FIRST PILLAR OF THE CAP: I — COMMON ORGANISATION OF THE MARKETS (CMO) IN AGRICULTURAL PRODUCTS

The CMO is the framework for the market measures provided for under the CAP. Following a series of reforms, 21 separate CMOs were codified in 2007 into a single CMO, covering all agricultural products. Reforms to the CAP have also made the policy progressively more market-oriented and scaled down the role of intervention tools, which are now regarded as safety nets to be used only in the event of a crisis.

LEGAL BASIS

Articles 38 to 44 of the Treaty on the Functioning of the European Union (TFEU), Regulation (EU) No 1308/2013 of the European Parliament and of the Council[1], and Council Regulation (EU) No 1370/2013[2].

INTRODUCTION: FROM 21 CMOS TO A SINGLE CMO

The CMOs have been a key component of the common agricultural policy (CAP) since its inception, providing the framework for the market support schemes set up in the various agricultural sectors.

The CMOs were set up as a means of meeting the objectives of the CAP (Article 40 TFEU), and in particular to stabilise markets, ensure a fair standard of living for farmers and increase agricultural productivity. CMOs cover the products listed in Annex I to the TFEU and encompass a range of mechanisms governing the production and trading of those products in the EU. The guarantees provided under those mechanisms vary according to the specific characteristics of the individual products. The CMO market measures come under the first pillar of the CAP.

Before the entry into force of the single CMO in 2007 (Council Regulation (EC) No 1234/2007[3]), there were 21 separate CMOs each covering specific products and all governed by their own basic regulations. The CMOs were originally based primarily on price guarantees; these guarantees were gradually reduced and offset, at first completely and then partially, by the granting of direct aid. Following the 2003 reform (3.2.3), most of the direct aid that formed part of the CMOs was gradually decoupled from production (with the establishment of the single payment scheme) and transferred from the CMO Regulations to, firstly, Regulation (EC) No 1782/2003[4] and then, following the adoption of the Health Check, to Regulation (EC) No 73/2009[5].

[1]OJ L 347, 20.12.2013.
[2]OJ L 346, 20.12.2013.
[3]OJ L 299, 16.11.2007.
[4]OJ L 270, 21.10.2003.

The intervention tools were changed considerably, therefore, by this series of reforms and they are now regarded as 'safety nets', i.e. they are used only in the event of crises linked to serious market disruption. As regards price support measures, only intervention prices (the guaranteed price below which an intervention body appointed by the Member States buys up the quantities produced and stores them) have been retained. The scale of intervention has been considerably reduced (see the paragraph below on EU funding of the CMO).

NEW POST-2013 CMO

The rules on the CMO are particularly complex: there are 232 articles in the basic CMO Regulation, to which should also be added the many rules arising from delegated and implementing acts.

The CMO specifies the agricultural products it covers. It has an internal aspect covering market intervention and rules on marketing and producer organisations, and an external one covering trade with third countries (import and export certificates, import duties, administration of tariff quotas, export refunds, etc.). The CMO deals with the competition rules applicable to businesses and the rules on State aid. It also covers general provisions on exceptional measures (including measures to guard against market disruption caused by price fluctuations or other events, market support measures in the event of outbreaks of animal diseases or a loss of consumer confidence owing to public, animal, or plant health risks, and measures relating to concerted practices adopted when markets suffer serious imbalances) and the new reserve fund for crises in the agricultural sector.

This reserve fund is a new instrument designed to support the sector when crises affect production and/or distribution. It is set up each year through reductions to direct payments under the financial discipline mechanism (Regulation (EU) No 1306/2013). Financial discipline applies only to direct payments exceeding EUR 2 000. Any reserve fund monies not used in a given year are paid out to farmers. For the 2014-2020 period, the reserve fund comprises seven equal annual instalments of EUR 400 million (i.e. EUR 2.8 billion in total). The crisis reserve fund can be used to finance exceptional measures to counteract market disruption.

The public intervention and private storage aid systems have been revised to make them more responsive and effective. The intervention period for butter and skimmed milk powder has been extended by one month; automatic tendering for milk and skimmed milk powder applies above given ceilings; for butter, the maximum volume for buying-in at a fixed price has been increased to 50 000 tonnes; and certain cheeses of protected designation of origin (PDO) or protected geographical indication (PGI) are eligible for private storage aid.

As regards supply control measures, the sugar quota scheme came to an end on 30 September 2017 and planting right schemes in the wine sector expired under the new CMO at the end of 2015. A scheme governing new planting authorisations has now been introduced for the 2016-2030 period (in accordance with the recommendations made by the High Level Group on wine in December 2012). Vine planting authorisations may increase by 1% a year.

The dairy sector quotas expired, as scheduled, on 31 March 2015. The 'mini milk package' provisions on contractual relations in the milk and milk products sector (Regulation (EU) No 261/2012[6]) have been incorporated into the new regulation. They are intended to boost the bargaining power of milk producers in the supply chain. They allow Member States to insist on written contracts between farmers and dairy processors. They also make it possible

[5]OJ L 270, 21.10.2003.
[6]OJ L 94, 30.3.2012.

for farmers to negotiate contracts collectively through producer organisations. The supply of PDO/PGI cheeses may likewise be regulated by producer organisations. In November 2016, the Commission published the second report on the operation of the 'milk package' and concluded that it strengthens the position of dairy producers within the supply chain.

Furthermore, the programmes to promote consumption of fruit and milk at school have been extended, and the annual budget for the school fruit programme has been increased from EUR 90 million to EUR 150 million. Regulation (EU) No 2016/791[7] has improved the way in which these programmes operate.

The provisions on producer organisations, associations of producer organisations, and inter-branch organisations have been extended to all sectors in order to strengthen farmers' bargaining power. The necessary funding will come from the rural development budget. Producer organisations in the olive oil, arable crop, and beef and veal sectors may also, subject to certain conditions, engage in collective negotiations on behalf of their members.

In some cases, recognised producer organisations, associations of such organisations, and recognised inter-branch organisations may be authorised by the Commission to take temporary measures to stabilise markets (such as market withdrawal and storage by private operators).

Refunds on exports to third countries have been kept in place under the new regulation, but only for certain products and only when conditions on the internal market match the conditions laid down for exceptional measures.

Aligning the CAP with the Lisbon Treaty (especially regarding matters related to the application of Article 43(3) TFEU, which states that decision-making power rests with the Council alone) was a contentious issue during the CMO reform negotiations. Accordingly, a number of measures concerning public intervention and private storage, distribution programmes in schools, export refunds, and the sugar sector now come within the exclusive competence of the Council (Regulation (EU) No 1370/2013) (3.2.1).

FUNDING OF THE CMO

The CMO is funded by the European Agricultural Guarantee Fund (EAGF). In 2016, market intervention measures totalled around EUR 3.2 billion, i.e. 7.3% of total EAGF expenditure. Table 1 clearly shows the sharp decrease in export refunds.

Table 1: EAGF expenditure on agricultural market intervention (EUR million)

	2008	2009	2010	2011	2012	2013	2014	2015	2016
Storage	147.9	173.4	93.6	– 194.6	17.4	25.1	5.1	18.4	52.4
Export refunds	925.4	649.5	385.1	179.4	146.7	62.4	4.5	0.3	0.6
Other market measures	3 046.4	3 083.5	3 454.8	3 428.3	3 344.5	3 217.2	2 579.6	2 698.0	3 185.2
Total	4 119.7	3 906.4	3 933.5	3 413.1	3 508.6	3 304.7	2 589.2	2 716.7	3 238.2

Source: Financial reports from the Commission to the European Parliament and to the Council.

Unlike direct aid and rural development, market measures are not allocated any advance funding under national budgets. In the 2014-2020 period, the funding available for EU market policies

[7]OJ L 135, 24.5.2016.

(including the crisis reserve fund) should account for approximately 4% (EUR 17.5 billion) of the total CAP budget.

The CMO has been brought to the fore by the crises in the milk, pigmeat, and fruit and vegetable sectors. The Commission adopted three sets of support measures: in September 2015, March 2016 and July 2016. The first package of measures, with funding totalling EUR 500 million, was intended to ease farmers' cash flows and reduce market imbalances (not least by establishing a private storage scheme for pigmeat and increasing aid for the private storage of butter and skimmed milk powder). In March 2016 the Commission invoked for the first time an exceptional measure (under Article 222 of the CMO Regulation) allowing producer organisations, inter-branch organisations and cooperatives in the dairy sector to enter into voluntary agreements to limit production. This was in addition to the temporary increase in State aid and the doubling of the intervention ceilings for skimmed milk powder and butter. Lastly, in September 2016 a package of measures provided for the following: an EU-wide scheme to incentivise the scaling down of milk production (EUR 150 million); conditional adjustment aid, to be determined and implemented by Member States on the basis of a list proposed by the Commission (EUR 350 million, which Member States may match from their own national funds); technical measures to provide a degree of flexibility (on coupled support for instance); cash flow relief, and reinforced safety net mechanisms (by prolonging intervention and private storage aid for skimmed milk powder). The crisis reserve fund has not been used so far.

The working group set up in January 2016 to consider the future of agricultural market policy presented its final report in November 2016. The European Parliament took up the working group's suggestions by tabling additional amendments to the proposed 'omnibus' regulation (COM(2016) 0605, November 2016) during the mid-term review of the 2014-2020 multiannual financial framework (3.2.9).

ROLE OF THE EUROPEAN PARLIAMENT

The 'mini milk package' (Regulation (EU) No 261/2012) was the first piece of agricultural legislation to be adopted by the European Parliament and the Council under the ordinary legislative procedure.

The CMO was one of the hottest topics in the negotiations on the new CAP. Out of the four CAP-related regulations put to the vote at the March 2013 part-session, the CMO Regulation proved to be the most hard-won (it was eventually adopted by 375 votes to 277). This was mainly due to the fact that it addressed especially sensitive issues such as the regulation of agricultural markets, the application of competition rules to agriculture, and the roles of the institutions in the CAP (in particular Article 43(3) TFEU). In its capacity as co-legislator, Parliament has left its mark on the new Regulation. For example, it was behind the reinstatement of durum wheat on the list of products eligible for intervention, the increase in the quantitative limit for public intervention for butter (50 000 tonnes, as opposed to 20 000 in the Commission proposal), the inclusion of PDO/PGI cheeses on the list of products eligible for private storage aid, the increase in the ceiling for EU financial assistance to producer organisations and associations of producer organisations in the fruit and vegetable sector, the extension of the sugar quota scheme until 2017, and the continuation of a vine planting authorisation scheme following the end of the planting rights scheme.

Parliament also keeps a close watching brief on delegated acts relating to the CMO drawn up by the Commission to ensure that these are in line with the political compromise reached under the reform. Parliament can in fact raise objections to these acts, and the Commission may, in some cases, respond by repealing the act concerned (3.2.1).

Parliament is also keeping a very close watch on the measures adopted to combat the crisis in the agricultural sector.

Guillaume Ragonnaud / Albert Massot
04/2018