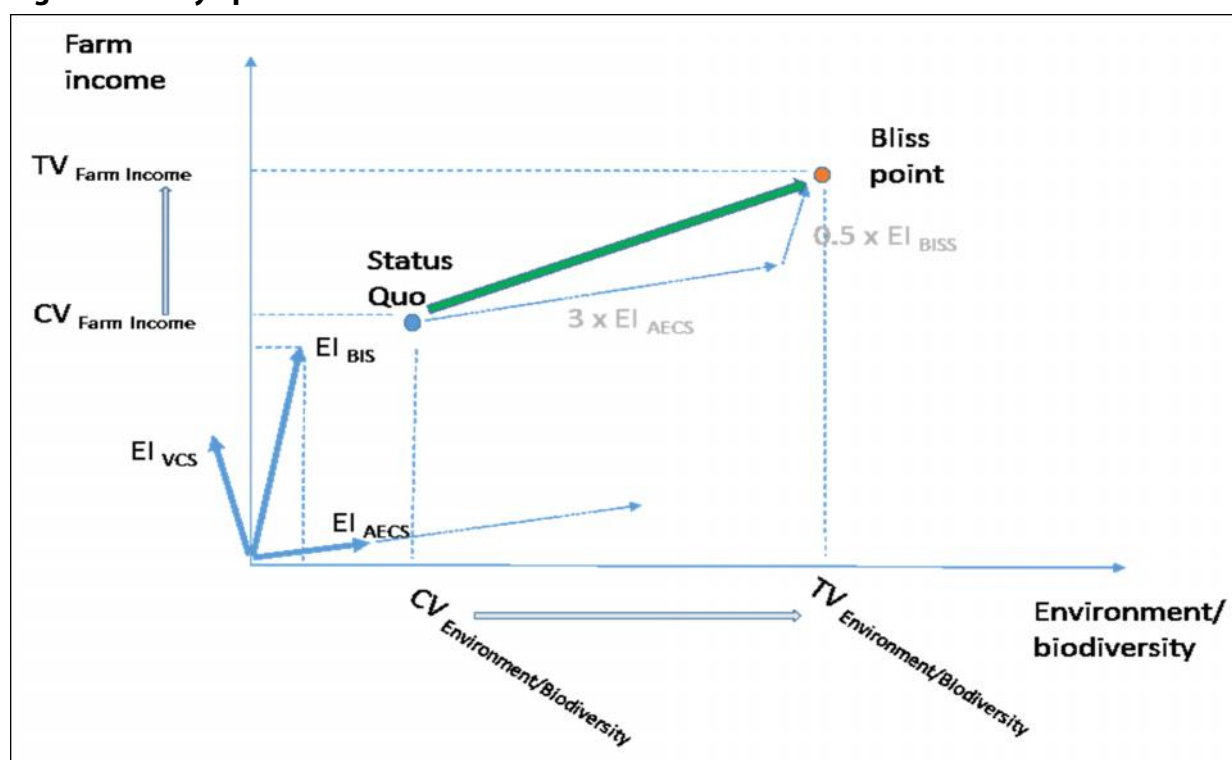
1.3.1. Policy optimization framework-methodology

Several issues are at stake when evaluating a package of policy measures, which is illustrated by Figure 2. This figure is based on the policy optimization literature, dating from Frisch and Tinbergen.

As indicated by the Y and X-axes, a clear specification of the policy objectives is needed. Moreover, the target values (TV) one wants to achieve for each of the objectives need to be indicated (e.g. *TV_{farm income}*). Together these target values determine the direction into which the policy maker wants to go (e.g. "Bliss"point). The difference of the target value and the current value score on an objective, expresses the **need** for 'improvement' (e.g. a strong need for environmental improvement relative to income improvement) or the **ambition** of the policy maker with respect to **objective-target-choices**.

In addition a set of policy interventions or measures need to be available (e.g. Basic Income Support (BIS), Voluntary Coupled Support (VCS) and Agri-Environment and Climate schemes (AECS)). According to the famous Tinbergen-rule the number of (independent) policy instruments should be at least as large as the number of policy objectives. Policy instruments contribute to the achievement of policy objectives. Though policy instruments may be **targeted** at a specific objective (e.g. the BIS direct payment at improving farm income), a policy measure usually affects multiple objectives simultaneously (e.g. the estimated impact policy instrument vectors in Figure 2). The estimated impacts are usually based on **agronomic-economic model representations** of agriculture or other information (cf. results from ex-ante and relevant ex-post **impact assessments**). A full modelling exercise is beyond the scope of this study. Instead the IOI (instrument-objective-impact) methodology, as this has been used in the CAP Mapping project, will be made use of to assess potential impacts and usefulness of measures (see Chartier et al, 2017).

Figure 3. Policy optimization framework and CAP reform



Source: This study.

Note: The horizontal and vertical axis represent two policy objectives (environment/biodiversity on X-axis and Farm income on Y-axis). Three policy interventions are distinguished (basic income support BIS, voluntary coupled support VCS, and agri-environmental and climate scheme AECS), which are represented as vectors at the origin, where the direction of each vector characterizes its contribution to the two objectives. The length of each vector depends on its effectiveness per unit of budget. Measures can be combined to move from the current situation (Status Quo) to the desired situation (Bliss Point), where the desired situation is the situation corresponding to achieving the target values TV as these are defined for each objective. In the example 3 times AECS and 0.5 times BIS will lead to full realization of both policy objectives (and will have a cost of 3.5 "budget units").

Within the Frisch-Tinbergen policy optimization framework, a mix of policy instruments is selected (e.g. 3 times the “per unit” AECS measure plus 0.5 times the “per unit” BIS measure) such that the distance between the current situation (Status Quo) and the desired situation (Bliss point) is bridged. The impact or success of policy measures application is co-determined by the **package of policy measures** where it is a part of. A key-result from this literature is that a key determinant of the optimal policy mix is the **cost-effectiveness** scores of the instruments on all policy targets (Schader et al, 2014). Whether it will be feasible to “close the gap” depends on several factors including the **gap** that has to be bridged (reflecting how ambitious the policy maker is), the availability of an adequate set of policy instruments, and the amount of **budget** available. The budget may be restrictive and not allow to fully close the gap. If so the policy maker has to accept an incomplete realization of its objectives, and to make further choices and **prioritize** which objectives will be achieved to which extend (**objective trade-offs**).

Policy evaluations are sometimes confusing because several aspects are mixed up. For example, a policy might be evaluated as deficient because policy objectives are only achieved to a limited extent. To be able to draw such a conclusion this requires clearly specified policy **objective targets** in the first place, which is not always the case (Don, 2004). Lacking goal-achievement might be due to **inefficiencies** or the application of **non-effective instruments**, but can also be a result of well-performing measures within a **restrictive budget**. Moreover, some policy objectives (or group of objectives) might be more easy to achieve than others. This could be because some policy objectives may be conflicting whereas others may be achievable more in parallel (synergy). Even when inconsistencies between policy objectives will be reduced to its minimum (e.g. no **incoherence**), still **trade-offs** between objectives will remain, without there being a reason to blame anyone for this.

1.3.2. Scope and focus

The analysis pursued in this essay will focus on assessing the **various DP and RDP measures** (Title III of COM (2018) 392). It is important to emphasize the **framework-character** of the proposed measures, which aim to set conditions at a general level, thereby providing a framework within which Member States can further develop and design specific measure implementations. As this is the case the focus of this analysis will also assess these proposed measures at that level. Attention will be given to:

-)] the **proposed interventions** or measures and relevant **side conditions** (e.g. safeguards);
-)] where relevant proposed measures will be linked to similar measures under the **current CAP** and experience with these measures in the current policy setting;
-)] where new measures are proposed attention will be paid to their potential contribution to achieve the defined policy goals, implementation issues, and farmer uptake (in case measures are non-obligatory);
-)] the **potential effectiveness** of the proposed policy measures and issues that could potentially affect their effectiveness (e.g. bottlenecks, implementation modes);
-)] whether proposed measures can be improved or made more effective by changing certain aspects or properties. Herewith we will try to benefit from lessons that could be learned from past experiences with a measure or measures that are quite similar to the one that has been proposed;
-)] the possibilities to **effectively combine measures** (e.g. new green architecture);
-)] whether a sufficient number of instruments is **available** to potentially achieve the targeted policy objectives and where (which domain) instruments may be lacking.

Note that the assessment provided will have some important limitations in its scope. Whereas the assessment focuses on the different measures, how these measures will be deployed and combined will have to be further described and motivated in the **CAP Strategic Plans** Member States have to develop. In addition, in these plans it will be made clear what new measures Member States will propose (e.g. eco schemes, climate measures) for specific fields including their design and implementation. Without this information and these plans it will be impossible to make any assessment of the measure implementation under the new CAP. However, requirements such as obligatory implementation or minimum budget spending and transfer of budget between the two pillars of the CAP will be part of the analysis. As such this study should generate insights and results with respect to a specific set of policy measures (Title III) a necessary but not sufficient condition for achieving an 'optimal policy' contribution from the proposed reformed CAP.

1.3.3. Information sources used

The current study does not allow any detailed impact assessment and is of a mainly qualitative nature. It relies on several sources of information, including the impact assessments made by the EU Commission, past CAP policy measure impact evaluation and special topic studies, scientific literature, policy documents from MSs, the EP, and stakeholders and other relevant grey literature.

1.4. Set-up of the work

The study is organized as follows: chapter 2 discusses the direct payments measures, chapter 3 focuses on the rural development measures, while chapter 4 will close with recommendations with respect to the direct payment and rural development measures that according to the author deserved further consideration and reflection by the AGI Committee of the European Parliament in her reflection on the proposed Direct Payment and Rural Development Policy instruments and potential ways for improvement.

2. DIRECT PAYMENTS

Box 2: Key findings on direct payments

KEY FINDINGS

-)] The EU's income support to farmers is suffering from inequalities in distribution of support, a lack of targeting and a lack of use of need-oriented criteria. The new CAP is likely to only address this problem to a limited extent, since the basic mechanism (hectare-based payments) is not changed.
-)] The enhanced conditionality contributes to establishing a baseline with respect to climate, the environment, biodiversity, and health, which goes beyond the current level. The extended greening requirements apply to all holdings receiving direct payments.
-)] Eco-schemes that are obligatory for Member States and voluntary for farmers create possibilities to reward farmers for actions improving climate and the environment, which go beyond the baseline as established by the enhanced conditionality. Arguments are provided to further enlarge their potential and coverage.
-)] The obligatory reduction of direct payments (capping) is not likely to be very effective due to mandatory side condition to deduct the salaries of paid workers and imputed labour costs of unpaid labour. Making the side condition optional rather than mandatory could make the measure more effective. To better recognize the contribution of this measure to redistribute income support an argument is made to exempt direct payments aimed at other objectives from being capped and an alternative formula for payment reduction is proposed.
-)] Coupled income support for sustainability should be used in a targeted (or discriminatory) way rather than in a generic way, whereas otherwise it will distort the level playing field and go against the principle of the EU Single Market.
-)] Level playing field concerns were identified for at least three types of interventions: i) the enhanced conditionality (potential differences in requirements over Member States, combined with differences in basic income support for sustainability); ii) the payments for eco-schemes which can overcompensate the costs of efforts made; and iii) coupled income support. Also the sectoral interventions include aspects at the discretion of Member States that can potentially distort the level playing field. In order to avoid this Member States should be requested to motivate their choices and safeguards should be considered.
-)] The interventions made available under Title III offers Member States a wide range of opportunities, the number and flexibility of which has been increased relative to those in the current CAP. Given the priority placed at addressing climate objectives the 'guidance' on interventions specifically addressing this objective is too limited.

2.1. Introduction

In the proposed CAP beyond 2020 direct payments will remain the core part of the interventions (measured in terms of budget spending) of the CAP in all Member States. In terms of the type of interventions offered under the direct payments heading (first pillar of the CAP) probably the most notable change as compared to the current CAP is the new eco-schemes provision, which is part of the revised green architecture. The more general change comprises the new delivery model of the CAP,

implying that the EU sets the basic policy parameters (general and specific objectives of the CAP, broad types of intervention, basic EU requirements), while Member States will be in charge of tailoring CAP interventions to maximise their contribution to EU objectives and will have more flexibility in designing the compliance and control framework applicable to beneficiaries. Member States have to account for their choices, including planned target values for indicators allowing the monitoring and evaluation of achievement of objectives, in their national CAP Strategic Plans.

As the main share of the EU's total expenditure on the CAP (about 70%) is spent on direct payments, this instrument is of primary importance when assessing the CAP. During the recent reforms efforts have been made to better target these payments to specific policy objectives, such as greening (Green Payment), generational renewal (Young Farmers Payment), support to specific sectors (Voluntary Coupled Support payments), farm income distribution (Redistributive Payment), small farmers (Small Farmer Payment) and support to areas facing natural handicaps (Areas facing Natural Constraints payment scheme). Besides there is the Basic Payment scheme, the most generic instrument aimed at supporting farm income, which has an estimated share of 53% in the total Direct Payments financial envelope. In the proposals for the new CAP basic income support for sustainability, complementary redistributive income support, complementary income support for young farmers and (voluntary) coupled income support will remain, though it includes a number of adjustments compared to the current CAP (e.g. stronger redistribution). Due to subsidiarity the role of Member States in policy design, tailoring and implementation has been strengthened as Member States specify definitions (including eligibility conditions), interventions (e.g. eco-schemes), are contributing to setting support levels depending on needs, and the flexibility in financial management has increased.

2.2. Basic income support

The new basic income support should be paid as a unitary amount per hectare (flat rate), but Member States can differentiate the payment amounts by groups of territories, based on socio economic and/or agronomic conditions (Articles 18(1) and 18(2)). Member States can also choose to implement basic income support based on entitlements (Article 19). Member States are obliged to achieve convergence and should establish maximum value for payment entitlement by 2026 at latest and ensure that by 2026 at latest all payment entitlements would be 75% of the average unit amount of basic income support (Article 20(4) and (5)).

2.3. New green architecture

The legislative proposals on the new CAP contain a new architecture for greening, which covers both pillars and consist of three components (Articles 11 and 12): i) the enhanced conditionality; ii) the eco-scheme (Article 28); and iii) the agri-environment, climate scheme and other management commitments (Pillar II measure, Article 65) (see Figure 1 for a comparative overview).

The enhanced conditionality replaces the current cross-compliance arrangement in Pillar 1 of the CAP. According to article 12 of 392 *"Member States shall ensure that all agricultural areas including land which is no longer used for production purposes, is maintained in good agricultural and environmental condition". To achieve this Member States "shall define, at national or regional level, minimum standards for beneficiaries for good agricultural and environmental condition of land in line with the main objective of the standards as referred to in Annex III of the proposed legislation, taking into account the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, crop rotation, farming practices, and farm structures".* Farmers have to comply with 16 Statutory Management Requirements (SMR), that relate to existing legislation with respect to climate and environment, public, animal and plant health and animal welfare. In addition they have follow 10

standards for Good Agricultural and Environmental Condition of the land. Obligatory measures include the preservation of C-rich soils, the establishment of a system for providing the Farm Sustainability Tool for Nutrients aimed at improving water quality and reducing nitrogen emissions, crop rotation and the set-aside of a certain percentage of the land for non-productive elements, aimed at enhancing biodiversity.

Table 1: Comparison Pillar I Eco-schemes and Pillar II payments for environment, climate and other management commitments

Schemes for the climate and the environment - Eco-schemes (Art 28)	Environment, climate and other management commitments (Art 65)
<ul style="list-style-type: none"> Funded by Pillar I (annuality , not co-funded) 	<ul style="list-style-type: none"> Funded by Pillar II (multiannuality, co-funded)
<ul style="list-style-type: none"> Payments to genuine farmers 	<ul style="list-style-type: none"> Payments to farmers and other beneficiaries
<ul style="list-style-type: none"> Payment per ha eligible to direct payment 	<ul style="list-style-type: none"> Payment per ha (not necessarily eligible to direct payments)/animal
<ul style="list-style-type: none"> Annual (or possibly multiannual) and non-contractual commitments 	<ul style="list-style-type: none"> Multiannual (5 to 7 years or more) and contractual commitments
<ul style="list-style-type: none"> Calculation of the premia: Compensation for cost incurred/income foregone, or Incentive payment: top-up of basic income support (amount to be fixed and justified by MS) 	<ul style="list-style-type: none"> Calculation of the premia: Compensation for cost incurred/income foregone
<ul style="list-style-type: none"> Baseline = conditionality + national legislation + area management Payments may support collective and result-based approaches Possibility for MS to combine both: <ul style="list-style-type: none"> Eco-scheme set as "Entry-level scheme" condition for Pillar II payment for management commitment Or possibility to set a two-tier scheme: e.g. use Pillar II management commitments to support cost of conversion into organic farming and the Eco-scheme to maintain in organic 	

Source: EU Commission (adjusted).

The enhanced conditionality establishes a baseline with respect to climate (GAECs 1 - 3), water quality and soils (GAEC 4 – 8), and biodiversity (GAEC 9 – 10). The latter ones are largely equivalent with the current greening measures (GAEC9 with the non-productive area condition covering the current Ecological Focus Areas; GAEC10 including the prohibition to plough permanent pasture in Natura 2000 areas. Member States have to decide about the minimum share of non-productive areas, as well about the type of non-productive elements. Member States are not allowed to include any conditionalities for issues not covered by Annex III of the legislation.

Member States are obliged to offer eco-schemes to farmers: *"Member States shall provide support for voluntary schemes for the climate and the environment ('eco-schemes') under the conditions set out in this*

Article and as further specified in their CAP Strategic Plans » (article 28). The eco-scheme measure aims at supporting agricultural practices that are beneficial for climate and the environment. Farmers can decide on a voluntary basis whether or not to participate in provided eco-schemes.

Member States have to decide on the list of agricultural practices beneficial for the climate and the environment, where measures should meet the CAP specific objectives *“contribute to climate change mitigation and adaptation, as well as sustainable energy”, “foster sustainable development and efficient management of natural resources such as water, soil and air” and “contribute to the protection of biodiversity, enhance ecosystem services and preserve habitats and landscapes”* (see Article 6(1) d, e, f).

Member States may only provide payments covering commitments which go beyond the relevant SMR and GAEC requirements established under the enhanced conditionality condition; go beyond the minimum requirements for the use of fertilisers and plant protection products, animal welfare, as well as other mandatory requirements established by national and Union law; and go beyond the conditions established for the maintenance of the agricultural area. Moreover the commitments under the eco-scheme regime should be different from those of the agri-environmental schemes (AECS).

The payments made for eco-scheme measures should take the form of an annual payment per eligible hectare and it shall be granted as either payments additional ‘top up’ to the basic income support, or as payments compensating beneficiaries for all or part of the additional costs incurred and income foregone as a result of the commitments as set pursuant to Article 65. This allows Member States to create a profit margin for farmers when participating in eco-schemes, and could induce a more wide spread adoption than in the case of agri-environmental and climate action schemes under Pillar II of the CAP (see Article 65). As such eco schemes can be a vehicle to, relative to AECS, get a larger share of the farmers involved in pursuing lighter measures that are beneficent for the climate and environment.

The proposed new green architecture of the CAP implies a redefinition of the baseline, as this is comprised by the enhanced conditionality (Matthews, 2018a). Grosso modo the proposed new baseline includes the current baseline plus the current greening requirements. Member States have discretionary power to tailor the baseline to local conditions and preferences. On the one hand this may tailor the baseline level better to local circumstances, but it may also lead to a divergence of baseline levels, as Member States may make different decisions (e.g. with respect to the share of non-productive areas).

As eco-scheme measures have to be complementary or additional to the baseline both are related. The eco-scheme measures should also be different from those provided under the agri-environmental and climate action schemes of the second pillar of the CAP. As they are part of the first pillar of the CAP no co-financing by MS is needed. The eco-schemes allow Member States to develop innovative schemes supporting climate and environment objectives, which go beyond mere flat rate payments (see Table 3) and allow for smart combinations of eco-schemes with AECSs.

As it has been emphasized by the Commission, the new CAP foresees an improved delivery model, including the strengthening of performance-based measures. Some Member States have experience with such systems (e.g. Entry Level Scheme of the UK) or are considering its potential (see the Public Goods Bonus scheme as this has been developed and proposed by the Deutscher Verband für Landschaftspflege (DVL, 2017); also The Netherlands is considering a point-system type of approach). Such schemes would well-fit in the philosophy of the new CAP (e.g. from compliance to performance or action to results; public funding for public goods-principle) and have attractive properties (addressing the entrepreneurial rather than administrative qualities of farmers; rewarding farmers’ current efforts as well as offering farmers incentives to extent their environmental services to new areas of their farms; allowing farmers to offer an efficient mix of actions, or to ‘specialize’ in the provision of

specific public goods; offering flexibility to include a wide range of environmental services, including nutrient balancing and abstaining from artificial fertilizer use; tailoring to regional conditions affecting agriculture, biodiversity and landscape). Creating an allowance in the new CAP to a performance or point system approach type of eco-scheme implementation would strengthen its performance based approach. The legislation is allowing for entry-level schemes, “which may be a condition for taking up more ambitious rural development commitments” (recital 31) but there are still some ‘open ends’ with regard to the desirable flexibilities this would require.

2.4. Reduction of direct payments: compulsory capping

Relative to the current CAP, the legislative proposals for the new CAP aim for a stronger redistribution of income support to smaller farms, therewith addressing a clear need to improve targeting in farm income support (see Section 1.2). Member States will be obliged to cap direct payments by a) at least 25% for tranche between €60K and €75K; b) at least 50% for tranche between €75K and €90K ; c) by at least 75% for the tranche between €90K and €100K ; d) full capping for any payments larger than €100K. The capping does not apply to the EU gross direct payments, but to the net payments after salaries and other direct and indirect labour costs (both for family members and non-family workers) are subtracted.

Whereas in the current CAP, capping was optional (when a Member States are operating a redistributive payment scheme they are exempted from capping), and should at least be 5% on all direct Basic Payments of €150k and beyond, while the Green Payment (30% of the direct payment envelope) was exempted from capping and also salary cost for farm workers could be deducted. The proposal for the new CAP seems therewith more ambitious than the past one, as the Green Payment exemption no longer applies, whereas also the capping starts to impact net payments from a level of €60K and at substantial deduction rates relative to the current scheme (starting from €150K, with a ‘minimum tax’ of 5%, rather than 25%. However, own background calculations based on FADN data showed that the impact of the new proposed capping is likely to be minimal due to the mandatory side condition enforcing a generous labour cost deduction (see also Matthews, 2018b). Moreover, as the main aim of this measure is to contribute to the redistribution of income support, an argument could be made to more focus this measure on direct payments which can be labelled as being aimed at supporting farm incomes and excluding direct payments that are targeted to non-income support-objectives, such as the eco-schemes.

2.5. Redistributive income support

As has been argued before (see Section 1.2) the current income support is unbalanced and favouring large farmers relative to small farmers. The redistributive income scheme allows to correct for this imbalance. Whereas redistributive income support has been optional under the current CAP, for the new CAP this measure is proposed to be compulsory. Member States should establish an amount per hectare or different amounts for different ranges of hectares, as well as the maximum number of hectares per farmer on which the redistributive payment is paid. The per hectare amount may, however, not exceed the national average direct payment per hectare. Member States have a large freedom how to implement the redistributive payment scheme and can for example decide to apply a graduation in the amounts for different tranches of hectares.

The mirror side of the large freedom for Member States is that it leaves it quite open to what extent the redistributive payment measure will contribute to rebalancing the currently unequally distributed and

poorly targeted income support. Past efforts to redistribute payments “have had limited effect” (ECA, 2018).

2.6. Coupled income support and crop specific payments for cotton

The proposed coupled income support (CIS) measure is similar to the one under the current CAP (a maximum of 10% of Pillar I envelope may be allocated to VCS, plus an additional 2% for protein crops). An additional option now is to create coupled aid schemes for non-food biofuel or biomass crops. A criticism on the implementation of this measure is that it may be applied by Member States in a too generic way, which was not intended by the legislation as this was referring to the allowance of coupled support for “particular situations”. This refers to sectors that “undergo certain difficulties” (cf. Article 52(3)) and to the extent necessary to “create an incentive to maintain current levels of production in the sectors or regions concerned” (cf. Article 52(5)).

It can be argued, however, that the option to permit MS to establish voluntary coupled support goes against the philosophy of greater market orientation in agriculture. Coupled income support can distort the level playing field between farmers and the processing sectors (supply chains), especially when support is granted unevenly across the EU (Smit et al, 2017). Under the new CAP its implementation will have to be motivated in the strategic plan of the Member States, which would allow the EU Commission to again check for the proper implementation of this measure, where now also the recent experience with this measure could be taken into account.

Member States having cotton production (Bulgaria, Greece, Spain and Portugal) shall grant a crop-specific payment for cotton, where the payment eligible farmers receive is dependent on reference areas and reference yields, where the proposed payment per hectare can go up to €1218/ha (Spain). In case the eligible area in a given year and Member State would exceed the base area (reference) then a proportional reduction of the (yield) payments should be made, such that the budget is not overrun. The proposed cotton specific payments is similar to that of the current CAP (Regulation (EU) 1307/2013, Articles 57-60), be it that the payments have been reduced by 4%. Farmers that are a member of an approved interbranch organisation get a 2 euro top-up to their crop specific payment, just as currently is the case.

2.7. Young farmers support

Whereas under the current CAP, Member States are obliged to offer top-up aids to new young farmers, under the new CAP this is optional. When a Member State decides to apply a Young Farmer payment, up to 2% of the national Pillar I envelopes must be used to finance these payments. The (per hectare) payment is targeted at young farmers who have newly set up for the first time (where eligibility is not further defined). Under the current CAP Member States are allowed to make, for a maximum of 5 years, payments to farmers being under the age of 40. In the proposal, the measure has thus been targeted solely at new entrants.

In addition to first pillar support, Member States can support young farmers via the second pillar of the CAP, which includes an increased “installation allowance” of up to €100 thousand (see next Chapter for more details on young farmer support and generational renewal).

2.8. Small Farmers

Just like in the current CAP, under the new CAP it is proposed that Member States may apply a simplified direct payment (a “round sum”) to small farmers (Article 25 and Recital 28), rather than

applying the standard direct payment apparatus. Member States have to design these schemes as part of their CAP Strategic Plan. This small farmer-provision is more flexible than the current system.

2.9. Sectoral interventions

In the new CAP the sectoral interventions (fruit & vegetables, wine, olive oil and table oil, apiculture, hops and other sectors) are now integrated in the CAP plan regulation. Whereas in the current CAP the objectives, implementation and delegated powers were scattered throughout the sectorial aid schemes and were felt to lack structure, under the new CAP the sectoral interventions are extended to other sectors as well as given a clear structure referring to the 9 specific objectives at the start of the proposal. This implies that all sectoral interventions shall now be linked to CAP specific objectives. The extension includes the design of sectorial interventions for the sectors cereals, flax and hemp, bananas, live trees (etc.), beef and veal, poultry meat and silkworms. The extension made for other sections partly reflect market volatility, and are designed along the same principles as the sector fruit and vegetables. The role of producer cooperation within Producer Organisations (POs) and Associations of POs (APOs) in the supply chain and their resilience to economic and environmental challenges will be further strengthened.

The new structure is introduced to simplify the legislation and better integrate these measures in the broader context of the CAP (aims, measures). Starting from a general provision, specific objectives for every sector are introduced in every following section that should provide the different sector with tailor-made interventions. These sector specific objectives all refer to article 152 from the current CAP (Regulation (EU) 1308/2013) and are now better aligned with the sector intervention types, operational programmes, operational funds and financial assistance.

The sections are also extended with more specific objectives that relate to nowadays public debate. For example the fruit and vegetables sector added objectives on the increase of consumption of related products (article 42 h) and crisis prevention and risk management (i) as well as mentioning climate change mitigation (e) and pest resilience (c) in already existing objectives. The wine sector added objectives on the improvement of the competitiveness in third countries (article 51 h), increase the resilience against market fluctuations (i) and to prevent market crises (c) as well as mentioning consumer awareness (g), pest resilience (d) and environmental impact (a). The olive oil and table olives sector added an objective on crisis prevention and management (article 56 f) as well as mentioning environmental impact and climate action (c). The hops and apiculture sectors hardly changed except for the counting of beehives in the apiculture sector probably to decrease fraud.

As they are both targeted at supporting specific sectors, an argument could be made to merge the coupled income support instrument and the sectoral interventions into one intervention, including the financial ceilings imposed to both measures.

2.10. Discussion and conclusions

2.10.1. Introduction

As compared to the current CAP, the new CAP is more ambitious with respect to addressing the inequality in distribution and poor targeting of support. However, the fundamental structure of the direct payments system (payments granted on a per hectare basis) is not going to change, and as a result the payments are likely to be also in the future unequally distributed. No needs based approach is followed nor are clear target values for income support defined (a fair income).

As compared to the current CAP, greening is less preoccupied with financial inputs (e.g. a past Green Payment in the past with a 30% share in the Pillar 1 National Envelope) but it has a greater emphasis towards efforts (enhanced conditionality, now including past greening requirements) and results (eco-schemes). This is a good thing although the aimed “greater overall contribution” is not well-defined and is a vague yardstick by which to measure a Member States’ commitment (Matthews, 2018a).

2.10.2. Balancing income support

Member States differ in their demands to equalise the direct payments amounts by farmers, which relates to differences in interests and different ideas about how to account for heterogeneity in terms of labour costs, agronomic conditions and land prices in the determination of the height of direct payments and accepting differences in payment level over Member States. Budget limitations may hinder the increased convergence over Member States.

With respect to correcting imbalances in farmer support, a more ambitious capping of payments has been proposed than applies to the current CAP. However, the deduction of salary costs (including indirect costs) weakens the effective capping rate. Both capping and redistributive payments are now obligatory schemes, although Member States have a strong role designing the implementation mode, and there are no safeguards enforcing them to redistribute a minimum amount of their envelope. Taking into account the empirical evidence (see Section 1.2), the critical evaluations of the inequality (see ECA, 2016), the lack of a needs-oriented approach (Koester and Ley, 2016), and the scarcity of resources in the context of new challenges with respect to sustainability and climate change, a more substantial reform would have been welcomed.

Whereas the obligatory capping (reduction of payments) and redistribution of support may contribute to a more equal and fair distribution of direct payments and contribute to employment, there are several studies (e.g. Raggi et al, 2013; Olper et al, 2014; Koester and Loy, 2016) indicating that CAP payments play a positive role in retaining farmers in the sector, but that they at the same time slow down structural change, and by that may hamper the long run viability of farms. Farm support redistribution should take into account for this trade-off and find a proper balance between equity and efficiency.

The proposed capping is likely to be not effective due to the generous labour costs deduction. One option to make the capping measure more effective could be to weaken this side condition and no longer make the deduction of labour costs mandatory but propose it rather as an option Member States could use. As Member States have diverse opinions on redistribution such a change would allow Member States with more or less ambitious redistributive objectives to make a more effective use of this measure.

A more fundamental objection to the current proposal is that it accept the current practice (existing employment structure at farms) without applying any normative productivity criterion. A more promising criterion to be used is to base the maximum amount of support on a formula taking into account a normal labour productivity. This could be done by specifying a Member State specific normative standard output (SO) per worker (say €y). The calculated number of full time workers per farm (I fte) could then be calculated by dividing the calculated total standard output of a farm (€x) by this indicator ($I = \text{€x} / \text{€y}$). The maximum amount of direct payments threshold or plafond (€P) could then be defined as maximum compensation per farm worker (€z) times the calculated number of workers ($P = z \cdot I$). The maximum amount of payments per calculated worker could be based on national criteria with respect to social assistance or unemployment benefit rates, eventually corrected with a specific factor accounting for the agriculture-non-agriculture wage differential which is found to be appropriate. The advantage of such a criterion would be that EU income support is linked to income

support criteria as they are used in the wider economy (fairness) and that it contributes to a better recognition of direct payments as income support. Any payments beyond this threshold or plafond could then be capped or made subject to a reduction rate (e.g. with a minimum reduction rate of 50%). Another advantage is that supporting farm incomes in this way does not “remunerate” labour hoarding in agriculture, but rather provides an (indirect) incentive to productivity increase. Moreover, it reduces the probability that loss-making farms receive continued support, which counteracts farm viability objectives.

2.10.3. Green architecture and eco-schemes

The new green architecture ensures a well-defined baseline, which goes beyond of what may be required outside the EU (public support for farmers outside the EU is also different). The EU baseline now includes the greening requirements (and have these extended to all farms), that were previously supported by a Green Payment, comprising 30% of the Pillar I national envelopes. This prevents backsliding as compared to the current situation, whereas it frees up resources (the Green Payment comprised 30% of the Pillar I national envelopes), that can now (but not have to) be allocated to other greening a sustainability efforts (e.g. eco-schemes). Having included a financial safeguard (e.g. 15% of the national envelope, which is only halve of the current greening rate) would do better justice to the high priority attached by the public, farmers, Non-Governmental Organisations (NGOs) (see Public Consultation) and the Commission.

As regards the eco schemes a lot is still open, which complicates assessing them. Their introduction is appreciated as they are a potentially more effective instrument than the past greening provisions. It is, however, at this moment, unclear to what extent their potential will be realized, as this is in the hands of the Member States, and thus depending on their ambition and creativity to develop eco-scheme measures. Through their nature eco-scheme measures have the potential to reach a large number of farmers relative to those involved in the second pillar AECS measures. An argument could be made that Member States should use this possibility because even the impact of ‘light’ measures, when broadly adopted may potentially create as much or more impact than ‘heavy’ measures, which are only adopted by a relatively low number of farmers.

The allowed compensations for eco-schemes (paid as per hectare top-up payments) do not establish a clear link with the cost of the efforts made by farmers. The payments can be a fixed amount per hectare, or a payment based on a (full or partly) compensation income forgone or additional costs. Only when the compensation exceeds the costs farmers have to make, eco-schemes are likely to get a wide adoption. The proposed legislation does not exclude that eco-schemes may be used as a vehicle for granting hidden income support. As the proposed legislation is still rather open, they could create an open door to greenwashing, which, after the lessons and experiences with greening under the current CAP, should not be a route that the EU should follow.

As there are no strict compensation principles (such as coverage of costs or income foregone) in the eco-schemes, the proposed legislation on the one hand suggests that these principles could be followed where on the other hand it indicates that also more loosely defined payment determination rules could be followed. This could lead to the already noted overcompensation and an associated ineffective use of scarce public resources. Moreover, to the extent overcompensation takes place, it could introduce a distortion to the level playing field. As such it would be good to have introduced a means test that limits the height of the payment relative to the costs associated with fulfilling the eco-scheme requirements (e.g. to a maximum of 150%).

The eco-schemes can be positioned in between the enhanced conditionality (baseline) and the AEEM schemes. For reasons of transparency it might therefore be useful to link eco scheme measures to the current GAECs as these are part of the enhanced conditionality. This would make it clear to what extent the eco schemes provide extensions to the GAECs, in that they contribute to more strict norms with respect to the current GAEC domains.

The eco-scheme mechanism can only fund per hectare-payments, where they may be constructed in such a way, that a set of measures under the eco-scheme arrangement is composing an entry-level scheme. A fear is that such a scheme may incentivise entry-level schemes with limited environmental additionality, and thus running the risk of offering weak performance, although they have the potential contribute to ensure a continued delivery of green services. However, entry level schemes, and their associated performance-orientation deserve sufficient room for development as a way to implement the eco-scheme legislation.

As greening and sustainability efforts can be, but not necessarily have to be, hectare related, it is a missed opportunity that the eco-schemes as they are currently proposed, do not have the flexibility to do finance activity-based (farm specific payment rather than hectare payment) and performance-based systems (such as 'green point' systems). This is a pity, as the philosophy underlying the CAP reform adheres to "the principle" of performance and results-based delivery mechanisms. In this context it is important experiment with performance based systems and to create an option for Member States to propose performance based systems (e.g. related to the active use of the nutrient management scheme/tool).

As regards the objective to pursue sustainable development there is a usual reference to natural resources such as water, soil and air (cf. the listed GAECs under conditionality). From an ecosystems or agro-ecology perspective an argument could be made to add functional agro-biodiversity to this list of resources. Functional agro-biodiversity (e.g. buffer strips planted with flowers) could favour pollination by bees or insects and could also contribute to natural pest and disease control and contribute to a reduced use of plant protection products. As such functional agro biodiversity needs to receive a better recognition (for example by explicitly accounting for it in the used indicators). One could argue (see impact indicator I29) there is a reference to species and habitats of Community interest, but the honey bee and many other insects are not part of that. Soil-biodiversity is another element of functional agro-biodiversity, but is already sufficiently aid attention to at several places in the proposed legislation.

2.10.4. Level playing field-issues and WTO domestic support

A basic principle underlying the Single Market is to preserve a level playing field by avoiding unfair support, while it also adheres to the principle of specialization in production, and thereby ensure efficiency gains (good and services provision at lowest costs). Level playing field concerns have been identified for at least three types of interventions:

- i. by the enhanced conditionality, there can be differences in requirements over Member States while this can be combined with differences in basic income support for sustainability (which is justified as income support for sustainability, which logically would include a financial contribution for adhering to the conditionality);
- ii. the payments for eco-schemes may lead to overcompensation in the case the top-up hectare payment-option is chosen to determine the compensation. Including a profit margin in eco-scheme measures to enhance the uptake of eco-schemes can be justified as eco-schemes are used to procure public goods by mimicking a 'virtual market' situation (in market contexts it is quite normal that a certain amount of the suppliers make a profit). However, the use of

safeguards could contribute to limit overcompensation to such a degree that the level playing field is distorted (also being an argument against greenwashing of income support).

- iii. the coupled income support for sustainability has the potential to disturb fair competition between agricultural sectors, within and over Member States. The conditions for granting coupled income support have been extended as compared to the current CAP. However, already under the current CAP questions have been raised on the level playing field aspect of voluntary coupled income support. The key point of criticism with respect to their current application is that they may have been applied in a too generic way, rather than as a type of support targeted at sectors that are in decline and face specific difficulties (Jongeneel et al, 2018). This then invades on the principle of the EU Single Market and the associated principle of specialization (implying efficient/least cost production of goods and services at EU level). A safeguard to be considered could be to limit the coupled income support to a maximum share of the total activity at Member State level (e.g. at maximum 30% of the farmers in a specific sector may be supported using coupled income support).

It should be noted that also the sectoral interventions include aspects at the discretion of Member States that can potentially distort the level playing field. In order to avoid this Member States should be requested to motivate their choices and make sure that level playing field conditions are satisfied.

As indicated in Article 10, Member States have to ensure that the interventions (as listed in Annex II of the Regulation) respect the provisions paragraph 1 of Annex 2 to the WTO Agreement on Agriculture. WTO compatibility can be an issue for interventions such as coupled income payments (Arts. 29 to 33), crop-specific payment for cotton (Arts. 34 to 38), some expenditures linked to sectorial programmes (Arts. 39 to 63), and with respect to the second pillar of the CAP (see also next chapter) investments (article 68), Installation of young farmers and rural business start-up (Article 69), and/or risk management tools (Art. 70). It needs to be ensured that WTO Amber Box requirements related to the CAP post 2020 are properly taken into account. This aspect needs further clarification.

2.10.5. The availability of policy measures

The number of policy instruments under the direct payments heading has increased, with the eco-schemes being a prime example, while Member States are given the freedom to propose and design specific measures (subsidiarity) which allow them to tailor measures to local needs and circumstances. As such Member States have a lot of possibilities to develop measures addressing challenges (WBAE, 2018). Partly they will need these possibilities to address climate objectives, as the measures that are currently proposed in that regard are still limited and vague. This is surprising as the proposals emphasize the importance of addressing climate objectives. The Commission has notably chosen for further “mainstreaming” climate action within different EU instruments (eco-schemes, sectoral interventions, AECMs and others) (ECA, 2016). This is ensured by adding climate action references in many interventions and by the requirement that 40% of the direct payments contribute to climate measures as a result of the enhanced conditionality. However, this claim seems premature as the ‘conditionalities’ are not yet specified in detail by the Member States. Moreover, experience with the mainstreaming-approach from the past has shown that it has been difficult to achieve a 20% objective, which at least raises some concerns as to whether additional targeting and guidance by the Commission will be needed to achieve the climate objectives (ECA, 2016).

2.10.6. Summary overview of identified strengths and weaknesses

Below (see Table 4) the results from the direct payment measures assessment are “summarized”, whereas the recommendations follow in Chapter 5.

Table 2. Summary table on direct payments measures

Measure	Strengths, Positive aspects	Weaknesses, Negative aspects
Enhanced conditionality	Establishes a clearly defined baseline of obligatory minimum conditions with respect to agricultural production practices, consolidating the past greening measures.	Member States have to define certain criteria, which can lead to divergence between Member States and negatively affect the level playing field. The 30% of direct payment devotion on spending on greening has disappeared with the changed greening architecture.
Eco-schemes	Member States are obliged to offer farmers possibilities to move beyond flat rate payments and to reward farmers for efforts made for climate and the environment which go beyond the obligatory requirements as specified by the enhanced conditionality	As now proposed, eco-schemes miss the flexibility to reward action-based targeted payments financed on basis of other outputs than hectares, and they seem to exclude animal welfare and societal concerns
Compulsory capping	Capping is made compulsory, which is well justified given the already for years criticized very unequal distribution of CAP support	In its currently proposed form (with a generous (imputed) labour cost deduction) capping is not likely to be very effective as only a very limited number of farms.
Redistributive income support	Redistributive payments are made compulsory	Member States have a lot of freedom, which creates the risk that only very limited redistribution will take place to farms receiving a relatively low amount of support
Coupled income support	Coupled income support can contribute to maintain selected agricultural activities in designated regions, where the sector otherwise would have continued to decline	From the application of voluntary coupled support under the current CAP, there are some signals that the instrument is applied in a generic rather than targeted to ‘problem areas’.

Young farmers support	Young farmers support can be arranged via the first pillar as well as via start-up support in the second pillar	The instrument has been made optional while in the current CAP it is obligatory for a Member State to support young farmers via the first pillar of the CAP
Small farmers	A simplified allowance for small farmers reduces administrative burden (both public and private transaction costs)	Supporting small farmers may contribute to a slowdown of structural change and thereby have a negative impact on farm viability from a longer term perspective
Sectoral interventions	Sectoral intervention measures are now integrated in the CAP strategic plans and linked to CAP specific objectives Member States have to make, which contributes to an integrated policy approach	There are aspects left at the discretion of Member States that could distort level playing field conditions

3. RURAL DEVELOPMENT POLICY

Box 3: Key findings on Rural Development Policy

KEY FINDINGS

-)] The main change in the Rural Development policy is the new delivery model (from compliance to performance). With respect to its core principles and its coverage it has hardly changed.
-)] The Agri-environment, climate and other management commitments have a wide coverage (comprising measures contributing to all 9 specific objectives of the CAP), with a special focus on environment and climate (obligatory).
-)] Natural or other area-specific constraints and Area specific disadvantages resulting from certain mandatory requirements interventions contribute to fairness to farmers and are crucial policy interventions in an EU with very heterogeneous production and regulatory conditions.
-)] The investment intervention plays a crucial role in helping agriculture to address its many challenges and facilitating the transition to a more sustainable agriculture while ensuring its long term viability. When properly implemented it should primarily address market failure (non-productive investments) and restoring assets after crises. Its importance justifies introducing a minimum spending share requirement.
-)] Investments and Young farmer support need a careful specification in order to ensure a level playing field and compatibility with WTO requirements
-)] Risk management need to be embedded in a broad approach (including awareness raising, farmer advice, accounting for interactions between various policy measures and private sector provisions) in order to contribute to a consistent, tailored and effective policy in which the proposed policy foresees.
-)] Cooperation and Knowledge and information sharing interventions, when properly combined with other interventions, play a key role in an effective innovation and farm modernisation strategy. The support and extension of the coverage of farm advisory services is to be welcomed.

3.1. Introduction

The main change for rural development as compared to the current program is the shift from compliance to performance, which implies skipping the prescriptive measures which set eligibility conditions for beneficiaries. This lead to a reduction from 69 measures and submeasures to just 7 broad types of intervention. In their national CAP Strategic Plans, Member States have to make a need assessment, and based on that develop schemes and interventions that fit their challenges, opportunities and local conditions. This should contribute to a much more targeted, flexible and innovation friendly second pillar of the CAP. In addition to this the 118 rural development programmes will be adjusted to one single CAP plan per MS. However, the key elements of the current rural development policy (decentralized approach, national and/or regional multiannual programming; EAFRD funding co-financed by Member States) have remained unchanged

The Rural Development part, or second pillar of the CAP, comprises 8 policy measures: (i) environmental, climate and other management commitments; (ii) natural or other area-specific constraints; (iii) area-specific disadvantages resulting from certain mandatory requirements; (iv) investments; (v) installation of young farmers and rural business start-up; (vi) risk management tools; (vii) cooperation; and the cross-cutting measure (viii) knowledge exchange and information. After addressing some financial aspects of the rural development pillar, these eight different interventions will be discussed, assessed and commented on.

3.2. RDP financing and contributions from Member States and private sector

The proposed CAP allocation accounts for a cut of the total CAP budget of around 5% compared to the 2020 baseline allocation (i.e. not taking into account amounts transferred between direct payments and rural development). For the period 2014-2020 the share of the Rural Development pillar in total CAP budget was 26.7%, which according to the proposal will decrease to 24.5% for the period 2021-2027 (not taking into account any voluntary transfers between pillars). Without “corrective” actions taken by Member States the absolute (nominal) spending would decline by about 13% relative to the budget spent under the current CAP.

For EAFRD, an increase in compulsory national co-financing is generally foreseen, with the aim to ensure that public support to rural areas will be largely maintained at current levels. Member States can shift up to 15% between direct payments and rural development. In addition, Member States can transfer an additional 15% from direct payments to rural development for interventions addressing climate and environmental objectives or an additional 2% in case of EAFRD if this is used to support to young farmers. For a number of specific purposes ring-fencing is foreseen. Examples are the proposed minimum spending for LEADER (5%), rural development spending addressing environmental and climate objectives (30%), and young farmers (2%). In addition a maximum 4% of total EAFRD is specified for technical assistance at the initiative of Member States (holds for both pillars and implies an increase by 1 percentage point in comparison to the current level of 3%).

Interventions provided under the Rural Development Pillar of the CAP are subject to co-financing by Member States. The normal EAFRD contribution rates applying to RDP interventions are (70% for less developed regions and 43% in other regions. Co-financing rates differ with respect to different type of interventions, which is in line with the recommendation from the ECA (2018), which states that co-financing rates should reflect EU added value (e.g. for efforts to reduce greenhouse gas emissions, which can be argued to have a high EU added value, then relatively low co-financing rates would apply). There is no co-financing requirement for funds that are transferred from the first pillar to the Rural Development pillar.

The demand for grants by farmers (especially in the fields of long maturity investments and short terms loans for working capital) may be substantially higher than the funding available in calls. Where this is the case financial instruments (FI) may offer solutions to attract additional private capital and the resources returned by the final recipients can be reused to support more projects with the same budget. Thus FIs can address larger investments needs or difficulties with access to finance in an environment of limited public resources. They could also bring additional flexibility and be modelled along the business investment cycle of farmers, both for risk management purposes and in cases of crisis. Farmers may face situations where the viability of his holding in the short or medium term is put at risk, due to a significant reduction of market prices or a yield reduction following an adverse climate event. In these scenarios, FIs can facilitate access to working capital, thereby allowing the affected farmer to overcome a temporary shortage of liquidity.

3.3. Agri-environment, climate and other management commitments

Support for management commitments comprises a wide range of activities (which is more extensive than the activities covered by eco-schemes; see also previous chapter). It may, for example, include organic farming premia for the maintenance of and the conversion to organic land; payments for other types of interventions supporting environmentally friendly production systems such as agro-ecology, conservation agriculture and integrated production; forest environmental and climate services and forest conservation; premia for forests and establishment of agroforestry systems; animal welfare; conservation, sustainable use and development of genetic resources. The coverage of this instrument has been extended in that Member States may grant compensatory payments for area-specific disadvantages imposed by any mandatory requirements resulting from the current environmental framework that go beyond the conditionality requirements (see previous chapter). Member States may develop other schemes under this type of interventions on the basis of their needs. Summarizing, this intervention can support measures that target any one of the nine specific objectives set out in Article 6. Only agri-environmental measures are mandatory, the others are optional.

The payments made for the measures under this intervention type should cover additional costs and income foregone only resulting from commitments going beyond the baseline of mandatory standards and requirements established in Union and national law, as well as conditionality, as laid down in the CAP Strategic Plan. Commitments related to this type of interventions may be undertaken for a pre-established annual or pluri-annual period and might go beyond seven years where duly justified

The support for management intervention represents the third main layer of the new green architecture (see discussion in previous chapter) of which the well-known "agri-environment-climate commitments" (AECS; Article 65) form an important intervention type. Member States will have to offer AEC payments in their CAP plans, but uptake will be voluntary for farmers, similar to the current CAP.

As has been noted before, the co-financing rate for Member States has been lowered, which may provide an incentive to Member States to more actively use this instrument in the future. This is a welcome change, as following from previous evaluations AECS have been identified as one of the most effective instruments to achieve environmental, biodiversity and landscape objectives (e.g. Pe'er, 2018). Moreover, continuing the farmer group option after its 'pilot'-adoption during the last CAP reform is welcomed. Though at this moment not many Member States are making use of the farmer group-option, there is a growing literature that emphasises the importance of following a landscape approach in AECS for further increasing the performance and effectiveness of these type of interventions (Westerink et al, 2017). Moreover, farmer group approaches can facilitate effective learning processes and by that contribute to 'dynamic efficiency or performance gains' or timely corrective actions, which fits well the proposed results-based approach.

3.4. Natural or other area-specific constraints

Areas with natural constraints are areas that have a reduced production capacity as a result of a natural phenomenon (steep slope, a particular soil, the prevalence of heat stress during the growing season, etc). As a result they are more prone to land abandonment which would counteract to the EU's baseline commitment of keeping land in good agricultural and environmental condition. The areas eligible for this intervention have already been defined before (2018) and they will not change in the future period (2021-2027). Member States can decide to compensate the farmers working these areas. The maximum

EAFRD contribution rate for this type of intervention is 65%. The minimum contribution rate is 20%. This measure includes the compensatory support of farmers in less-favoured areas.

3.5. Area specific disadvantages resulting from certain mandatory requirements

Areas with specific disadvantages resulting from certain mandatory requirements are the areas have specific land use requirements following the implementation of the habitat and water framework directives. As a result farmers may no longer be able to manage the land as before. Member States are allowed to compensate for the additional costs or the income foregone resulting from these obligations. The maximum EAFRD contribution rate for this type of intervention is 80%. The minimum contribution rate is 20%.

3.6. Investments

Member States can support investments, both productive and non-productive ones (NPIs), both on farms as well as off-farm. This includes investments in large infrastructures (broadband), which can be solely supported by the regional (ERDF) policy. Instead of the 13 investment fields covered by the investment support arrangement under the current CAP, the newly proposed intervention covers 7 fields: investments in basic / local services in rural areas, land purchase for environmental conservation, agricultural and forestry infrastructures linked to the environmental and climate-related issues, land purchased by young farmers through the use of financial instruments, restoring investments following natural disasters and catastrophic events, and investments in irrigation respecting river basin management plans. However, there are a number of ineligible expenses (purchase of production rights, payment entitlements land – except in certain circumstances, purchase of plants, etc.). Support for investments in irrigation is not possible if the investments are not consistent with the achievement of good status of water bodies. The normal EAFRD contribution rates apply (70% for less developed regions and 43% in other regions). Non-productive investments, basic services and forest-related investments can benefit from a maximum contribution rate of 80%.

3.7. Installation of young farmers and rural business start-up

In order to better support generational renewal in farming young farmers are also supported by a special intervention in the Rural Development Pillar. Member States will have to present in their CAP strategic plans a sound strategy to address this challenge in their territory and explain the interplay with national instruments with a view of improving the consistency between Union and national actions: notably access to land, access to finance / credit and access to knowledge and advice. It should also describe how national instruments, e.g. taxation, inheritance law, regulation of land markets or territorial planning, interplay with EU-supported interventions for young farmers. As access to land and land transfer has been identified as a major barrier to young farmers' setting-up, the Commission has proposed to allow Member States to financially support forms of cooperation among farmers that could encompass farm partnerships between generations of farmers; farm succession or transition planning services; brokerage for land acquisition; innovative national or regional organisations engaged in promoting and facilitating matching services between young and old farmers, etc.

On top of this, young farmers will continue to benefit from investment support and knowledge transfer/training interventions, which are key to ensure long-term sustainability of our farms. As compared to similar measures in the current CAP an increase of the maximum amount of aid for the installation of young farmers and rural business start-ups, up to EUR 100.000 is proposed. In addition Member States will be allowed to establish Financial Instruments supporting working capital: an

instrument that can be of primary importance for young farmers, who face more difficulties given the high investments and low returns of a start-up phase. The Commission will also further engage with the European Investment Bank, especially via the fi-compass platform, to learn from experiences and best practices on specific schemes for young farmers.

As compared to the support for young farmers under the current CAP, the eligibility criteria have been simplified (Article 69(2)). EU basic requirements are defined with respect to training, maximum age, conditions as head of a holding and the availability of a business plan.

3.8. Risk management

As compared to the current CAP the risk management measures have been simplified (see article 70). Member States shall grant support for risk management tools and the promotion of such instruments among farmers. The support consist of financial contributions to premiums of insurance schemes and mutual funds. Member States should define the eligibility conditions for support, including types and coverage of risk insurances and mutuals, the methodology of loss calculation and trigger factors for compensation, and rules for constitution and management of the mutuals. Member States need to ensure that support is only granted for covering losses of at least 20 percent of the average annual production or income (revenue?) of the farmer in the preceding three year period, or a three year average based on the preceding 5 year period, excluding the highest and the lowest entry. A clause is added that Member States should avoid overcompensation as a result of the combination of supported schemes with other public or private risk management schemes.

As compared to the current CAP no explicit reference is made anymore to income stabilization schemes, which were present before, but had no take up. More generally, the uptake of risk management tools has been below expectations, although overall there is an increasing trend in farmer participation. For example, multi-peril crop insurance (MPCI) is available in the majority of the Member States (in a few Member States only standard hail coverage is available), but to date, no Member State has achieved a high participation rate for pure private-based MPCI (i.e. without subsidy). EU financial support to contributions is likely to be essential for a broader take up.

3.9. Cooperation

The cooperation intervention ((Article 71 and recitals 6 and 45) covers all aspect of cooperation as these in the current CAP are defined under cooperation, quality schemes for agricultural products and foodstuffs, setting-up of producer groups and organisations and Leader (cf. Regulation (EU) No 1305/2013, articles 16, 27, 35 and 42-44). As such, the new cooperation scheme would include: the setting up of producer groups and producer organisations; the setting up of quality schemes; EIP local development projects; LEADER action; forest management plans (compulsory for the support to forestry sector); collective environmental and climate actions; 'smart villages'; the promotion of short supply chain and local markets; etc.

Interventions under the cooperation-heading do not have many specific rules. Any form of cooperation between at least two entities can be supported, conditional on its positive contribution to CAP specific objectives (only after approval of the CAP Strategic Plan). For this intervention the normal EAFRD contribution rates apply (70% for less developed regions and 43% in other regions).

3.10. Knowledge exchange and information

Member States have to include in their CAP Strategic Plans a system for providing advisory services (Article 13). These services concern the entire scope of the CAP Strategic Plans (the regulation refers to certain specific elements within this scope). In their CAP Strategic Plans, Member States have to explain how these farm advisory services are integrated in a wider agricultural knowledge and innovation systems (AKIS) which also includes a link to research policy.

Finally, the European Innovation Partnership is maintained to ensure the exchange of knowledge also across border. It is expected that farm advisors will play an important role in this.

3.11. Discussion and conclusions

3.11.1. Environmental, climate and area-specific support

The coverage of the Environmental, climate and other management commitments-intervention is large and measures can be supported which contribute to all the nine specific objectives-areas of the CAP. 30% of the RDP ceiling must be spend on AECMs (while ANC and other area-specific constraints are excluded from this 30%-requirement). The EAFRD contribution to AECM expenditure has been increased to 80%. This could encourage MSs, particularly in the east and the south of the EU to give greater priority to AECMs in their strategic planning (Matthews, 2018c).

The proposed area-specific disadvantages intervention is measure is similar to the measures in the current CAP (cf. Regulation (EU) No 1305/2013, articles 31 and 32).

3.11.2. Investments and young farmer support

Investments are crucial for the modernisation of agriculture as well as for improving its sustainability. Relative to direct payments (which has a direct impact, but may create support- dependency) investment support is especially contributing to the longer-run viability of farms. It also play a crucial role in improving sustainability, especially by its support for non-productive investments. This support addresses a clear market failure. According to some estimates in the current CAP only a low percentage is spend on investment support (Détang-Dessendre et al, 2018). Given the priority given to innovation and sustainability objectives it would have been logical to define a required minimum share of the budget to be spend on this instrument.

A concern is whether the text supplied in Article 68 is not oversimplified and could be improved by including an indicative reference to the type of investments that may be supported. Investment support needs careful attention with respect to level playing field and WTO compatibility issues. From a recent assessment by the ECA (2015) it turned out that although Member States did not always ensure the complementary role of NPIs in synergies with other support schemes, they targeted NPI funds to the types of investments with the potential to effectively address their agri-environmental needs. However, questions were raised about the cost-effectiveness because the audit showed that Member States reimbursed investment costs which were unreasonably high or insufficiently justified. Selection of NPI projects eligible for EU funding is not only crucial but also difficult. In addition appropriate verification of the reality of the costs claimed needs attention and could otherwise lead to overcompensation.

The instrument has a limited EU added value and for that reason the co-financing rate could be relatively high (see also comments made in the previous chapter). Moreover the intervention can easily raise level playing field and WTO compatibility concerns.

3.11.3. Risk management tools

CAP toolkit measures may have higher loss thresholds than pure private-based or state aid crop insurance schemes. Crop insurance covering notifiable phytosanitary risks is underdeveloped in the EU. To date there is only very limited practical implementation of novel insurance instruments to cover revenue, margin or agricultural income risks (Ecorys, 2018). For insurance, growth in adoption rates is typically found in Member States where multi-peril crop insurance (MPCI) either became newly available, or existing MPCI became eligible for subsidies, or both. Participation in existing mutual funds covering direct sanitary losses is relatively stable, due to its often mandatory character. Alternative private sector instruments such as contractual price agreements, and more specifically forward contracts, have become more common in development of risk management instruments in the EU agricultural sector.

An effective coverage of agricultural risks requires a generic portfolio of instruments for ex-ante risk management due to the heterogeneous nature of Member States' risk profiles. There is no unique risk management model that meets the needs and situations of all farmers across EU Member States. A portfolio of instruments for ex-ante risk management to protect against normal (shallow) and exceptional (deep) income losses, could include on-farm protection against shallow losses (layer 1), using precautionary savings and/or income tax smoothening opportunities to complement traditional non-financial on-farm risk management strategies (e.g. agronomic practices such as diversification).

The deployment of risk management measures need to be considered in a broad context, taking into account public and private risk-reduction measures, self-insurance and biosecurity strategies of farmers. Aside of the availability of instruments and financial support, raising farmer awareness and knowledge about risks and risk management is important. The CAP strategic plan and the risk platform aims to achieve an embedded risk management toolkit, taking into account other relevant measures, while it also ensures knowledge dissemination and sharing information about best practices,.

3.11.4. Cooperation

The cooperation measure allows to support any kind of collaboration between primary producers, but also of participants along the supply chain. In some cases the cooperation measure may interact with other measures (e.g. the farmer group approach in the AECS-measure) that by their nature include farmer or stakeholder collaboration and also already provide some funding for the cost of collaboration (e.g. the maximum of 30% transaction costs in the current AECS scheme). Overlap and double funding of the same collaboration efforts by different measures should be avoided as it would introduce policy inefficiencies.

According to some anecdotal evidence a significant number of producer organisation, maybe even the majority, is not yet registered, even though at a practical level they are examples of well-functioning collaboration. This 'unnoticed' but notably successful collaboration needs attention (e.g. simplification of the administrative requirements for registration and participation in collaboration grants).

In order to in a cost-efficient way support collaboration more insight into the (transaction) costs (and benefits) of collaboration is needed. The costs of collaboration are likely to be non-linear with respect to the size of the collaborating groups. The same may hold for the benefits.

Cooperation, together with investments can play a crucial role in stimulating innovation diffusion and collaborative learning. There are many areas where innovation could promote enhancement, such as genetics helping to breed plants and animal races that are more resistant to biotic and a-biotic stresses, digitalisation and big data usage to support precision farming, energy and bio-based transitions to

improve resource efficiency, marketing and practices related to eco-system services, agro-ecology integrated farming practices, food system redesign based on circular economy principles, social innovations, etc. (Détang-Dessendre et al, 2018; Wezel and Soldat, 2009).

3.11.5. Knowledge exchange and information.

The knowledge exchange and information intervention reflects to a cross-cutting objective on "modernising the sector by fostering and sharing of knowledge, innovation and digitalisation in agriculture and rural areas, and encouraging their uptake". In their CAP Strategic Plan Member States will have to include a section on how to stimulate knowledge exchange and innovation (advisory services, training, research, CAP networks, pilot projects, EIP-AGRI operational groups etc.) and how to fund them. Member States can deploy series of interventions related to modernization: investment, cooperation, knowledge exchange –including training.

Farm advice is conceived as part of the overall knowledge and innovation system (AKIS) and covering all requirements and conditions of the Plan, including conditionality. As compared to the current CAP, new elements added to the farm advisory services are all rural development measures, information on financial instruments, Clean Air Directive, National Emission Ceiling Directive, Animal Health Law, Plant Health Law, practices against anti-microbial resistance; risk management, innovation support (in link with EIP) and development of digital technologies. Insight from behavioural economics strongly support the importance of sharing practices (collaborative learning), social norms and nudging alongside the tradition incentive-mechanisms, as being important for effective policy implementation.

Modern technology (in particular digital information collected automatically for instance by satellites) will also help the implementation and monitoring of performance. This will reduce the burden for individual farmers, although it may leave other aspects untouched (e.g digital factoring as a way to simplify farmer accountability).

3.11.6. Summary overview of identified strengths and weaknesses

Below (see Table 5) the results from the rural development interventions assessment are "summarized", whereas the recommendations follow in Chapter 5.

Table 3. Summary table on Rural Development Interventions

Measure	Strengths /Positive aspects	Weaknesses/Negative aspects
Financial	<p>Safeguard that 30% of EAFRD funding needs to be devoted to AECMs (excluding expenditure on ANC areas);</p> <p>Member States can transfer up to 30% of their Pillar I envelope to pillar II to finance AECMs</p>	<p>Member States may transfer up to 15% of the EAFRD envelope to Pillar I, which then would erode the significance of the 30% devotion to AECMs requirement and could weaken the priority given to environment and climate objectives (c.f. Article 92)</p>
Environment, climate and other commitments	<p>The intervention covers all 9 specific CAP policy objectives and has been extended to more area specific disadvantages</p> <p>AECMs are likely to become more attractive for implementation at MS level, as the co-financing rate has been reduced</p>	<p>Eco-schemes and AECMs may not overlap and need carefully be adjusted to each other</p> <p>AECMs allow for a farmer group approach, but the output and result indicators do not yet match sufficiently with group approaches</p>
Natural or other area-specific constraints	<p>Intervention contributes to avoid land abandonment</p>	
Area-specific disadvantages resulting from certain mandatory requirements	<p>Measure allows farmers to be compensated for the additional cost of specific (policy-related) mandatory requirements</p>	
Investments	<p>Productive & non-productive investments, either on- or off-farm are important to improve efficiency in resource use (competitiveness) and green services provision</p>	<p>Support for productive investments may conflict with WTO requirements</p> <p>Non-productive and productive investments may be sometimes difficult to distinguish/select, which may lead inefficiency in investment support</p>

		No minimum budget ceiling share specified
Installation of young farmers and rural business start-up	Together with the Young farmer support intervention (first pillar of CAP) this measure allows for fine tuning support (hectare and non-hectare related criteria)	Supporting specific producers (young farmer) in a way that will have a positive impact on production is not compatible with WTO requirements
Risk management tools	Risk management tools have not changed (except for no reference to income stabilization tool anymore), but are embedded in a wider approach, combining various measures and supported by farm advisory and information sharing	Member States don't have the option to oblige farmers to manage/insure risks, though this could be a valuable option for specific cases and settings
Cooperation	Cooperation, together with investments can play a crucial role in stimulating innovation diffusion and collaborative learning.	Cost-effective support requires better insight into costs of cooperation and should avoid 'doubling'
Knowledge exchange and information.	Is important for innovation. Farm advisory services are important in making other interventions and policy implementation more effective	

4. RECOMMENDATIONS

Box 4: Key findings with respect to recommendation

KEY FINDINGS

-)] In this chapter 17 recommendations are made that deserved to be discussed and evaluated by the European Parliament in her deliberations on how to judge and improve the proposed DP and RDP policy interventions
-)] The redistribution of income support urgently needs correction for reason of fairness, efficient use of financial resources, and increasing importance of other priorities than farm income.
-)] To improve the capping instrument an alternative criterion based on a normative calculation of farm labour and a maximum compensation ceiling per unit of labour is recommended.
-)] Coupled income support should be properly balanced with the EU Single Market concept (level playing field, regional specialization and least cost-provision of food) and for that reason the percentage of farmers receiving coupled income support (evaluated at sector level) should be bound to a maximum.
-)] It is recommended to make eco-schemes more flexible and increase their coverage in order to strengthen a results/performance based approach in green and public services (entry level schemes) and also to make them subject to ring-fencing.
-)] Investment support should be primarily targeted to addressing market failures and its importance in relation to innovation, sustainability, and long-run farm viability justifies introducing a minimum spending share requirement (e.g. 5%).
-)] Level playing field issues need attention in case of coupled income support, some sectoral intervention measures, eco-schemes, young farmer support and investments interventions. In the case of coupled income support and eco-schemes restrictions on support (rates) are recommended. Level playing field concerns are also a reason to do checks on WTO compatibility.

As requested and based on the assessment presented in this study, a number of recommendations are made in this chapter that, according to the opinion of the author, are worthwhile to be discussed and reflected on by the AGRI Committee.

4.1. Recommendations with respect to Direct Payments

-)] As regards the Direct Payments the CAP reforms showed an improved targeting at several aspects (greening, support for declining sectors, young farmers), but the targeting with respect to farm income support has been lagging behind. This leads to leakage and inefficiencies in the use of the CAP's increasingly scarce resources (e.g. budget reduction). A more strict capping and redistribution are recommended to improve the income support targeting.

- J In order to better target income support to those who need it, while at the same time preserving efficiency and investments contributing to longer run farm viability (productivity) the current capping criterion should be replaced by an alternative criterion based on a normative calculation of farm labour and a maximum compensation ceiling per unit of labour which is linked to income support criteria as they are used elsewhere in the economy.
- J In order to preserve a level playing field and stimulate specialization in production (which is an essential aspect of having the EU single market), the voluntary coupled support instrument should be used in a more restrictive way (e.g. never apply to more than one third of a Member States' specific production at sector level) than it has been currently applied.
- J Young farmer payments which are an investment in the agriculture of the future should have as a side condition that supported farmers adopt or satisfy sustainability standards.
- J The role of pollinators and natural control of pests and diseases is now neglected in the proposal for the new CAP. Functional agro-biodiversity (e.g. honey bee and other 'useful' insects) should be added to the list of resources that are subject to sustainable resource use measures. Explicit recognition of this type of functional agri-biodiversity could be achieved by adding an impact indicator "Improving functional agro-biodiversity: promoting pollinators and natural pest management", and a result indicator "Improving functional agro-biodiversity: share of agricultural land covered by management commitments to promote functional agro-biodiversity".
- J Eco-schemes are introduced as a new intervention to pursue environmental and climate objectives (greening), but are still open in terms of their content and impact. The Commission's plan "to bolster environmental care" justifies a minimum direct payment requirement, which might be lower than the 30% requirement in the case of the past greening arrangement to enforce a minimum ambition (e.g. a 15% – 20% minimum share of total direct payment).
- J Eco-schemes require additional flexibility in order to make them better suitable as performance based delivery mechanisms (e.g. entry level schemes, point systems). The eco-schemes should allow for action-based targeted payments financed on basis of other outputs than hectares. Also its scope should be widened to include animal welfare and societal concerns. When doing so, eco-schemes could be better used as a vehicle for fairly rewarding farmers (fair price) for public goods (e.g. participation in an certified animal welfare scheme which set a higher standard than the baseline, but which it is difficult to get costs fully paid from the market in the form of a product price premium).
- J As eco-schemes can provide different instruments it is recommended to let Member States propose associated output and result indicators (or linkages to existing result indicators). Moreover, farmer-beneficiaries of eco-schemes should be obliged to provide data on their eco-scheme activities and by that ensure an adequate monitoring of eco-schemes.
- J As regards the capping of support it is recommended to make the condition regarding the deduction of salaries and imputed income for unpaid (farm family) workers optional in order to improve the potential effectiveness of this intervention. As capping has been interpreted as an intervention to reduce the inequality in income support. As such it is recommended to exempt those direct payments aimed at other objectives (e.g. environment and climate) than income support. Finally it is recommended to use normative farm employment and per worker support criteria as a basis for establishing a ceiling beyond of which direct payments on income support should be capped.

- J Coupled income support should be carefully managed to avoid disturbance of the level playing field and erosion of the EU's Single Market (specialisation, efficiency) concept. It is for that reason recommend to calculate the result indicator (R8: the share of farmers benefitting from coupled income support) associated with coupled income support not at a general level, but rather at sectoral level. Further on, it is recommended as a safeguard to maximize coupled income support to a share of 30% of the farmers operating in a sector at Member State level.
- J In order to preserve a level playing field ceilings should be imposed on the share of farmers in a sector that at maximum can be supported by coupled income support and to the maximum payment for eco-scheme services in relation to the estimated average net cost of delivering these services.
- J As Member States have to ensure that the interventions (as listed in Annex II of the Regulation) respect the provisions paragraph 1 of Annex 2 to the WTO Agreement on Agriculture, it needs to be ensured that WTO Amber Box requirements related to the CAP post 2020 are properly taken into account. This aspect is currently not clear and needs further clarification.

4.2. Recommendations of Rural Development Policy-measures

- J Given the importance to strengthen sustainability (e.g. Article 92 which states that MSs should show an increase in environmental ambition) and the importance to promote long-run farm viability and accounting for the crucial role of RDP-measures in this regard, disproportionate cuts in the Pillar 2 envelopes of MSs should be avoided. MSs having a lower than EU-average Pillar 2 expenditure should be further restricted in the flexibility to shift money from Pillar 2 to Pillar 1.
- J To improve the proposed investment support intervention and taking care for preserving a level playing field, the Commission should provide guidance to Member States on selection criteria, having due regard to their transparency and check that Member States apply appropriate procedures for the selection of projects.
- J Investment support should address market failure (relate especially to NPI and restoring farmer assets after calamities).
- J The importance of investment in relation to innovation and sustainability, and their contribution to long-run farm viability justifies introducing a minimum spending share requirement (e.g. 5%).
- J Investments and Young farmer support need a careful specification in order to ensure a level playing field and compatibility with WTO requirements.
- J Risk management need to be embedded in a broad approach (including awareness raising, farmer advice, accounting for interactions between various policy measures and private sector provisions) in order to contribute to a consistent, tailored and effective policy. Member States should have the option to make specific types of risk insurance obligatory (include risk management in 'conditionality').

4.3. Concluding remarks

As a general conclusion it could be stated that the CAP offers a rich menu of instruments and large flexibility to Member States with respect to policy measure implementation options. Recalling the Frisch-Tinbergen policy optimization framework (see Chapter 2), Member States have a lot of options to optimize on the mix of policies to achieve CAP specific objectives, while taking into account

Member State specific conditions. As such the CAP and its effectiveness in pursuing policy objectives is now largely at the hands of the Member States.

In conjunction with the 'from compliance to performance'-based philosophy, Member States have to define target values for output and results-indicators, which then play a key role in the annual 'performance clearance' and the reimbursement by the EU Commission of payments made by Member States that is dependent on this. In order to avoid risks with not achieving indicator levels, this is likely to induce Member States to propose modest and prudent ambitions in terms target indicator values and/or to choose those instruments for which such target values are, in relative terms, easy to predict and achieve.

As the indicators are part of Title II of COM(2018 392; Article 7), in the previous assessment reference to indicators has been made only incidentally (e.g. for the eco-schemes and functional agro-biodiversity) but this issue is of key importance (see also the separate contribution on The CAP Strategic Plans beyond 2020 by Erjavic (2018)).

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This essay provides an assessment of the structure and type of interventions as proposed by the European Commission on the CAP beyond 2020 (Title III of the proposal COM (2018) 392). All Direct Payment and Rural development interventions have been examined in the context of the main agricultural and environmental challenges the EU faces. A set of recommendation is made for the improvement of specific instruments and to address policy priorities and level playing field concerns.

STUDY

Requested by the AGRI committee



Research for AGRI Committee - The sectoral approach in the CAP beyond 2020 and possible options to improve the EU food value chain

Research for AGRI Committee - The sectoral approach in the CAP beyond 2020 and possible options to improve the EU food value chain

Abstract

This paper addresses the current European rules applicable to the Common Agricultural Market Organisation (CMO) and the recent proposal of the Commission in the CAP beyond 2020. It also suggests possible improvements for the proposal. It was presented to the Committee on Agriculture and Rural development the fifteenth of October of 2018.

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CONTENTS

LIST OF ABBREVIATIONS	115
LIST OF FIGURES	117
EXECUTIVE SUMMARY	119
1. GENERAL INFORMATION	121
2. PUBLIC CRISIS MANAGEMENT	123
2.1. Market transparency	123
2.2. Applicable rules	124
2.3. The level of the European reference thresholds	125
2.4. Preventive market measures	125
3. PRODUCER ORGANISATIONS AND THEIR ASSOCIATIONS	127
3.1. A “significant and general” derogation	127
3.2. The fruit and vegetable precedent	128
3.3. The years of ice	129
3.4. Regulation 1308/2013: a ceremony of the confusion	130
3.5. Current situation: the Omnibus Regulation and the “endive case” ruling	133
3.6. The Commission auditors’ role	135
4. SOME OTHER RELEVANT ISSUES	137
4.1. A pluri-annual crisis reserve.	137
4.2. Unfair trading practices	137
4.3. Local market and short supply chains	137
4.4. Crop diversification and rotation	137
4.5. Precautionary savings	138
4.6. Micro, Small and Medium Size Enterprises	138
4.7. Optional financing of Operational programmes in new sectors	138
4.8. A well-designed audit system	138
5. PROPOSALS FOR ADJUSTMENTS	139
5.1. More transparent market data	139
5.2. EU public intervention	140
5.3. More efficient and effective safety net	140
5.4. Taking note of the “endive case” ruling	141

5.5. Improving the POs, APOs and Interbranch rules	142
5.6. Preventive market measures	143
5.7. Dressing the prisoner's dilemma (the free rider issue)	145
REFERENCES	147

LIST OF ABBREVIATIONS

AGRI	Agriculture and Rural Development Committee
AIBO	Association of Interbranch Organisation
APO	Association of Producer Organisation
CAP	Common Agricultural Policy
CMO	Common market organisation
DG AGRI	Directorate General for Agriculture and Rural Development, European Commission
DG COMP	Directorate General for Competition, European Commission
EAMO	European Agricultural Market Observatory
EC	European Commission
EU	European Union
IBO	Interbranch Organisation
IOF	Investment Own Firm
MS	Member State
PO	Producer Organisation
SMP	Skimmed Milk Powder

LIST OF FIGURES

Figure 1: Layering model of agricultural risk management	124
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EXECUTIVE SUMMARY

Background

As explained by the Commission in its own presentation of the legislative proposals presented in June 2018, “the Common Market Organisation and its instruments remain largely unchanged”.

To highlight only 3 major issues, the safety net continues to be composed of public intervention and private storage aid, on one hand, and exceptional measures on the other. Marketing standards and rules on farmers' cooperation are unchanged.

Nevertheless, the Commission underlines “few important points for more effectiveness and simplification”:

- The integration of sectoral interventions in the CAP plan Regulation (for fruit and vegetables, wine, olive oil, hops and apiculture).
- The extension of the possibility to initiate sectorial interventions to other agricultural sectors.
- Amendments to rules on geographical indications to make them more attractive and easier to manage.
- The adjustment of allocations following the MFF proposal.
- The deletion of a number of obsolete provisions.

On the main issues related to the single CMO, the Commission has followed the Resolution of the European Parliament of 30 May 2018 on the future of food and farming (mentioned later on as “the Resolution”).

The maintenance of the specific sectoral intervention has been also largely welcome by the different stakeholders.

Aim

This study serves to inform the members of the European Parliament, particularly the members of the Committee on Agriculture and Rural Development, concerning both the remaining sectorial approach in the current CAP in general, and the current rules on farmers' cooperation.

The European rules on Producer Organisations, their associations and the Interbranch Organisations deserve special attention. The paper presents briefly their historical evolution, taking into account of the period when the Commission has been more active on those files... and those when it has been more reluctant.

It concluded that the first version of regulation 1308/2013 ended in a ceremony of the confusion. The same wording “Producer Organisation” was used in the same regulation with 2 significantly different meanings.

The Omnibus regulation and the recent ruling of the European Court of Justice on the so-called “endive case”, represent important and positive steps in reducing the confusion and legal uncertainties. They merit special attention.

The paper underlines 7 relevant issues related to, but not included in, the CMO regulation:

It ends presenting 21 proposals that could deserve to be discussed and evaluated on how the European Parliament could improve the food chain value beyond 2020.

They are structured in 7 blocks on market data; EU public intervention; a more efficient and effective safety net; taking note of the “endive case” ruling; improving the rules for producers Organisations, their associations and the Interbranch Organisations; preventive market measures and addressing the prisoner’s dilemma.

1. GENERAL INFORMATION

KEY FINDINGS

- In the legislative proposals presented in June 2018, “the Common Market Organisation and its instruments remain largely unchanged”, despite “few important points for more effectiveness and simplification”.
- The amendments proposed to rules on geographical indications and the maintenance of specific sectoral interventions for some key sectors (and the potential enlargement to others) have been largely welcomed.
- The financing of the Operational Programs of the Producer Organisations in the fruit and vegetable sector is the only expenditure that is not limited by a fix budget envelop. The Commission has also opened a door to the introduction of similar operational programmes for other sectors. Both proposals are also perceived as positive.
- The Omnibus regulation has significantly amended Regulation 1308/2013 introducing welcome changes on prerogatives of Producer Organisations.
- The recent ruling of the European Court of Justice on the so-called “endive case” is also an important item to be considered.

As explained by the Commission in its own presentation of the legislative proposals presented in June 2018, “the Common Market Organisation and its instruments remain largely unchanged”.

To highlight only 3 major issues, the safety net continues to be composed of public intervention and private storage aid on one hand and exceptional measures on the other. Marketing standards and rules on farmers' cooperation are unchanged.

Nevertheless, the Commission underlines “few important points for more effectiveness and simplification”:

- The integration of sectoral interventions in the CAP plan Regulation (for fruit and vegetables, wine, olive oil, hops and apiculture).
- The extension of the possibility to initiate sectoral interventions to other agricultural sectors
- Amendments to rules on geographical indications to make them more attractive and easier to manage
- The adjustment of allocations following the MFF proposal
- The deletion of a number of obsolete provisions.

On the main issues related to the single CMO, the Commission has followed the Resolution of the European Parliament of 30 May 2018 on the future of food and farming (mentioned later on as “the Resolution”). The maintenance of the specific sectoral intervention (point 122 of the Resolution) has been also largely welcomed by different stakeholders.

In a context of severe budget discipline, the financing of the Operational Programs of the Producer Organisations in the fruit and vegetable sector is the only expenditure that is not limited by a fix budget envelop (on line with point 123 of the Resolution). In the direct payment proposal, the Commission has

opened a door, as requested also in point 123 of the Resolution, to the introduction of similar operational programmes for other sectors. Both proposals are welcomed.

We will mainly focus our analysis on the consequences of this small piece of sentence *“rules on farmers’ cooperation are unchanged”*. The Omnibus regulation has significantly amended Regulation 1308/2013 introducing positive changes on prerogatives of Producer Organisations. The recent ruling of the European Court of Justice on the so-called “endive case” is also an important item to be considered.

However, more changes could be implemented in order to clarify the regulation and improve farmers’ position in the food chain.

The paper is structured in the following way. First (part 3) we will focus on public crisis management. Secondly (Part 4), we will be centred on the role of Producer Organisations and their Associations and of Interbranch Organisations; Part 5 will discuss some more issues related to, but not included in, the Regulation 1308/2013 and in Part 6 we will present 21 proposals on how the European Parliament, as legislator, could improve the food value chain beyond 2020.

2. PUBLIC CRISIS MANAGEMENT

KEY FINDINGS

-) Market transparency was the first issue raised by the Agricultural Market task Force in its report on November 2016 (EC, 2016). Since then, significant progress in market data and analysis transparency that deserve to be acknowledged. Nevertheless, more can be done.
-) To afford farmers a sound risk management, it is essential to setup clear and transparent rules for EU public intervention.
-) Market orientation of the European agricultural sector and industry is one of the major achievements of the different waves of CAP reform. This do not means that, on a case-by-case basis European reference thresholds could not be revisited.
-) Internal Commission rules and the corresponding Comitology made practically impossible for the Commission to implement preventive measures despite the fact that they are more efficient and effective.

2.1. Market transparency

Many authors (for instance Deloitte Conseil. 2012; OECD, 2011) have underlined the relevance of “publically available and reliable market information”. Market transparency was also the first issue raised by the Agricultural Market task Force in its report on November 2016 (EC, 2016a). Since then, the Commission has implement significant progresses in market data sharing and analysis transparency that deserved to be acknowledged..

Amongst them, we could underline the following:

- Based on the good results of the European Milk Market Observatory, the Commission has implemented Meat, Sugar and Crops Market Observatories.
- Fifteen Markets Dashboards² summarize the key variables that allow the understanding of what is happening in the European market, updated on a regular basis.
- The Milk Market Observatory is active on Twitter to disseminate its update. Unfortunately, it is the only one.
- The Short-Term Outlook of EU agricultural markets is no more limited to the arable crop, meat and dairy sectors. It now also includes some fruits (peaches and nectarines), vegetables (tomatoes) and olive oil.
- The Medium-Term Outlook with the prospects for agricultural markets addresses the farm income evolution for the next decade. Its scope has also be expanded. Each year, its presentation in a public conference has become a key date for European agricultural market specialists.

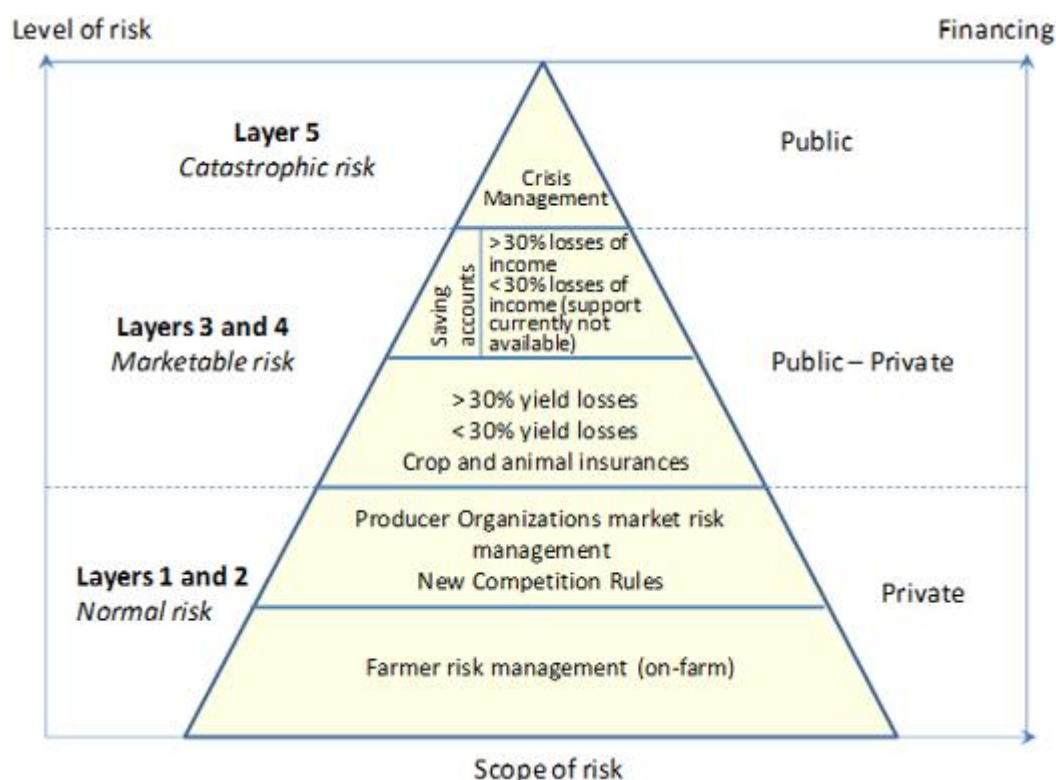
Nevertheless, more could be done in order to further increase the market transparency of European agricultural markets.

² For milk and milk products, beef meat, pig meat, sheep meat, eggs, cereals, oilseeds, sugar, olive oil, wine, tomatoes, apples, citrus fruits and peaches and nectarines.

2.2. Applicable rules

Bardaji et al (2016) in their report on risk management presented a layering model of agricultural risk management. Public crisis management is related to layer 5: *“the fifth layer corresponds to highest level of risk i.e. income crisis due to production crisis (climate or animal health and plant pests), market crises or both. Crisis often results in severe and massive revenue/income losses for the farmers of a specific sector or region. The crisis should be managed through public intervention and financing as the last resort for the agricultural risk management. It includes the crisis reserve; the EU safety nets (intervention purchases financed private storage or withdraws); the ad-hoc payments and the veterinary fund.”*

Figure 1. Layering model of agricultural risk management



Source: Bardaji et al (2016).

Today, Article 219 of Regulation 1308/2013 could be activated against *“threats of market disturbance caused by significant prices rises or fall... and circumstances significantly disturbing or threatening to disturb the market where the situation ... is likely to continue or to deteriorate”*.

Article 221 focuses on *“situation likely to cause a rapid deterioration of production and market conditions”*.

As already proposed by Bardaji et al (2016) to afford farmers a sound risk management, especially in the third and fourth layers, *“it is essential to setup clear and transparent rules for EU public intervention in the fifth layer (crisis management)”*.

It is not only “essential”, it is also more effective. Skimmed Milk Powder (SMP) is the most recent EU public intervention case. Jongeneel et al. (2018) have just concluded that *“the complete uncertainty about the EU’s destocking strategy contributes to negative market sentiments”*.

2.3. The level of the European reference thresholds

It is often argued that the current level of the European reference thresholds is “unrealistic” and does not contribute enough to achieve their safety net role.

This argument has been, implicitly at least, partially accepted by the Commission when it increased withdrawal prices for many fruits and vegetables from 30% to 40% of the average EU market price over the last five years for free distribution (so-called charity withdrawals) and from 20% to 30% for withdrawals destined for other purposes (such as compost, animal feed, distillation, etc.).

Public crisis management has to be related to objective (c) “to stabilise markets” of Article 39 of the Treaty and not to objective (b) “to ensure a fair standard of living for the agricultural community”. For instance, in an open economy such as the current European one, intervention prices cannot be related to production costs for, amongst other, two reasons.

Firstly, there is no “EU production cost” as such but a large range of production costs depending, for instance, of agronomic, climatic, farm and investments management, land prices, labour costs, national taxation systems and monetary factors.

Secondly, too high intervention prices would stimulate EU imports of competitive products and discourage exports. Even more, they could stimulate increased production in third countries which could be exported to the European Union.

Market orientation of the European agricultural sector and industry is one of the major achievements of the different waves of CAP reform. This is why EU agri-food trade surplus is at record levels (EC, 2018 a).

This does not mean that, on a case-by-case basis, intervention (or withdrawal) prices could not be revisited. In some cases, they could be increased but in others, it could be the opposite. For instance, Jongeneel et al (2018) concluded recently that “the intervention price level as it is currently defined for Skimmed Milk Powder (SMP) may need reconsideration and be in need to be lowered”.

2.4. Preventive market measures

Mahé et al (2016) concluded that “the economics of market measures shows that they have the power to prevent or mitigate deep price disturbances, but when coming late they do not address properly the waste of productive and budget resources. Selling prices production below cost as with ex-post intervention in particular implies a welfare loss. Preventive policies look attractive at first glance, but implementation raise political and institutional issues”.

Internal Commission rules and the corresponding Comitology made practically impossible for the Commission to implement preventive measures despite the fact that they are more efficient and effective.

Once the DG AGRI market unit is convinced that a potential problem is going to happen in a market, it has first to prepare a note and to convince its Director and Deputy-Director General.

Later on, it has to start discussion with DG AGRI legal and budget services in order to find an internal agreement. Then, a memo is finalized presenting the issue and the different possible options. After a discussion with the Director General, the point is raised in a meeting with the Commissioner and its private office. In between, the market situation is discussed in one (or several) Management Committee(s) with the delegates of the Member State.

Once the Commissioner has given its blessing, it is time to officially consult the relevant Commission services, in particular the Legal Service, DG BUDG, DG Trade, DG COMP and depending of the issue also DG ENV and DG CLIMA.

After that, an official Interservice consultation is launched and a proposal is presented to, and voted by, the Management Committee if it is a Commission Regulation and approved by the Commission if it is a European Parliament and Council Regulation.

Supposing it is a Commission Regulation, depending on if it is a delegated or an implementing act, there is a time delay between its approval by the Commission and its full implementation.

My personal experience is that it is difficult to convince, firstly, DG AGRI hierarchy. Secondly, you still have to face the extremely challenging task to persuade other Commission services to support a market intervention proposal based on hypothesis, suppositions and expected market evolution.

Mahé et al (2016) rightly assess *“that the possibility, for all the three political institutions to interfere into details such as changing prices or volumes of intervention is not the best framework for good policy making”*. They propose *“an independent Administrative Authority for market measures... A mandate for implementation of market measures would be written down... Whether it was a branch of the Commission or a separate body, it would be accountable to Institutions of the Trilogue but empowered to act within the mandate”*.

Market measures have, amongst others, budget, legal and trade consequences.

It is not conceivable that the “imposition of crisis prevention cross compliance “could be decided (or even based) on an “independent Administrative Authorities” or Agency. In their conclusions, the authors propose that *“during price bubbles, the Agency would be empowered to freeze part of the basic payments and, in case of predictable future imbalances, to require supply growth containment and introduce crisis prevention cross compliance payments”*.

We agreed with the diagnostic but we believe that their proposal is a “false solution”. Its implementation would raise **“political and institutional issues”**.

Firstly, it is against the principle of budget annuality. Secondly, in the current European framework, it seems very difficult to imagine that decisions like this could (and even more should) escape to the supervision of, first, the European Commission and, later on, the Member States, the Council and the European Parliament.

3. PRODUCER ORGANISATIONS AND THEIR ASSOCIATIONS

KEY FINDINGS

-) The EC Treaty includes a significant and general derogation to the application of the antitrust discipline to arrangements and agreements, including the associations and the associations of associations, if they are necessary for the attainment of the objectives of its article 39.
-) The fruit and vegetable sector is, probably, the sector where this exception is more “significant and general”. From the competition point of view, the most important change introduced in 2007 has been the possibility for the PO to delegate powers or functions to an Association of Producer Organisations (AOP).
-) Fruit and vegetable Producer Organisations are commercial entities that have to market the production of their members. It is a company and not a cartel, often a cooperative but not always. They are formed on the initiative of, and controlled by, the producers but they can have non-producers members.
-) During the “years of ice” in DG AGRI, the precedent of fruit and vegetables was “the one not to follow”.
-) The “milk package” and the first version of the regulation 1308/2013 opened a ceremony of the confusion. The same wording “Producer Organisation” is used in the same regulation with 2 significantly different meanings.
-) The Omnibus regulation and the recent ruling of the European Court of Justice on the so-called “endive case”, represent important and positive steps in reducing the confusion and legal uncertainties.
-) The development and consolidation of Producer Organisations in Europe require real and deep changes of the Commission auditors’ role.

3.1. A “SIGNIFICANT AND GENERAL” DEROGATION

Many authors (for instance Ries et Guida, 1968; Knudsen, 2009; Lamo de Espinosa Rocamora, 2010; Blumann et al, 2011; Bianchi, 2012; Guillem Carrau, 2012; Guillem Carrau, 2014; Adrien et Garcia Azcarate, 2015; Lianos and Lombardi, 2016; Sorrentino y Velazquez, 2016) have analyzed the relation between the European competition policy and the Common agricultural Policy (CAP). Catherine Del Cont et al (2012) summarized perfectly the issue: *“Article 81(1) (of the EC Treaty) shall not apply to agreements, decisions and practices of farmers, farmers' associations, or associations of such associations belonging to a single Member State which concern the production or sale of agricultural products or the use of joint facilities for the storage, treatment or processing of agricultural products, and under which there is no obligation to charge identical prices, unless the Commission finds that competition is thereby excluded or that the objectives of Article 33 of the Treaty are jeopardised”*.

This exception is now recognized as an autonomous case of exception. According to the Court judgment 12 December 1995 in Joined cases C-319/93, C-40/94, C-224/94 (par.20): “To interpret the second sentence as having no independent meaning would run squarely counter to the wishes of the legislature, inasmuch as it would result in more stringent conditions being applied to agreements which are to be made more flexible, since they would have to fulfil the conditions laid down in both the first and second sentences. Moreover, the Commission could scarcely find that an agreement jeopardized the objectives of Article 39 of the Treaty if, by virtue of the derogation set out in the first sentence, it had already been established that that agreement or decision was necessary for the attainment of those objectives.

This third case represents in the European experience the most significant and general derogation to the application of the antitrust discipline to arrangements and agreements, including the associations and the associations of associations, provided that farmers only are the protagonists thereof."

3.2. The fruit and vegetable precedent

The fruit and vegetable sector is, probably, the sector where this exception is more *"significant and general"*. It deserves a specific mention, as Article 152 of Regulation 1308/2013 is a transposition of the previous sectorial fruit and vegetable rules.

In proper Commission wording, *"the 1996 reform (for fruit and vegetables) marks a fundamental shift in the logic of support with the progressive phasing-out of market intervention measures and the introduction of generic aids to strengthen competitiveness and environmental protection."*

As from 1996, the members of recognized Producer Organisations (POs) were required to market the majority of their products through their PO. Community financial support was granted through operational funds established by the Producer Organisations and co-financed at 50% by the EC and at 50% by the POs. The support was limited to 4.1% of the value of the marketed production by the Producer Organisations. Operational funds only served for financing the implementation of operational programs. The latter included measures aimed at several objectives, such as improvement of the product quality, increase in product commercial value, promotion campaigns addressed to the consumers, creation of coherent ranges of products, development of integrated productions or adoption of other environmentally friendly production methods, or reduction of the produce withdrawals from the market" (EC, 2010).

Fruit and vegetable Producer Organisations are commercial entities that have to market the production of their members. It is a company and not a cartel, often a cooperative but not always. They are formed on the initiative of, and controlled by, the producers but they can have non-producers members.

The European Commission refrained from imposing a specific organization/governance structure of Producer Organisations. In their exhaustive literature review, Falkowski and Ciaian (2016) found limited evidence to support the existence of an optimal type of organization/governance. In other words, farmers are free to adopt the legal structure they believe suits the best their needs.

This is why the Commission, after long internal discussions, adopted the wording "Producer Organisation" instead of "cooperatives", a new wording quite close to the "Producer-owned Enterprises" concept, developed amongst other by Fulton and Pohler (2015). The purpose was not to create a new figure and more red tape but to add flexibility to the scheme. Therefore, multiple legal forms are allowed (Bijman, 2018).

POs have their own commercial strategy, selling on the market as much as they decide to and withdrawing from the market as much as is needed, as any other company.

In addition, some of those non-sold products can be included in their Operational Program as *"crisis prevention and management"* action and therefore be financed by the operational Fund or even, in some cases, directly by the European Union.

From the competition point of view, the most important change introduced in 2007 has been the possibility for the PO to delegate powers or functions to an Association of Producer Organisations (AOP).

A Producer Organisation can be member of different APOs that pursue different objectives. For instance, an AOP can try to ensure *"that production is planned and adjusted to demand, particularly in terms of quality and quantity"*. Another one can *"concentrate the supply and the placing on the market of*

the products produced by its members". A third one can be research or promotion oriented or can process the raw products.

POs have to be commercial entities but this is not the case of AOPs, which can be "commercial" or not. Here again, they are formed on the initiative of, and controlled by, the Producer Organisations but they can have non-producers' organisations members.

The French national competition authority (Autorité de la Concurrence, 2008) has analysed the functioning of this regime and concluded that it is "*a wide derogation from the general competition law*".

Based on this fruit and vegetable experience and wording, article 152 of Regulation 1308/2013 defines the possible objectives for a PO:

- (i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;*
- (ii) concentration of supply and the placing on the market of the products produced by its members, including through direct marketing;*
- (iii) optimising production costs and returns on investments in response to environmental and animal welfare standards, and stabilising producer prices;*
- (iv) carrying out research and developing initiatives on sustainable production methods, innovative practices, economic competitiveness and market developments;*EN 20.12.2013 Official Journal of the European Union L 347/737
- (v) promoting, and providing technical assistance for, the use of environmentally sound cultivation practices and production techniques, and sound animal welfare practices and techniques;*
- (vi) promoting, and providing technical assistance for, the use of production standards, improving product quality and developing products with a protected designation of origin, with a protected geographical indication or covered by a national quality label;*
- (vii) the management of by-products and of waste in particular to protect the quality of water, soil and landscape and preserving or encouraging biodiversity;*
- (viii) contributing to a sustainable use of natural resources and to climate change mitigation;*
- (ix) developing initiatives in the area of promotion and marketing;*
- (x) managing of the mutual funds referred to in operational programmes in the fruit and vegetables sector referred to in Article 31(2) of this Regulation and under Article 36 of Regulation (EU) No 1305/2013*
- (xi) providing the necessary technical assistance for the use of the futures markets and of insurance schemes.*

3.3. The years of ice

Following President Santer resignation, the Commission developed a culture of prudence which went hand in hand with a certain reluctance to take "potentially risky" measures.

From this point of view, the mechanism of direct aids was almost perfect. Large EU budget could easily be committed in shared responsibility with the Member States.

This is why, for instance, in the middle of the 2009 dairy crisis, when € 280 million could be released to support milk producers, it was decided (amongst other measures) to distribute this amount among the beneficiaries as a bonus to their direct payments, instead of promoting Producer Organisations and the rebalancing of market power inside the food chain. This was simple, easy to implement even if useless

from the market point of view. As Alan Matthews (2010) pointed, payments reached farmers after the crisis has passed and incomes were already recovering.

Producer Organizations in general, particularly in the fruit and vegetable sector with their operational programs, did not fit easily into this “simple and easy-to-implement” mold. For instance, the 2006 fruit and vegetable reform was delayed almost by one year, in order to prepare an alternative option, the transfer of all “this complication” from the first pillar of the CAP to Rural Development. Cleverly, Commissioner Fischer Boel rejected this option in her first meeting with the Commission services.

The “heterodox” nature of the regulation in force for fruit and vegetables did not stop there. The scope of activity of Producer Organizations coincides with some of the measures foreseen in the second pillar of the CAP. There was a risk of potential double financing. In spite of following the provisions of the Council Regulation, which opened the way for a certain degree of flexibility, DG AGRI services were instructed to favor (and impose if possible) an “exclusionary approach” (what is possible on one side is forbidden on the other one) rather than an approach of coherence and synergy.

Not only was the example of fruit and vegetables therefore “the one not to follow”, but the support, in the context of the Rural Development regulation, to Producer Groups (a traditional measure resulting from the discussions that followed the Mansholt Plan³) was no more eligible in the old Member States (Garcia Azcarate, 2016).

The 2009 dairy crisis helped set the record straight. One of the “new” initiatives proposed by the Commission and adopted later was precisely ... to finance Producer Groups also in the old Member States. Commissioner Fischer Boel at the end of term, took full account of the situation and rightly pointed “we need to reflect some more on other ways of managing crises. Part of this will be about “helping farmers to help themselves⁴.”

3.4. Regulation 1308/2013: a ceremony of the confusion

Commissioner Ciolos initial aim what to extend the fruit and vegetable scheme to the other agricultural productions. He faced a farce resistance on the part of DG Competition but also of some important DG AGRI services.

On one hand, Regulation 1308/2013 has extended the use of POs as a common policy tool for market organizations to all agricultural sectors (Bouamra-Mechemache and Zago, 2015). On the other hand, the regulation has introduced confusion and legal uncertainties, despite the fact that its whereas clause 131 gives indicates the political will of the legislator:

“Producer organisations and their associations can play useful roles in concentrating supply, in improving the marketing, planning and adjusting of production to demand, optimising production costs and stabilising producer prices, carrying out research, promoting best practices and providing technical assistance, managing by-products and risk management tools available to their members, thereby contributing to strengthening the position of producers in the food chain.”

3.4.1. The Milk Package

The “milk package”, following the milk crisis, marked the beginning of the confusion. “Drafted on the basis of the conclusions of a special High Level group set up after the 2009 milk market crisis, (the “milk package”) aimed at boosting the position of dairy producers in the dairy supply chain and preparing the

³ Regulation 1360/78 on Producers Groups and their unions, OJEU L 166/1.

⁴ <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/09/554&format=HTML&aged=0&language=EN&guiLanguage=en>

sector for a more market-oriented and sustainable future. For example, it gives Member States the possibility to make written contracts between farmers and processors compulsory in the milk sector, and it allows farmers to negotiate contract terms collectively within certain limits. The new regulation was published on 30 March 2012.

The package provides for written contracts between milk producers and processors and for the possibility to negotiate contract terms collectively via Producer Organizations”⁵.

As defined in article 148 of Regulation 1308/2013, “a Producer Organisation in the milk and milk products sector may negotiate on behalf of its farmer members, in respect of part or all of their joint production, contracts for the delivery of raw milk by a farmer to a processor of raw milk, or to a collector”. Cooperatives are explicitly excluded from the scope of activities of those new “Producer Organisations”, which can only negotiate with the Investors Own Firms (IOFs).

The same legal term “Producer Organisations” is used in the same regulation with 2 completely different meanings and 2 completely different treatments as far as competition policy is concerned (Velazquez and Buffaria, 2017).

For instance, Article 149 of regulation 1308/2013 imposes limitation to the maximum volume of raw milk that a single PO can negotiate: *It should not exceed 3,5 % of total Union production; the volume of raw milk covered by such negotiations which is produced in any particular Member State should not exceed 33 % of the total national production of that Member State, and the volume of raw milk covered by such negotiations which is delivered in any particular Member State should not exceed 33 % of the total national production of that Member State.*

3.4.2. Agreements and decisions during periods of severe imbalance in the markets

Article 222 empowers the Commission to allow Producer Organizations and their associations to intervene in the market but only “during periods of severe imbalance in markets”. Two of the main conditions required by the regulator were, first, that the Commission has to adopt an implementing act and, second, that it could apply “only if the Commission has already adopted measures” such as market intervention, private storage or market withdraws.

If there is no “severe imbalance in the markets”, market withdraws, free distribution, storage ... by Producer Organisations are therefore not allowed. Even worst, they could be only allowed by the Commission if and when it has already adopted one of those measures.

In this context, how can Producer Organisations succeed in “ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity” as requested by article 152 of the same regulation?

3.4.3. The specific provisions foreseen for the olive oil, beef and veal and arable crops sectors

Articles 169, 170 and 171 of the CMO Regulation developed specific rules for contractual negotiations in the olive oil, beef and veal and arable crops sectors.

If the legislators have found necessary to explicitly allow certain practices under certain conditions, this means implicitly that they are forbidden in the other cases. Even if the official aim of the regulation was

⁵ https://ec.europa.eu/agriculture/milk/milk-package_en. Consulted on 20/07/2018, 15:50.

"at contributing to strengthening the position of producers in the food chain" (whereas clause 131), in practice it limits the scope of article 152.

The issue was so tricky that the Commission decided to *"give guidance to those producers"* approving specific Guidelines⁶. They give illustrative examples. In the case of the *"joint sale practice of malting barley"*, *"competition is unlikely to be restricted given the small share of the market represented by the PO"*. In the *"rapeseed producers"* example, *"the combined market share of the parties on the market for animal feed from rapeseed does not exceed 20% as required by Article 3 of the Specialisation Block Exemption"*.

POs are not seen as companies but as a cartel of producers, which market share has to be limited. Following this approach, if an Investment Own Firm buys and trades the production of 100 producers, there is no relevant market share limit, even if those 100 farmers are the shareholders of the company as long as it does request the status of a PO. If a PO does the same economic activities with the same 100 producers, the market share limit would be applicable.

Despite the whereas clause 131, this was a clear negative discrimination against the POs. Instead of *"contributing to strengthening the position of producers in the food chain"*, this interpretation of the text empties it of content.

Therefore, articles 169, 170, 171 and 222 were in contradiction with Article 152, despite whereas clause 131. As we will see later, the Omnibus Regulation and the European Court of Justice, in its *"endive case"* ruling, have clarified the issue.

Some years ago, the position of the Commission was more open on private management schemes. In its Communication of 26 October 1990 (EC, 1990) to the Council on *"organisations and agreements linking different branches within the agricultural sector"*, it clearly stated:

"More recently, in the Explanatory Memoranda attached to its proposals for the 1987/88 prices, the Commission stated that "the aim of the introduction of more flexible institutional instruments for market support is not to replace order by anarchy but to stimulate the establishment of new structures, in the preparation and operation of which farmers and their organizations will play a more active role".

The Commission stated its preparedness in certain circumstances to facilitate a developing trend on contractual relationships between farming and processing, in particular in the form of inter-branch agreements. It stressed that the aim was not to build something out of nothing, as there were already good models in the Community, but there was a need to make a start in this direction.

As institutional market support instruments are rendered more flexible, the Commission reaffirms its view that in some sectors, flexible machinery for concerted discussion and cooperation between the various types of firms involved in production, processing and marketing of agricultural products must also be developed.

Such a structure should help correct the dispersion of supply which is endemic in certain agricultural product sectors. The establishment of producer groups has for some sectors and in some regions, brought good results. However, the trend towards the concentration of marketing and processing activities, together with the imbalances between supply and demand which now prevail in certain markets, suggest that the policy on producer groups should be pursued by action in support of voluntary Interbranch cooperation in case existing Instruments are insufficient to achieve the objectives of Article 39 of the Treaty".

⁶ [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52015XC1222\(01\)&from=en](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52015XC1222(01)&from=en)

3.5. Current situation: the Omnibus Regulation and the “endive case” ruling

Here again the French national competition authority has analyzed both the Omnibus Regulation and the “endive case” ruling (Autorité de la Concurrence, 2018).

3.5.1. The Omnibus Regulation, an important step toward clarification

The so-called “Omnibus Regulation”⁷ represented an important and positive step in reducing the previously described “ceremony of the confusion”. In particular,

-) It clarifies, the previously conflictive issues of the “transfer of ownership of agricultural products” and the “same negotiated prices” inside the Producer Organisation, maintaining the objective of “concentration of supply” and “placing the products of its members on the market” (new article 152).
-) It improves the legal capacity of POs and APOs to require written contract or offer when the buyer is not a micro, small or medium company (new article 168).
-) It extended to all sectors the specific provisions previously foreseen only for the olive oil, the beef and veal and certain arable crops sectors (Massot, 2018).
-) It removes from article 222 the condition included in its paragraph 2, the requirement of a previous adoption by the Commission of an intervention measure as a pre-condition for private market intervention by POs and APOs.

The Omnibus Regulation still maintains that the Commission has to adopt an implementing act in order to allow private crisis management by *“farmers, farmers associations or associations of such associations, or recognised producers organisations, associations of recognised producer organisations and recognised Interbranch organisations”*.

If the Commission has to adopt an implementing act before private crisis management is implemented, it is hardly conceivable that it could be “preventive”.

In addition, why do we need an explicit Commission decision needed to allow commercial POs and their associations to take actions directly related to their aim of “ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity”?

3.5.2. Interbranch Organisations (IBO)

The first legislation on Interbranch Organisations has been the French Law 75-600. Despite the fact that several European sectorial agricultural market regulations included this figure (for instance, fruit and vegetable, tobacco, wine), it has mainly been during many years a “French specificity”. When the Commission approved its Communication (European Commission, 1990), only 56 IBOs were recognised.

In 2011, the European Court of Justice settled that the mandatory extension of fees to non-members (“Contributions Volontaires Obligatoires”, CVO in French) for the financing of the IBO does not constitute State aid, as the Commission during the “age of ice” argued. This legal certainty ... and the increase interest of Competition authorities about what was happening in the agricultural sector,

⁷ Regulation 2017/2393 of 13 December 2017, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32017R2393&from=EN>

contributed to promote a change of mentality in several Member States needing to find a legal basis for some traditional practices.

This is why Regulation 1308/2013 could enlarge the scope of possible Interbranch activities to all agricultural sectors. It acknowledged that IBOs play an important part in allowing dialogue between actors in the supply chain and in promoting best practices and market transparency. The regulation developed common provisions for their recognition and stipulated certain derogations from the EU competition rules.

The Amat et al (2016) report for DG AGRI showed *“that 19 Member States had adopted national rules on the recognition and functioning of IBOs. The first legislation was the French law 75-600 of 1975. In June 2016, 123 recognized IBOs, four of them solely recognized only under national rules, were active in eight different Member States⁸ but their total number was growing”*.

In 2016, half of the recognized IBOs was still located in France (63) for 60 located in the other 7 MS (7 in Greece, 6 in Hungary, 3 in Italy, 27 in Spain, 7 in the Netherlands, 5 in RO, and 5 in Portugal). However, the relative French share was decreasing year by year.

The Omnibus Regulation enlarges the scope of the Interbranch Organisations possible aims to *“establish standard value sharing clauses”* and to *“implement measures to prevent and manage animal health, plant protection and environmental risks”*.

3.5.3. The “endive case” ruling, another welcomed clarification

The European Court of Justice adopted a preliminary ruling on 14 November 2017 on the so-called “endives case”⁹ which clarify significantly the debate. It underlines the role of the commercial POs and their APOs. The exception to the competition rules applicable to the commercial POs are extended to the AOPs even if they are not commercial APOs but fulfil any of the other POs missions.

Amongst the findings of the Court, the followings could be underlined:

“It should be observed that the objectives of ensuring that production is planned and adjusted to demand, of concentrating supply and placing on the market the products produced by members, and of stabilising producer prices, necessarily entail the exchange of strategic information between individual producers that are members of the PO or APO concerned, the purpose of which is, inter alia, to acquire knowledge of the characteristics of the products produced by the members. Therefore, exchanges of strategic information between producers within the same PO or APO are liable to be proportionate if they are in fact made for the purposes of one or more of the objectives assigned to that PO or APO and are limited only to the information that is strictly necessary for those purposes.

The objective of stabilising producer prices to ensure a fair standard of living for the agricultural community may also justify coordination between agricultural producers in the same PO or APO with regard to the quantities of agricultural products put on the market, as is clear from recital 16 of Regulation No 2200/96 and the intervention arrangements whose operating principle was laid down in Article 23 of that regulation and amended by Article 103c(2)(a) of Regulation No 1234/2007.

In addition, the objective of concentrating supply to strengthen the position of producers in the face of ever greater concentration of demand may also justify a certain form of coordination of the pricing policy of individual agricultural producers within a PO or an APO. That applies in particular where the PO or APO

⁸ Greece, Spain, France, Hungary, Italy, The Nederland, Portugal and Romania.

⁹ <http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30dd40c3bb10989f43cd9660db7a5bd4ace8.e34KaxiLc3qMb40Rch0SaxyOahf0?text=&docid=196626&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=517023>

concerned has been assigned by its members the responsibility for marketing all their products, as required, save in special cases, by Article 125a(1)(c) of Regulation No 1234/2007, read in conjunction with Article 125c thereof.

The European Court of Justice is therefore recognizing the existence of a “*significant and general derogation*” to the competition rules.

By contrast, the collective fixing of minimum sale prices within a PO or an APO may not be considered, under the practices necessary in order to fulfil the responsibilities that have been assigned to them under the common organisation of the market concerned, to be proportionate to the objectives of stabilising prices and concentrating supply where it does not allow producers selling their own products themselves in the cases referred to in Article 125a(2) of Regulation No 1234/2007 to sell at a price below those minimum prices, since it has the effect of reducing the already low level of competition in the markets for agricultural products as a result, in particular, of the possibility given to producers to form POs and APOs in order to concentrate their supply.”

Curiously, on one hand, POs can withdraw products from the markets, in order “to adjust production to demand”. In the absence of public funding, the PO can pay the withdrawal price that it wants

An APO can normally contribute to the adjustment between supply and demand on a more efficient and effective way than an individual PO. Here again, in the absence of public funding, the APO can pay the withdraw price it wants, if there is no abuse of dominant position to impose unreasonable price to consumers.

On the other hand, “*collective fixing of minimum sale price may not be allowed*”. The last paragraph of the current article 209.1 does not allow “*agreements, decisions and concerted practices which entail an obligation to charge an identical price or by which competition is excluded.*”

There is here a grey zone that would deserve to be clarifying in order to increase legal certainty both for farmers and for national administrations. Catherine Del Cont and Antonio Iannarelli (2018) rightly proposed simply to remove this prohibition.

3.6. The Commission auditors’ role

The experience of fruit and vegetables teaches us that the great margins of flexibility left by the Community regulations to the Member States is sometime reinterpreted with retroactive effect by the Commission's auditors, sometimes disagreeing with the opinions of the unit responsible for the management of the markets in the same General Directorate of Agriculture and Rural Development.

Jos Bijman (2015) rightly underlined those tensions in its report to the European Parliament: “*It seems there (were) differences of opinion within the Commission (DG AGRI) between the policy units on the one hand and the audit services regarding the interpretation of the regulation... One of the objectives of the 2007 reform was to make the fruit and vegetable rules simpler and to increase flexibility. During the discussions amongst the Member States and the Commission on the Commission regulation (EC) N° 1580/2007 laying down implementing rules, there was an emphasis on flexibility and creativity to be used by the Member State in implementing the Regulation. The flexibility was intended to address the wide variation in market conditions between and within Member States.*

However, once the regulation was in place, the subsequent audits turned out to be very strict. Instead of allowing flexibility and creativity, the situation turned out to be of legal uncertainty. The interpretation by the audit service, for instance on the issue of outsourcing, has contradicted, maybe not with the letter of the

Regulation but certainly with the spirit of the Regulation, as understood by the Member State discussing the new regulation in the management Committee”.

Some of the concrete issues which have been subject to different retroactive interpretations from one service to another or from one year to another have been the following: criteria for the recognition of a Producers’ Organization (PO), democratic control of the POs by the producers; environmental management of packaging, externalization of functions by a PO.

The spirit of the regulation was clear for all who participate actively in the negotiations. A PO is a business that can outsource all the activities that are better (and/or cheaper) done outside. Despite the fact that the Commission auditors participate actively in all the internal discussions and the management Committees meetings, they were instructed later on to apply stricter rules. *“In some cases, auditors have questioned the democratic control of farmers over the marketing of their product when key activities were outsourced”* (Bijman, 2015)

Therefore, to avoid a financial correction, when a European new rule is approved, the national (and sometimes also the regional) responsible officials adopt the “precautionary principle”, making the most prudent possible interpretation (one could even say “conservative” interpretation), multiplying the controls and the procedures trying to anticipate what the Commission auditors could request when they will come several years later.

The development and consolidation of Producer Organisations in Europe require real and deep changes of the auditors’ role. Retroactive interpretations of the regulations should not be allowed. Auditors should become the best allies of farmers and national and regional authorities, in order to generalize best experiences and anticipate the possible problems, as we will see in the next section.

The issue was marginally addressed in the Commission Communication “The Future of Food and Farming” (EC, 2017b), in its last paragraph of chapter 2 “Towards a new delivery model”:

“Another crucial function of the Commission would of course consist in supervising the delivery on result and the respect of basic EU rules and international commitments in the framework of a well-designed audit and assurance system. To this end the assurance process would need to be adapted to the requirements of a result-driven policy design including the development and application of solid and measurable indicators and of a credible performance monitoring and reporting”.

4. SOME OTHER RELEVANT ISSUES

KEY FINDINGS

-) This report focusses on the sectorial approach in the CAP beyond 2020. However, consistency between the different CAP tools, an even beyond, has to be ensured.
-) This is why we will quote here 8 relevant issues that fall outside the scope of this report but are relevant to our purpose, in particular “to improve the EU food chain value”.

4.1. A pluri-annual crisis reserve

The current crisis reserve does not achieve effectively its objective. Agricultural markets crises are generally unpredictable, although it can reasonably be expected that they will not be experienced every year. Inside the budget, the annuality rule does not provide the required flexibility. Outside the budget, the saving made one year could be helpful another year of the programming period if needed.

The future crisis reserve should be *“exempted from the principle of annuality of the budget, so as to permit budgetary transfers from one year to the next, especially when market prices are sufficiently high, while maintaining the crisis reserve at a constant level throughout the MFF period”* (point 142 of the Resolution)

4.2. Unfair trading practices

The Commission has presented on 14 April 2018 a *“proposal of Directive on unfair trading practices in business-to-business relationships in the food supply chain”* (European Commission, 2018, b).

The European Parliament has approved already several reports on this issue (amongst others, Bové 2010, Czesak 2015, Delahaye 2016). The European Parliament (2012) voted a resolution of 19 January on the imbalances in the food supply chain (European Parliament Think Tank, 2018)

The COMAGRI has already adopted the report prepared by De Castro (2018).

The relevance of this issue and its strong link with the content of this report, do not need to be underlined. It is also a key element of the Del Cont and Iannarelli (2018) report.

4.3. Local market and short supply chains

Local markets and short food supply chain are part of the solution as underlined in point 135 of the Resolution. Pillar 2 should sufficiently support them.

4.4. Crop diversification and rotation

There are powerful agronomic and environmental arguments supporting crop rotation and diversification. In addition, a risk management strategy starts at farm level (European Commission. 2017a; Appel and Balmann, 2018).

The inclusion of crop rotation in the requirements and standards on conditionality imposed on beneficiaries receiving direct payments is therefore a move in the good direction.

4.5. Precautionary savings

Even if it is national competence, fiscal and tax measures can provide some revenue stabilization effect. “It can help farmers to smooth the stream of disposable income across good and bad years” (Tangermann, 2011).

At the opposite, an unbalanced national fiscal system, which for instance is systematically more favourable to investments than to savings, can in good years promote excessive investments and reduce farmers’ resilience in bad years (Bardaji et al, 2016).

The Commission raised the issue in its Communication “the future of food and farming” (European Commission, 2017b).

Some analysts have proposed that the European Union could match farmers’ contributions as an additional option for the Member State. Technically, it could be an additional, and optional for the Member State, percentage of its allocation for direct payments or as another option to be included in the Rural Development programs.

4.6. Micro, Small and Medium Size Enterprises

Several European Regulations make specific references to micro, small and medium size enterprise. For instance, article 53 of the proposal establishing rules on support for strategic plans) says that “*Union financial assistance at the maximum rate shall only be granted*” to them.

In order to be consistent with the declared political objective of contributing to strengthening the position of producers in the food chain”, commercial POs and their Associations should be added to the list.

4.7. Optional financing of Operational programmes in new sectors

Article 83.6 of the Commission proposal establishing rules on support for strategic plans allows Member States to decide in their CAP Strategic Plans to use up to 3% of the Member States' allocations for direct payments for financing operational programmes of commercial Producer’ Organisations and their Associations in new sectors. This percentage could easily be increased.

As an alternative, Article 86.5 fixes the limit amounts for the coupled income support interventions, The 2 limits could be merge as, often, supporting Producer’ Organisations is an effective way to “help the supported sectors and productions ... by improving their competitiveness, their sustainability and their quality”, as requested by article 29.

4.8. A well-designed audit system

The Commission could be asked to ensure, through a Declaration annexed to the final agreement, that its auditors will no more apply retroactive interpretations of the Regulations.

5. PROPOSALS FOR ADJUSTMENTS

KEY FINDINGS

- J We present 21 proposals that, in our opinion, could deserve to be discuss and evaluated on how the European Parliament could improve the food chain value beyond 2020.
- J They are structured in 7 blocks on market data; EU public intervention; a more efficient and effective safety net; taking note of the “endive case” ruling; improving the rules for producers Organisations, their associations and the Interbranch Organisations; preventive market measures and addressing the prisoner’s dilemma.

As requested, and based on the elements presented in this report, we are presenting 16 possible proposals that, in our opinion, could deserve to be discuss by the AGRI Committee.

5.1. More transparent market data

Proposal 1: A single European Agricultural Market Observatory (EAMO)

As Tangermann (2011) underlined, “one fundamental ingredient in risk management on the farm is sufficient and reliable information”.

We have now 4 European Agricultural Market Observatories. In order to consolidate them, and to better take into account the interlinks between cereals and oilseed productions on one hand and meat and eggs productions on the other one, it make sense to merge them in a single European Agricultural Market Observatory (EAMO).

In addition, this new EAMO would be a perfect instrument in order to take on board *“the sectors that are not yet covered and develop further to offer reliable data and forecasts to market operators* (point 134 of the Resolution) system.

Proposal 2: More statistical information on the structure of the whole industry

Until now, even if under budget pressure, there is a regular European agricultural structural survey. However, the statistical information on the other actors of the industry is limited.

On request of the European Parliament, the Commission published in 2012 a comprehensive study on agricultural cooperatives¹⁰ that would deserve to be updated on a regular basis. Nothing similar exists for the food industry or the retailers... Detail studies and information of the structure of the whole chain are needed for the design of a comprehensive market management policy (Bardaji et al, 2016).

Proposal 3: Specific information on organic products

As the European Commission has explained, *“the organic sector in the EU has been rapidly developing during the past years. According to Eurostat data, the EU-28 had in 2015 a total area of 11.1 million hectares cultivated as organic, up from 5.0 million in 2002. During the last decade, organic area in the EU increased by about 500 000 hectares per year. The whole organic area represents only 6.2% of total utilized agricultural area in Europe. The organic area is cultivated by almost 185 000 farms across Europe. Around 306 500*

¹⁰ http://ec.europa.eu/agriculture/external-studies/2012/support-farmers-coop/fulltext_en.pdf

organic operators (producers, processors and importers) were registered in the EU-28 in 2015” (EC, 2016b). Since then, the market has continued to grow.

Therefore, on the best possible regular basis, the evolution of the organic markets and prices (and its comparison with the “standard” markets and price) should be included in the dashboards.

Proposal 4: A Commission progress report

We have already acknowledged the significant progress done by the Commission on market and data transparency until now. Nevertheless, more can be done. For instance, more products could deserve to have a dashboard; not all the dashboards have the same quality and update; public dissemination of the results in social networks is limited...

The Commission could present an annual progress report (including future possible improvements) on market transparency and data reporting.

5.2. EU public intervention

Proposal 5: An early warning system and regular Commission reports

The Commission should implement an early warning system (Delahaye, 2016). It should “enable prompt and pre-emptive actions in the case of market disturbances with a view to preventing crisis” (point 134 of the Resolution).

It should be based on some objective criteria based on the dashboards that the Commission published now on a regular basis and the Short-term Outlook reports (Bardaji et al, 2016). It should take into account the evolution of imports and exports and of market prices as compared with a reference periods.

In addition, the Commission could be committed to present regular reports on the functioning of this alert system.

Proposal 6: The Commission could be invited to adopt, by the end of 2021, a proposal of regulation of the European Parliament and the Council to clarify, at least for the main agricultural products, when and how the Commission would activate public crisis management.

Predictability of EU public intervention is another key issue that should be addressed. Today, the Commission has a large margin of maneuver to intervene, amongst others, in case of “severe imbalances”. Bureau and Mahé (2015) underlined rightly “the Commission lack of independence from political pressure in the market management² and its “unpredictable behavior”.

This is why, for instance, recently 19 members of the European Parliament from 4 different Member States, have requested the Commission to activate the private storage for sugar, following their best understanding of the market situation.

5.3. More efficient and effective safety net

Proposal 7: The Commission could be invited to adopt, by the end of 2021, a report on the level of the current reference thresholds and their contribution to an efficient EU safety net. If needed, after a case-by-case analysis, the Commission should adopt the corresponding proposal of Regulation of the European Parliament and the Council.

Market orientation of the European agricultural sector and industry is one of the major achievements of the different waves of CAP reform. This is why, for instance, EU agri-food trade surplus is at record levels (EC, 2018).

Nevertheless, the European Parliament has rightly underlined that “the historical market management tools of the CAP have a reduced and insufficient effect” (point 137 of the Resolution).

A balance approach in between those two concerns could be that, on a case-by-case basis, the level of the current reference thresholds could be revisited.

In some cases, they could be increased and in others, it could be the opposite. For instance, Jongeneel et al (2018) concluded recently *“the intervention price level as it is currently defined for SMP may need reconsideration and be in need to be lowered”*.

5.4. Taking note of the “endive case” ruling

The following proposals, until the end of the report, aim to “further clarify and update the rules for Producers Organisations and Interbranch Organisations, particularly as regards competition policy, including with a view to the measures and agreements of Interbranch Organisations, in order to meet societal demand”, as requested by point 136 of the Resolution.

Proposal 8: The Regulation should clearly differentiate between Commercial POs and non-commercial POs. We propose to reserve the wording “Producer Organisations” to the first one and to call (for instance) “Negotiating Groups” the other figures

The “endive case” ruling of the European Court of Justice has clearly consolidated the “significant and general” derogation for commercial POs to the application of the antitrust discipline to arrangements and agreements, including the associations and the associations of associations. This derogation is not as general for “Negotiating Groups”.

Proposal 9: The Regulation should clearly take note of the endive ruling of the Court of Justice. Commercial POs and their associations are allowed to adopt measures to “ensure that production is planned and adjusted to demand, particularly in terms of quality and quantity” without any authorization of the Commission.

Proposal 10: The last paragraph of the current article 209.1 should be removed. POs and APOs should be able to build their own price policy as any other company

Commercial POs are companies. Many of them are cooperatives but others have adopted different legal structure. As any other enterprise acting on the market, they can arrive to all kinds of agreements with their clients and suppliers.

As Ecorys (2018) has found in its study for DG COMP, *“regarding the objective of stabilizing markets, the strongest statistical associations are found with activities of contractual negotiations, commercialization strategies and planning of quantities, together with distribution and transport. This finding is consistent with the notion that improved planning and coordination of supply and demand by Producer Organisations can lead to greater market stability”*..

Obviously, excessive market power and its abuse have to be avoided.

We do not deny the positive role that the Negotiating Groups can play, and already play, in rebalancing the market power inside the food chain. Some concrete examples were presented in the Conference on “The contribution of producer organisations to an efficient agri-food supply chain” organized by the Commission on 21 September 2018 in Brussels¹¹ (Duvaleix-Tréguer, 2018; Duvaleix-Tréguer et Gagné, 2018; Wierzbicki, 2018). The single CMO provides for collective negotiation of contracts on behalf of farmers through the Negotiating groups and ensure legal security from competition authorities if certain limitations are respected.

However, they deserve a different treatment as far as competition policy is concerned. “Negotiating groups” are not covered by the “significant and general derogation”.

Therefore, the scope of article 222 has to be limited to “Negotiating groups”.

5.5. Improving the POs, APOs and Interbranch rules

As POs and APOs are key and central element of the single CMO regulation, their rules should be clarify and improved.

Proposal 11: Recognition of Producer ‘Organisations in new sectors

In order to reduce the red tape, Member States could be explicitly allowed to recognize as “Producer Organisations” all types of “Producer-owned-enterprise”.

Proposal 12: The regulation should explicitly define the figure of transnational PO and APO

All the regulation is based on a national basis. Each Member State recognizing its producer Organisations. In the fruit and vegetable sector, there are POs that have members in several Member States. The experience of this sector shows that transnational POs are a useful tool. Bijman et al (2012) found 15 recognised POs under the fruit and vegetable regime.

Firstly, trans-border collaboration between neighboring producers makes sense in many European regions such as Flanders or Catalonia. Secondly, in a single market, buyers are often transnational and can easily take advantage of the division amongst producers to decrease excessively market prices.

Farmers are often building Europe on the ground and the regulation has to make it not only possible but also easier and has to support it

Proposal 13: Strategic plans should include transnational collaborations

The Commission proposes, on one hand, that the specific programs as those for fruit and vegetables or wine are included in the National Strategy. It proposes also that POs in other sectors that fruit and vegetables could implement operational programs and receive EU support from Pillar 1. In order to integrate in this new scheme the figure of transnational POs and APOs, the strategic plans should include the framework for transnational collaborations.

¹¹ https://ec.europa.eu/info/events/contribution-producer-organisations-efficient-agri-food-supply-chain-2018-sep-21_en

Proposal 14: APOs could be formed at the initiative not only of POs but also of APOs

Associations of POs are a positive step towards a more organized farming sector. Today (article 156), APOs are formed at the initiative only of recognized Producer Organisations. This limitation does not make sense as each year the level of concentration in retail and manufacturing sector is increasing.

Proposal 15: The regulation should explicitly define the figure of Association of Interbranch Organisations (AIBO)

As foreseen in article 157, Member States may recognize Interbranch Organisations in a specific sector. Once they are recognized, Interbranch Organisations should be free to interconnect with other national Interbranch Organisations or to other Interbranch Organisations for the same product in other Member States or at European level (Delahaye, 2016).

As it is the case for POs and APOs, they should be allowed to delegate powers or functions to their AIBO.

Proposal 16: The role of the Commission in controlling transnational POs, APOs and Interbranches could be explicitly define

Today, in the fruit and vegetable case, *«transnational POs need to have a recognition in one MS, that MS bears the full responsibility of compliance to the EU rules. While farmers from several MS benefit from the operational programme of the transnational PO, the authorities of only one MS need to do all the paper work for recognition, monitoring and evaluation. Thus, the financial responsibility, risk and liability are unequally divided over the MS involved. In addition, the recognizing MS relies on the other Member States involved for obtaining the proper information and doing some of the control activities. Here again, cultural differences (including public-private collaboration and consultation) may play a complicating role»* (Bijman, 2015)

It could be envisage that, if the transnational POs or APOs are of European relevance, for instance bigger than a fixed value of the marketed production or involving more than 2 Member States, it would be under the direct control of the Commission.

As far as the actions supported by the EU budget, it would be only relevant for the fruit and vegetable case but for all the other activities, it would be applicable to all sectors.

5.6. Preventive market measures

We have already agreed with the diagnostic of Mahé et al (2016) of the usefulness of preventive market measures and disagreed with their proposal of “an independent Administrative Authority for market measures”.

De Castro (2010) argued several time in favor of private prevention management market instruments as “calming market instruments”. During the discussion on CAP post 2014, the European Parliament supported the development and reinforcement of instruments “based on private supply management to increase the coordination of the various operators, and giving them the option of withdrawing a product during bad marketing conditions” (Matthews, 2012; Olper, 2014; Olper and Pacca, 2015).

The two following proposals aim to present an alternative which would allow to match also two concerns expressed by the European Parliament in its Resolution: the “voluntary milk supply reduction scheme” (point 125) and the “new self-help management tool for olive oil” (point 126).

Proposal 17: Preventive joint actions between POs and APOs should not only be allowed but be promoted

Several POs and/or APOs could be allowed to coordinate their actions in order to attain the aim of *“adjusting demand, particularly in terms of quality and quantity”*. This is clearly going beyond the current rules and the “endive case” ruling which allow this coordination inside the PO or the APOs and their members.

A regulation of the European Parliament and the Council could, at least for the main products, fix a **trigger market price 1** that allows POs and APOs to act on a coordinated way in order to achieve the objective of article 39, (b) *“to ensure a fair standard of living for the agricultural community”*.

It should also fix, in order to accomplish the objective of Article 39 (e) *“to ensure that supplies reach consumers at reasonable prices”*, two other trigger market prices.

The **trigger market price 2** would force the concerned POs and APOs to start putting an end to their coordinated action.

The **trigger market price 3** would put a complete end to the coordinated actions. The coordination between POs and APOs would then be illegal.

For instance, as only an illustration, if the intervention price for cereal is 100€/t, the trigger price 1 could be (120) €/t; the trigger price 2 (140) €/t and the trigger price 3 (160) €/t.

As it will not be possible to fix those trigger prices for all agricultural products, a general rule could be established based on, for instance, a percentage of the average market price of the last 5 years. This is what the Commission has done in the fruit and vegetable case, following the Russian embargo.

Annually, the POs and APOs concerned should prepare a report for their national authorities and the Commission on the use of this derogation.

Every year also, and based on those reports, the Commission should present the corresponding report to the Council and the European Parliament.

After 5 years of application, the Commission would launch an evaluation of the efficiency and effectiveness of this derogation. The results would be presented to the European Parliament and the Council with, if needed, relevant proposals of changes and improvements.

Proposal 18: To reinforce the allowed role of Interbranch Organisations in market crisis management

The Omnibus Regulation, in its new article 222, has included Interbranch Organisations in the list of possible beneficiary of an (temporal) non-application of Article 101(1) TFEU. This opens a new window of possible duties for those Organisations.

In some cases, an Interbranch Organisation (or an association of Interbranch Organisations) could be the most efficient and effective way to achieve the preventive joint actions proposed in the previous proposal-.

It would be an extension of what is already foreseen in article 167, but limited to the marketing rules to improve and stabilize the operation of the common market for wine.

This is why Proposal 16 could also be extended to Interbranch Organisations.

Proposal 19: To allow transnational POs, APOs and Interbranches to associate members from outside the EU

As explained by Compes et al. (2013), *“there are already examples of transnational POs and APOs inside Europe. They could be extended to non-EU producers and contribute, for instance, to an increase transparency of the market and to the quantity and quality adaptation of production to the demand. These are two of the main goals of those organisations”*.

The regulation should explicitly allow the possibility that European organisations have associated members from third countries: producers, Producer Organisations, Associations of Producer Organisation and Interbranches.

Proposal 20: To enlarge the scope of the current Article 150 which is today limited to “cheese with a protected designation of origin or protected geographical indication”

The first paragraph of Article 150 foresees that *“upon the request of a Producer Organisation recognised under Article 152(3), an interbranch organisation recognised under Article 157(3) or a group of operators referred to in Article 3(2) of Regulation (EU) No 1151/2012, Member States may lay down, for a limited period of time, binding rules for the regulation of the supply of cheese benefiting from a protected designation of origin or from a protected geographical indication under Article 5(1) and (2) of Regulation (EU) No 1151/2012.”*

The experience acquired since 2013 allows us to conclude that this rule, applied a limited number of times, has contributed positively to achieving a better balance between supply and demand.

There is no economic reason to not extend this possibility to the other products with a protected designation of origin or protected geographical indication.

5.7. Dressing the prisoner’s dilemma (the free rider issue)

This is the main argument against voluntary supply scheme and private crisis management. It is a real one that deserves to be addressed. Mahé et al (2016) express it very clearly when explaining why a spontaneous movement of supply reduction at the initiative of Producer Organisations was very unlikely to occur:

“The reason is a common feature of economic situations whereby a public good may be produced to the benefit of everyone, but where no one has the incentive to start making a financial contribution. Since anyone will benefit from it anyway if the good is provided, and if one person starts contributing and is not followed, he/she will be the loser. These situations are known as prisoner’s dilemmas or coordination failures. In our case the public good is a better market price and the individual contribution to public good provision is own supply reduction. Clearly if better prices prevail on the market, it is impossible to deprive any producer from benefiting. Hence, every individual has an interest in waiting for others to cut supplies. Thus the non-participant will be able capture the gains from better prices without bearing the cost of cutting his own deliveries.

If a minority of producers enter the programme they will not get a benefit from higher prices since the positive price effect will be smaller than their negative volume effect. Hence, such a minority has no interest in being enrolled in a voluntary unsubsidized scheme. It will therefore not happen.”

The concrete political impasse could be then the following: If it is preventive, it has to be voluntary and privately managed but the prisoner’s dilemma could make it not happen. If it is public, it would happen but would not be preventive.

Proposal 21: To enlarge the allowed scope for the extension of rules

The extension of rules could be a partial answer to this dilemma. The proposed preventive market measures should be included in the list of measures that can be extended by the Member State.

The Member State would be allowed to extend the disciplines adopted by the Producer Organisation (or the AOP) to all the producers, even to non-members, if the PO (or APO) is recognized as representative in its economic circumscription.

In case of an IBO, the same can be done in the territory, regional or national, for which it has been recognized.

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This paper addresses the current rules both the current European rules applicable to the Common Agricultural Market Organisation and the recent proposal of the Commission in the CAP beyond 2020. It also suggests possible improvements of the proposal. It was presented to the Committee on Agriculture and Rural Development on 15 October 2018.
