

THE TREATY OF ROME AND THE FOUNDATIONS OF THE COMMON AGRICULTURAL POLICY

Following the entry into force of the Treaty of Rome, existing mechanisms for national agricultural policy were replaced by intervention mechanisms at Community level. Articles 38 to 46 of the TEC laid the foundations of the common agricultural policy (CAP) which was then amended on numerous occasions.

LEGAL BASIS

Articles 38 -44 TFEU (→4.2.9)

OBJECTIVES

A. Reasons for the CAP: background and specific characteristics of agricultural supply and demand.

When the Treaty of Rome established the Common Market in 1958, agriculture in the six founding Member States was strongly affected by State intervention, particularly with regard to the orientation and control of supply, price guarantees, direct income support for farmers, marketing and/or agricultural structures. For agricultural products to be included in the free movement of goods while maintaining State intervention in the agricultural sector, national intervention mechanisms which were incompatible with the common market had to be removed and transferred to Community level; this is the fundamental reason for the creation of the common agricultural policy (CAP).

Several Member States and all the farmers' professional organisations wanted to maintain strong State intervention in agriculture. In addition, intervention in agriculture was based on the principle, widespread at the time, of the specific nature of this sector, with its dependence on climate and geography and systemic imbalances between supply and demand leading to strong fluctuations in prices and income.

Agriculture is in fact characterised by its relationship with natural resources. It derives products from these resources as part of a natural cycle designed to satisfy that most basic human need: to eat. Agriculture is thus an economic activity existing within the natural environment. It maintains and cultivates the land, but is also penalised by a wide range of climate conditions and geographical constraints.

Agriculture must also cope with market instability: on the one hand, the demand for food is inelastic, in other words, it reacts little to price fluctuations. On the other, the length of production cycles and the fixed inputs make the global supply of farming produce very rigid. On this basis, an abundant supply will bring down prices, whereas a short supply will force them up. All of these factors create permanent market instability. In this situation, governments have always tended to regulate agricultural markets and to support farming income, a tendency inherited by the CAP.

Although farming today accounts for only a small part of developed economies, even in the EU (→4.2.10, Table II), State intervention has increased of late with agro-rural policies which have added new dimensions, such as sustainable development, land

and countryside management, diversification and renewal of the rural economy and the production of energy and biomaterials, to support the traditional function of the primary activity, namely food production. Support for public assets or non-market aspects of agriculture – in other words, those not rewarded by the market – have thus become a key strand of today's agricultural and rural policies, including the CAP.

B. Objectives

Article 39 of the TFEU sets out the **specific objectives** of the CAP:

- to increase agricultural productivity by promoting technical progress and ensuring the optimum use of the factors of production, in particular labour;
- to ensure a fair standard of living for farmers;
- to stabilise markets;
- to assure the availability of supplies;
- to ensure reasonable prices for consumers.

These objectives are both **economic** [Article 39(a), (c) and (d)] and **social** [Article 39(b) and (e)] and are intended to safeguard the interests of producers and consumers. In practice, the objectives of the CAP have remained unchanged since the Treaty of Rome, worded in such a way as to prove extremely flexible and able to embrace the countless reforms witnessed since the 1980s (→4.2.2). It is noteworthy that, as evidenced by existing case law, the objectives of the CAP cannot all be fully achieved at the same time. The Community legislator therefore has considerable room for manoeuvre when it comes to choosing the instruments and scope of the reforms, depending on the evolution of the markets and the priorities set by the Community institutions at any given time.

Alongside the specific objectives of the CAP set out in Article 39, several provisions of the Treaty have added other objectives **applicable to all policies** and actions of the European Union. In this respect, **public health** (Article 168(1)), **consumer protection** (Article 169(2)), **economic, social and territorial cohesion** (Article 175) and **environmental protection** (Articles 191 and 192(3)) are becoming objectives of the CAP in their own right. Furthermore, at a time of market liberalisation and globalisation, Article 207 sets out the principles of the **common commercial policy** applicable to trade in agricultural products. Finally, the principles of **competition policy** make an exception for the production of and trade in agricultural products, in view of the unique structure of the primary sector (Article 42).

OVERALL RESULTS

The CAP produced spectacular results. The Community was soon able to overcome the food shortages of the 1950s, achieving self-sufficiency and then generating cyclical and structural surpluses due to a number of reasons: huge technical advances, price guarantees for producers, the ongoing enlargement of the EU and finally, increasing market liberalisation. Financial constraints as well as changes in Community and world agriculture during the 1980s led to a root-and-branch reform of the CAP. Under guidelines proposed in 1985 in the Green Paper [COM(85) 333], the measures introduced by the Single Act (1986), decisions adopted by the Council in February 1988 and the 1992 and 1999 reforms (Agenda 2000) (→4.2.2), under the

aegis of the World Trade Organisation's (WTO's) Agreement on Agriculture of 1994 (→4.2.7), new tools were provided for the CAP.

In Luxembourg on 26 June 2003, the Council of Agriculture Ministers reached an agreement on a radical reform of the CAP, based on the Commission proposals presented on 23 January 2003 (→4.2.2). Many reasons, both internal and external justified this substantial change, in particular the need to consolidate the 'European agricultural model' in an enlarged Union, to satisfy the greater demands made by society in relation to food and rural affairs, to bring farmers and taxpayers together again by involving them in a joint project characterised by more acceptable costs and less bureaucratic management, to improve the economic efficiency of the instruments of agricultural policy, and finally to seek to achieve compatibility with the WTO agreements, thereby ensuring a greater degree of legitimacy at international level. Most recently, the 'Health Check' (2009) (→4.2.2) consolidated the approach of the 2003 CAP reform by reinforcing its market orientation and reducing the administrative burdens on producers.

CURRENT INSTRUMENTS OF THE CAP

A. Overall view

Since the major CAP reform in 2003, implemented in several stages (→4.2.2), the main instruments of the CAP are based on seven basic texts:

- Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy, with regard to its overall financing under two funds – the EAGF (the European Agricultural Guarantee Fund) and the EAFRD (the European Agricultural Fund for Rural Development) (OJ L 209, 11.8.2005 (→4.2.6);
- Council Regulations (EC) Nos 1698/2005 of 20 September 2005 (OJ L 277, 21.10.2005) and 473/2009 (OJ L 144, 9.6.2009) of 25 May 2009 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (→4.2.5 et 4.2.6);
- Council Decisions 2006/144/EC of 20 February 2006 (OJ L 55, 25.2.2006) and 2009/61/EC (OJ L 30, 31.1.2009) on Community strategic guidelines for rural development (→4.2.5);
- Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation), which codified the regulatory mechanisms of 21 previous sectoral common market organisations (CMOs) (OJ L 299, 16.11.2007) (→4.2.3);
- Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for European farmers (OJ L 30, 31.1.2009, corrected in OJ L 43, 18.2.2010, p 7) (→4.2.4).

B. The agricultural decision-making process: the most prominent bodies playing a role in applying the CAP

The former Article 43(2), third subparagraph of the Treaty of Rome set out the procedure for the preparation and implementation of the CAP, based on a proposal of the Commission, the opinion of the European Parliament and if necessary of the European Economic and Social Committee and the decision of the Council by qualified majority vote. This was a simple **consultation** procedure for the European Parliament which, despite the new procedures (cooperation and codecision) introduced by the Single Act, the Maastricht Treaty and the Amsterdam Treaty, had not been modified until 2010. The Treaty of Lisbon (→4.2.9) then recognised codecision as the '**ordinary legislative procedure**' of the CAP, replacing the consultation procedure, and this consolidated the European Parliament's role as a true co-legislator for agriculture. In addition, there have always been other bodies which have also been involved in the implementation of the CAP as part of the '**comitology**' procedure. Since 1961, when the first common organisations of the market were established, several **committees** have been set up. The Commission had proposed to give itself wide decision-making powers for running the CMOs. Some Member States felt, however, that this power should remain with the Council. The committees were a compromise between the two positions: management was entrusted to the Commission, but it had to consult a committee consisting of representatives of the Member States, using the qualified majority procedure. The Treaty of Lisbon (→4.2.9) introduced a distinction between '**delegated acts**' and '**implementing acts**'. The adoption of delegated acts will henceforth be governed by the relevant basic legislative act, whereas the adoption of implementing acts will be subject to the new examination or advisory procedures under Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 (OJ L 55, 28.2.2011). The majority of the Commission's draft agricultural implementing acts will be subject to examination procedures during which the European Parliament and the Council will have the 'right of scrutiny'. As part of the advisory procedures, **professional organisations in the EU**, through the Committee of Professional Agricultural Organisations (COPA) and the General Committee for Agricultural Cooperation in the European Union (COGECA), will still be indirectly involved in the European decision-making process, as they were in the past on the basis of the previous 'comitology' system.

THE ROLE OF THE EUROPEAN PARLIAMENT.

A. Scope for action

As mentioned earlier, from the origin of the CAP, Parliament only had advisory powers on agriculture. However, according to European case law, the opinion of the European Parliament was an essential requirement and failure to obtain it invalidated the instrument concerned. In addition, the European Parliament, according to the cooperation principle, could not delay issuing an opinion on an agricultural proposal from the Commission which it knew to be urgent.

B. Influence

Having no decision-making powers, Parliament has exercised a strong influence over the CAP since the Treaty of Rome by using non-binding methods like use of own initiative reports and resolutions. Since the European Council declaration in 1997 in favour of a **European agricultural model**, the European Parliament has on several

occasions demonstrated its commitment to a multifunctional European agriculture (and food) model, spread across the entire territory of the enlarged Union and compatible with the liberalisation and globalisation of the markets. This is evident by the recent CAP reform (Resolutions of 30 May and 7 November 2002) and multilateral negotiations on agriculture within the WTO (the Doha round), which are still ongoing (Resolutions of 13 March, 25 October and 13 December 2001 and of 12 February 2003) (→4.2.8).

In this context, the European Parliament has also indicated that it is in favour of the integration of new objectives within the CAP with a view to responding to the new challenges of agriculture, such as product quality, public health, sustainable development, economic, social and territorial cohesion, environmental protection and tackling climate change.

These principles have recently been confirmed by the Resolution of 8 July 2010 on the future of the CAP after 2013. This new reform of the CAP (→4.2.2), which began in 2010, will enable the European Parliament to play its role as full co-legislator in the area of agriculture, on the basis of the new institutional framework established by the Treaty of Lisbon.

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