

Manual of European Environmental Policy

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Agriculture

Summary of the issues

Agriculture exerts a considerable influence on the environment, both positive and negative. It currently accounts for just over 40 per cent of the land area of the EU-27, and the cultivation needed to achieve its primary purpose – the production of materials for food, fibre and fuel – has impacts on the functioning of natural systems and the availability of natural resources.

The nature of land use in combination with the agriculture management practices utilized, alongside other factors, such as farm size and structure, therefore, plays an important role in maintaining and improving the environmental condition of the farmed landscape – for example in relation to farmland biodiversity, landscape character, water quality, soil functionality, levels of greenhouse gas emissions, capacity for carbon storage, etc.

However, over the past 60 years there has been a gradual polarization in production systems that continues to present a key challenge for integrating environmental concerns within EU agricultural policy. This polarization is characterized by a specialization, concentration and intensification of production in some areas and the marginalization or complete abandonment of agricultural land in others.

While the Common Agricultural Policy's (CAP's) objectives remain centred around those originally set out in the [Treaty of Rome](#), the policy has been reformed incrementally since the mid-1980s and, alongside other regulatory developments, now plays a role in promoting both basic and more enhanced forms of environmental management. It was the 1992 MacSharry reform of the CAP that signalled the start of significant efforts to integrate environmental considerations into the CAP, followed by the Agenda 2000 reforms, the 2003 CAP Reforms, and most recently the Health Check of the CAP in 2008. These developments concern both Pillar One of the CAP, which includes the direct support payments made to farmers, and Pillar Two, which includes those measures aimed at promoting environmental management, improved competitiveness of the sector as well as broader rural development objectives.

These recent policy reforms have in part been guided by a number of overarching EU-level policy developments, including the 1992 Maastricht Treaty and the Cardiff integration process in 1999, which require the integration of environmental considerations into all Community policies, as well as the adoption of the EU Sustainable Development Strategy (SDS) in June 2001 and its subsequent revision in 2006.

Environmental integration pre-1992

Council Regulation (EEC) No [797/85](#) first introduced the concept of environmentally sensitive farming into the CAP. During the 1970s and 1980s, the environmentally damaging effects of intensive agriculture became increasingly apparent and led to some Member States, particularly the United Kingdom and the Netherlands, exploring ways of encouraging farmers to manage their agricultural land in ways that were compatible with the environment. This was highlighted in England by the fierce controversy in the early 1980s over the government's role in controlling environmentally damaging farming practices, with attention focused in particular on the ploughing up of wet grassland of environmental interest at

Halvergate Marshes. As a result, the United Kingdom pushed hard for the powers to establish the first Environmentally Sensitive Area (ESA). This led to the introduction of an Article in Council Regulation (EC) No 797/85, which allowed Member States voluntarily to set up zonal schemes designed to protect farmland habitats and landscapes from the threat of agricultural intensification by providing farmers with compensation for the loss of income incurred by undertaking environmental management.

Initially such agri-environment schemes were to be funded solely from national funds, with no reimbursement of expenditure from European Agricultural Guidance and Guarantee Fund (EAGGF). However, this position changed in 1987 with the introduction of Council Regulation (EEC) No [1760/87](#), which introduced a Community contribution to the cost of what were known as ‘Article 19’ schemes and also altered the definition of ESAs. This encouraged other Member States such as France and Germany to develop agri-environment schemes.

Policy measures allowing for the provision of financial support to farmers in upland and disadvantaged areas, known as Less Favoured Areas (LFAs) also existed at this time, introduced under Council Directive [75/268/EEC](#). The ultimate goal of Council Directive 75/268/EEC, and subsequent legislation (Council Regulations (EEC) No 797/85; (EEC) No [2328/91](#) and (EC) No [950/97](#)), was to assist the continuation of farming in certain, specified LFAs, disadvantaged by permanent natural handicaps. The continuation of farming was considered important for two reasons: to maintain a minimum population level in the areas concerned, and to conserve the countryside. However, although the measures were sometimes thought of as environmental, this was not strictly correct. In fact, traditionally the measures on LFAs were always tied to Community farm structure policies and any environmental benefits from the policy were considered secondary. A reply by the Commission to a European parliamentary question (OJ C287 4.11.82) clarified that ‘Directive 75/268/EEC may not be used to encourage conservation *per se* but is to be used for the encouragement of farming which, in turn, will (sic) have a positive effect on the conservation of the countryside. This does not interfere with the Member States' right to introduce additional schemes for aid for conservation’.

Areas eligible for support were proposed by the Member States but agreed by the Council or, in certain cases, by the Commission. They had to fall into one of three categories (all had to have adequate infrastructures, for example access roads to farms, electricity and drinking water) as follows:

- Mountain areas handicapped by a short growing season because of high altitude, or at a lower altitude by steep slopes, or by a combination of the two.
- Areas in danger of depopulation: areas, regional in character, where the conservation of the countryside was necessary and which exhibited all the following three disadvantages: land of low productivity, poor economic situation and a low or dwindling population dependent on agriculture.
- Other small areas affected by specific handicaps ‘in which farming must be continued, where necessary and subject to certain conditions, in order to conserve the environment, maintain the countryside and to preserve the tourist potential of the area or in order to protect the coastline’. The total extent of such areas in any Member State was not to exceed four per cent of the area of the State.

There was some uncertainty about the precise nature of ‘specific handicaps’. The Commission stated that they must arise principally from permanent natural conditions that were unfavourable for farming (Reply to European parliamentary Question No 819/82, C 287 – 4.11.82). Under the original wording, this appeared to mean that handicaps that were artificially imposed by conservation legislation, for example, were excluded. However, the wording was changed by Council Regulation (EEC) No 797/85 to put a stronger emphasis on conservation of the environment and the need to support agriculture in certain circumstances in nature and national parks.

Council Regulation (EEC) No 797/85 permitted Member States to apply certain types of support payments to farmers within approved LFAs, with up to 25 per cent (or more in some of the less developed regions of the Community) reimbursed from the Guidance Section of the EAGGF. The three types of aid were as follows:

- **Compensatory allowances** – Annual allowances to compensate for permanent natural handicaps, paid in the form of headage payments for beef cattle, sheep, goats and equines at rates decided by the individual Member States but subject to minimum and maximum payments per livestock unit. In general, payments could only be made to farmers with at least three ha of utilizable agricultural land, although this condition was relaxed to two ha in some areas. Some forms of non-livestock farming were also eligible for compensation in certain areas where allowances were paid per hectare and, whatever method of payment was made, the total allowance could not exceed €150/ha. In areas with particularly serious natural handicaps, this limit could be raised slightly. From January 1991 there was a limit of 1.4 livestock units/ha of forage on the farm beyond which allowances were not eligible for reimbursement. This limit, which was advocated by the United Kingdom, was intended to discourage overstocking, although it was set at a relatively high level and some Member States imposed their own, more restrictive, limits on livestock density. Other limits were intended to reduce expenditure from the Community budget by restricting aid to larger farms. Where there were more than 60 livestock units/holding, only half the maximum amount payable per unit was eligible for reimbursement from the EAGGF, and there was an absolute ceiling for reimbursement of 120 livestock units/holding. Above this ceiling, Member States could pay compensatory allowances at their own expense.
- **Investment aids to farms** – Farms with authorized improvement plans under the terms of Council Regulation (EC) No 950/97 could receive higher rates of capital grants in LFAs than elsewhere. For investment in fixed assets the ceiling on grants was 45 per cent compared with 35 per cent elsewhere, while for other types of investment the ceiling was 30 per cent, rather than 20 per cent. These limits could be exceeded in certain circumstances. Equivalent interest rate subsidies were also permitted. The general conditions of eligibility, which applied to farmers who submitted improvement plans, were also slightly relaxed in these areas.
- **Aids for joint investment schemes** – Aids were also available for joint investment schemes for fodder production, storage and distribution and for the improvement and equipping of pastures that were farmed jointly. In mountain areas joint and individual schemes could also cover investment in water points, including water supply and irrigation projects, and pasture access roads.

Council Regulation (EEC) No 1760/87, under which provisions for agri-environment support were made, formally required the Agriculture Council to re-examine the application of the

measures used to encourage farmers to adopt more extensive forms of farming. The Commission, therefore, took the opportunity to review the measures and the then voluntary arable set-aside scheme. This review fed into the 1992 MacSharry Reforms of the CAP and the introduction of Council Regulation (EC) No [2078/92](#) ‘on the introduction and the maintenance of agricultural production methods compatible with requirements of the protection of the environment and the maintenance of the countryside’.

The 1992 MacSharry Reforms

The 1992 MacSharry reforms, implemented in 1994, represented the first significant shift towards the integration of environmental concerns within the CAP. Not only did they result in important changes to the arable, sheep and beef regimes, but they led to agri-environment measures becoming a much more significant element of the CAP, making it obligatory for the first time for all Member States to introduce agri-environment schemes to incentivize ‘ways of using agricultural land which are compatible with protection and improvement of the environment, the countryside, the landscape, natural resources, the soil and genetic diversity’ (Article 1c of Council Regulation (EEC) No [2078/92](#)). The objectives of the agri-environment measure have not changed since this time, although the policy architecture within which it sits has evolved through subsequent reforms to become increasingly central to the operation of the CAP.

The reforms reduced market intervention by lowering levels of price support and introduced area payments for cereal production and headage payments for livestock. Revisions to the beef regime, for example, included measures intended to help farmers grazing cattle on grassland and limiting the payments to highly intensive systems. This reform also introduced compulsory arable set aside as a supply control measure that subsequently proved to provide significant environmental benefits, particularly in intensively farmed landscapes.

Council Regulation (EEC) No [2078/92](#) was introduced as an environmental accompaniment to the 1992 reforms of the CAP. Often referred to as ‘the accompany measures’, its stated aims were threefold: to accompany the changes to be introduced under the market organization rules; to contribute to the achievement of the Community's policy objectives regarding agriculture and the environment; and to contribute to providing an appropriate income for farmers. These were to be achieved by encouraging farmers to introduce or continue to use farming practices compatible with the protection of the environment and natural resources and the upkeep of the landscape and the countryside.

Under Council Regulation (EEC) No 2078/92 the emphasis shifted away from the relatively small geographical areas which had been the focus of Article 19 schemes to cover the entire area of all Member States, through ‘zonal programmes’ or a general regulatory framework applying throughout their territories. The range of environmental objectives also expanded significantly and included a new element concerned with the management of abandoned land, as well as payments for public access. Another important new development was a requirement for Member States to monitor, evaluate and report on the performance of their agri-environment schemes to the Commission.

The adoption of this Regulation in May 1992 was largely welcomed by environmental organizations, although criticism was levelled at the allocated budget, which represented only a small proportion of overall CAP funding. Originally, the budget for the EC's contribution

was just over €2 billion for the period 1992–1997, little more than one per cent of the annual CAP budget. However, this amount grew significantly such that the budget in 1997 was €2.5 billion, representing 3.6 per cent of annual Community agriculture spending ([COM\(97\)620](#)).

A number of problems arose as a result of the considerable degree of flexibility given to Member States in interpreting and implementing the Regulation¹. Little direct guidance was given to Member States on what the specific nature conservation objectives to be addressed were, which meant that in those Member States where agri-environmental schemes were already established, many of the new obligations were met by continuing or adapting existing programmes, while other Member States with considerably less experience were left to develop schemes from scratch. This led to some schemes being modified or rejected by the Commission which was required to approve all schemes. Implementation of the Regulation was thus significantly delayed in a number of Member States.

A review of the implementation of Council Regulation (EEC) No 2078/92 in Member States was initiated in 1995 by the Directorate General for Agriculture and eventually published in December 1997. The report contained a number of recommendations regarding the future of the Regulation. These included: more specific scheme objectives; greater effort to be expended on monitoring and evaluation of schemes; the promotion of training courses within agri-environment programmes; increased emphasis on ‘environmental services which call for an extra effort on the part of the farmer’; further integration of agri-environment and Structural Fund programmes; and the possibility of establishing an observatory to monitor programmes throughout the EU.

The Agenda 2000 Reforms

Further progress towards ‘greening’ the CAP was secured as part of the Agenda 2000 reforms. The prospect of enlargement of the EU to include new Member States prompted a Commission Communication ([COM\(97\)2000](#)), which presented proposals on the future financial framework of the EU, particularly the CAP, to apply from 2000 onwards.

The Commission followed this with the publication of draft Regulations in March 1998. These included a proposed Council Regulation on support for rural development from the EAGGF ([OJ C170 4.6.98](#)). This was a hybrid Regulation, bringing together a number of existing agricultural modernization and diversification measures, including those providing support for LFAs, with the forestry, early retirement and agri-environment measures from Council Regulation (EEC) No 2078/92 and became known as the ‘Second Pillar’ of the CAP. The resulting Rural Development Regulation (Council Regulation (EC) No [1257/1999](#), see section on European Agricultural Fund for Rural Development) aimed to address the environmental, social and economic aspects of rural development in a coherent and strategic fashion.

In addition, a new ‘Common Rules Regulation’ (Council Regulation (EC) No [1259/1999](#), see section on European Agricultural Fund for Rural Development) was introduced, which permitted Member States to apply a form of environmental cross-compliance on certain CAP payments by requiring Member States to adopt whichever ‘environmental measures they consider to be appropriate in view of the situation of the agricultural land used or the production concerned and which reflect the potential environmental effects’. These measures could include the use of agri-environment schemes, or requiring certain management without

payments through the imposition of general environmental legislation or specific environmental conditions. Penalties for farmers not observing the environmental requirements introduced under cross-compliance could include a reduction or complete removal of CAP direct payments.

Under the Rural Development Regulation, support for LFAs became much more strongly linked to environmental objectives in a number of ways. Firstly, the purposes of LFA support were redefined to include reference to sustainable farming and environmental protection. Secondly, recipients of aid were required to adhere to usual good farming practice across their holdings. Thirdly, alongside the three existing categories of LFA, new allowances were introduced specifically for areas facing environmental restrictions (the so-called Article 16 measures), whose purpose was to ensure environmental requirements and safeguard farming in such areas. Such areas could include, for example, Special Areas for Conservation (SACs) designated under the Habitats Directive [92/43/EEC](#) if the designation of these sites imposed significant restrictions upon farming. The Regulation specified that the total extent of ‘areas with environmental restrictions’ and ‘areas affected by specific handicaps’ must not exceed ten per cent of the area of the Member State concerned.

Importantly, whereas compensatory support under Regulation (EC) No 950/97 could be paid on a headage basis (payment per head of stock) or per hectare, the provisions under Council Regulation (EC) No 1257/1999 only allowed payments *per hectare of eligible land*. This change was introduced in an effort to prevent the payments being an incentive for eligible producers to stock too heavily on sensitive land within LFAs, thereby causing environmental damage.

Also as part of the Agenda 2000 reform, a new policy mechanism was introduced, called modulation, whereby Member States were given the option to redirect up to a maximum of 20 per cent of Pillar One funds to their Rural Development Programme (RDP) budgets. All funds raised were retained within the Member State but had to be co-financed with national funds. However, the use of these modulated funds was restricted to certain measures: early retirement, agri-environment, LFAs and afforestation.

In December 1999, just after the Agenda 2000 reforms had been agreed, the Agriculture Council presented a ‘Strategy on environmental integration and sustainable development in the Common Agricultural Policy’ to the European Council, as required under the so-called ‘[Cardiff integration process](#)’ (see section on Environmental Policy Integration in the EU). The strategy developed some of the themes presented in an early Commission paper entitled ‘Directions Towards Sustainable Agriculture’ (COM(1999)22), but was more explicit in setting specific objectives for minimizing the environmental impact of agriculture, proposing general goals for different issues including water, agrochemicals, GMOs, etc. It also included a set of principles, including subsidiarity, property rights, the need to develop integrated rural policy and encourage debate between stakeholders. This led to a Commission Communication being published in early 2000 on ‘Indicators for the Integration of Environmental Concerns into the Common Agricultural Policy’ ([COM\(2000\)20](#)), prepared primarily by DG Agriculture. The report stemmed from a specific request from the Agricultural Council in July 1999 that the Commission should prepare a document on agri-environmental indicators in order to help monitor the environmental impact of EU agricultural policy. A further Communication on statistical information needs concerning agri-environmental indicators ([COM\(2001\)144](#)) was published in 2001 resulting in the

establishment of the EEA managed IRENA operation (Indicator Reporting on the Integration of Environmental Concerns into Agriculture Policy) in 2002.

The [Sustainable Development Strategy \(SDS\)](#) (see section on the Sustainable Development Strategy and the Lisbon Strategy) was first adopted by the European Council in Göteborg in June 2001 and subsequently ‘renewed’ by the Brussels European Council in June 2006, following a Commission-led review. In the 2001 SDS the European Council agreed ‘that the Common Agricultural Policy and its future development should, among its objectives, contribute to achieving sustainable development by increasing its emphasis on encouraging healthy, high-quality products, environmentally sustainable production methods, including organic production, renewable raw materials and the protection of biodiversity’.

The 2003 CAP Reform

The 2003 CAP Reforms (often referred to as the ‘mid-term review’), implemented in 2005 (Council Regulation (EC) No [1782/2003](#)), brought about significant changes to the way the CAP operated and signified a significant effort to further integrate the environment into the CAP. This reform was primarily driven by concerns about pressures on the CAP budget in preparation for the accession of new Member States which acceded to the European Union in 2004, and in light of a Franco-German agreement on the CAP budget in October 2002. The overall objective of this reform was to improve the market orientation and environmental sustainability of EU agriculture. At the heart of the reform was a substantive, although incomplete, break in the linkage between CAP support and agricultural output on farms, known as decoupling.

This led to a new system of direct payments to farmers being introduced in 2005, whereby support was calculated according to the area of land farmed irrespective of the type of production through a Single Farm Payment. This was implemented through the Single Payment Scheme (SPS) in the EU-15 plus Malta and Slovenia, and the Single Area Payment Scheme (SAPS) in the remaining new Member States. As a measure to ease the transition to the new system, Member States operating the SPS were permitted to keep a proportion of direct payments coupled to production in many sectors, and many Member States opted to do so.

In order to ensure a minimum level of protection for the environment, these reforms also introduced the system of cross-compliance requirements that were compulsory for all farmers in receipt of direct payments from Pillar One of the CAP, as well as those in receipt of area-based payments under Pillar Two, such as agri-environment payments. Cross-compliance allows deductions to be made to the CAP payments farmers receive, or for payments to be withdrawn completely, if the farmer is found not to be compliant with the requirements.

Cross-compliance requirements comprise two distinct elements. Firstly, a suite of Statutory Management Requirements (SMRs), which are based on selected articles from 19 pieces of pre-existing items of EU legislation, such as the Birds Directive [79/409/EEC](#) and the Nitrates Directive [91/676/EEC](#), whose implementation is required in all 27 Member States. Secondly, a set of standards of Good Agricultural and Environmental Condition (GAEC), which are additional requirements relating to soil erosion, soil structure, soil organic matter and the minimum maintenance of habitats for which a framework is provided under Council Regulation (EC) No 1782/2003, but which are determined at the country level. These could

be based on existing national legislation or could require the introduction of additional standards. The EU framework for GAEC standards, as set out in Annex III of Council Regulation (EC) No 1782/2003, focused largely on soil conservation and the minimum maintenance of agricultural land and was partly introduced in order to deter land abandonment, a potential threat in an era of decoupled subsidy payments.

The 2003 reform also sought to maintain the area of permanent pasture in the European Union, by requiring Member States to ensure that the overall area of permanent grassland in each country declined by no more than 10 per cent. The rationale for the introduction of this requirement was partly to temper a mass conversion to arable production in case this were to be incentivized by market prices, and, less directly, to preserve the environmental benefits associated with certain grasslands.

Another significant development under the 2003 reforms with benefits for the environment was the agreement that all EU-15 Member States would be required to redirect a proportion of their direct payments to fund their RDPs through ‘modulation’. Previously modulation was voluntary for Member States, but Council Regulation (EC) No 1782/2003 specified that all farms within the current EU-15 in receipt of more than €5,000 of direct payments, would be subject to compulsory modulation from 2005 at levels of three per cent in 2005, four per cent in 2006 and five per cent for 2007–2012, and that these resources would be allocated between Member States according to a set of objective criteria to be spent on rural development measures. Compulsory modulation was not to apply to the 12 new Member States that acceded to the EU in 2004 and 2007 until their Pillar One payments reached the same level as those for the EU-15 – 2013 for the EU-10, and 2016 at the earliest for Bulgaria and Romania.

After much debate, a new Article (Article 69) was included within the final Regulation, which allowed EU-15 Member States, plus Malta and Slovenia, to divert up to 10 per cent of the national ceiling of Pillar One payments for a specific sector into ‘national envelopes’ which could be ‘granted for specific types of farming which are important for the protection or enhancement of the environment or for improving the quality and marketing of agricultural products’. The UK government argued strongly during the negotiations of the 2003 CAP reforms for the inclusion of Article 69 as a means of enabling Member States to address the environmental and other consequences of decoupling. Although the United Kingdom, as well as many other Member States, was in favour of the use of Article 69, in reality, the final rules governing its use, drawn up later by the Commission, were so restrictive that it dissuaded many Member States from using its provisions.

Introduction of the European Agricultural Fund for Rural Development

The Rural Development Regulation (Council Regulation (EC) No 1257/1999) provided the legal basis for Member States' RDPs from 2000 to 2006, with a new legislative basis required for the programming period 2007–2013. In 2005, therefore, the Commission took the opportunity to build on the findings of the Mid Term Evaluation of the 2000–2006 RDPs to develop a new single fund for rural development expenditure – the [European Agricultural Fund for Rural Development \(EAFRD\)](#) (Council Regulation (EC) No [1698/2005](#)) to replace the EAGGF under the previous Regulation.

The EAFRD is more strategic in nature than its predecessor and for the first time a set of strategic guidelines were developed that formally set out the priorities and overarching objectives for the funding programme (Council Decision 2006/144/EC). As a result the range of measures that had previously existed were revised and grouped under three main axes, with the result that the EAFRD now provides a framework of 46 measures that aim to:

- Improve the competitiveness of agriculture and forestry (Axis 1).
- Improve the environment and countryside by supporting land management (Axis 2).
- Improve the quality of life in rural areas and encourage diversification (Axis 3).

The second of these objectives is intended to take into account biodiversity, the management of Natura 2000 sites, water and soil protection and climate change mitigation.

Member States can use the measures according to their needs and priorities through the development of national or regional RDPs. There are 94 RDPs (which run from 1 January 2007 to 31 December 2013) across the EU-27. All are subject to approval from the European Commission as well as subsequent monitoring and evaluation, for which a Common Monitoring and Evaluation Framework has been developed.

The agri-environment measure sits as one of 13 measures within Axis 2, and remains the only compulsory measure within the EAFRD. Over the years a wide range of different agri-environment schemes has been developed, not just in response to varying environmental priorities and pressures, but also reflecting societal preferences, institutional arrangements and financial and political pressures. They tend to differ in three key ways: the level of expenditure dedicated to the measure; the environmental objectives of the schemes, and the ways in which they are targeted (e.g. whether they are geographically delimited or open to all farmers across the territory); and the degree to which they are focused on maintenance, enhancement, restoration or creation of new habitats. Besides the agri-environment measure, other measures within Axis 2 that are most likely to benefit the environment include the natural handicap measures (the revised name for the LFA measures) and the Natura 2000 measure, a new measure that allows land managers to be compensated for a portion of the costs associated with undertaking management of Natura 2000 sites.

In order to ensure Member States implemented a range of measures to meet the objectives of all three Axes, minimum spend requirements were stipulated for each Axis – at least 25 per cent of the EAFRD budget must be allocated to Axis 2 measures, and at least 10 per cent to both Axes 1 and 3.

In 2003, prior to the negotiations on the design of the EAFRD, the European Court of Auditors produced a report on the present system of LFA support under Regulation (EC) No 1257/1999². This criticized the current system of defining LFAs and called for greater standardization between Member States and a general review of the system. As a result, the Commission issued a non-paper in February 2005. The Commission proposed that ‘other LFAs’ (i.e. LFAs outside areas with environment restrictions or mountain areas) should be renamed ‘intermediate zones’ to be defined by natural or agricultural conditions (such as soil productivity, climatic conditions and the importance of extensive farming for land management) rather than socio-economic criteria. However, initial discussions with Member States showed that these proposals would dramatically change the area and distribution of LFAs in the EU and were therefore initially rejected, with a view to coming up with a set of

revised criteria for determining these ‘intermediate’ areas by 2010. In reality, this proved more difficult than had been anticipated and the timetable has slipped.

In May 2008, the Commission published a public consultation document in which it set out four potential options for the redefinition of ‘intermediate LFAs’. In response to this, the Joint Research Centre was tasked with developing the technical criteria that would need to be used for the reclassification process. It developed a series of common biophysical criteria that could be used in a consistent manner across the EU-27. This led to the publication, in April 2009, of a European Commission Communication entitled ‘Towards a Better Targeting of the Aid to Farmers in Areas with Natural Handicaps’ ([COM\(2009\)161](#)). This provided an update of the progress made in revising the criteria for classifying ‘intermediate Less Favoured Areas (LFAs)’. In addition, due to the absence of European level data through which to complete a scientifically robust impact assessment of the implications of classifying intermediate LFAs according to a set of eight new common biophysical criteria, the Communication requested Member States to develop maps based on detailed national level data to help the Commission assess the feasibility of implementing the policy options under review. As a result, the timetable for introducing the new classification system has been put back to 2014 and will be implemented at the same time as revised CAP legislation comes into force for the 2014-2020 multi-annual financial framework.

The 2008 CAP Health Check

The CAP Health Check, as the latest in the series of reforms of European agricultural policy, has continued the process of environmental integration within the CAP. Agreed in November 2008, the Health Check did not represent a fundamental reform of the CAP on a par with the Agenda 2000 or the 2003 reforms, but it has resulted in a number of changes that are likely to improve the sustainability of agricultural land use. These changes include further decoupling of direct payments from production, increasing the rate of budgetary transfer between Pillar One and Pillar Two through compulsory modulation, reinforcing the priorities and focus of the EAFRD, extending the provisions of ‘national envelopes’ and the introduction of new cross-compliance standards. However, the extent to which this is leading to the delivery of environmental improvements in practice is still the subject of some debate.

As a result of the CAP Health Check Council Regulation (EC) No [73/2009](#) was introduced covering new requirements relating to Pillar One of the CAP, and replacing Council Regulation (EC) No 1782/2003. In addition, amendments to the EAFRD were made in Council Regulation (EC) No [74/2009](#).

The proposal to increase the rate of compulsory modulation to provide additional resources to fund particularly environmental challenges through RDPs, was one of the most contested issues during negotiations. The final agreement allows for a doubling in the rate of modulation to 10 per cent by 2013 for all farms receiving more than €5,000 of direct payment, with a higher rate of 14 per cent for those farms receiving over €300,000, with the additional funds requiring national co-financing at 25 per cent (and 10 per cent in convergence areas – see section on European Agricultural Fund for Rural Development). Although this was less than had originally been proposed, it will release additional, albeit modest funds for Pillar One measures across much of Europe. Member States are required to use all new modulated funds to address the new challenges of: biodiversity, climate change, renewable energy, water management, innovation and, inserted at the last minute, support for the dairy industry.

All Member States have been required to demonstrate how the additional money generated through the increased rates of modulation will meet the new challenges through their RDPs. Both their national strategies and their RDPs had to be revised and submitted to the Commission for approval and the final approvals were given in January 2010.

The Health Check agreement also introduced additional priorities for which Member States can redirect up to 10 per cent (restricted to 3.5 per cent in certain circumstances) of Pillar One payments through the use of ‘national envelopes’ under Article 68 of Council Regulation (EC) No 73/2009 (replacing Article 69 of Council Regulation (EC) No 1782/2003). The use of Article 68 has also been extended to all Member States and greater flexibility has been introduced into the rules for its implementation. The five purposes for which the funds can now be used are:

- Protecting the environment, improving the quality and marketing of products, animal welfare support.
- Payments for disadvantages faced by specific sectors in economically vulnerable or ESAs as well as for economically vulnerable types of farming.
- Top-ups to existing entitlements in areas where land abandonment is a threat.
- Support for risk assurance in the form of contributions to crop insurance premia.
- Contributions to mutual funds for animal and plant diseases.

As Article 68 can be used to support projects which complement Pillar Two measures, the mechanism has significant potential for boosting environmental delivery across much of the EU. However, in practice, while some Member States are using it to target areas or farming systems which are environmentally sensitive or at risk of abandonment, or to encourage environmental management practices, the majority appear to be using its provisions to support sectors deemed to be economically vulnerable, particularly the dairy sector.

In relation to cross-compliance, the main outcome of the CAP Health Check was the extension of GAEC standards to include standards relating to water management, to specify the range of landscape features that should be retained, and to introduce a standard that allows for the creation of habitats. In addition, within the framework setting out GAEC standards in Annex III of Council Regulation (EC) No 73/2009, the standards were divided into those that are compulsory for Member States to implement and those which are optional. The reason for this was to clarify the status of the list of standards over which there had been some confusion since 2005. One of the main drivers for the introduction of additional standards within the GAEC framework was the abolition of set-aside as a policy measure as part of the Health Check reforms. Although it had originally been introduced as a supply control measure, over time it had proved to bring about significant environmental benefits, particularly in Member States with a large proportion of arable land. The addition of new cross-compliance requirements is intended to allow Member States to introduce standards that can help retain a proportion of these environmental benefits over a large proportion of the farmed area.

Transparency

For many years there have been calls for all payments to individuals and companies made under the CAP to be made public. This was supported by the requirements of Article 44a of Council Regulation (EC) No [1290/2005](#) as amended by Council Regulation (EC) No

[1437/2007](#) and Commission Regulation (EC) No [259/2008](#), which stipulated that from 1 May 2009, details of all recipients of payments under the CAP must be publically accessible on websites managed by Member State authorities. Details of recipients of rural development funding had been required to be made public from the earlier date of 1 October 2008. Following an appeal by two German farmers, who objected to their details being made public, the case was referred to the European Court of Justice which, on 9 November 2010 in Joined Cases [C-92/09 and C-93/09](#) (appeal ruling), declared the legal basis for the publication of information on beneficiaries of CAP payments (shared management) as partially invalid from 9 November 2010 onwards. The ruling stated that:

“[The laws] are invalid in so far as, with regard to natural persons who are beneficiaries of EAGF and EAFRD aid, those provisions impose an obligation to publish personal data relating to each beneficiary without drawing a distinction based on relevant criteria such as the periods during which those persons have received such aid, the frequency of such aid or the nature and amount thereof.”

In April 2011 a new Commission Implementing Regulation (EU) [No 410/2011](#) came into force, amending the previous Regulations to take account of the ECJ ruling, until new Regulations can be agreed. These amendments stipulate that the obligation to publicise information on beneficiaries of CAP payments only applies to legal persons, not natural persons.

The future of the CAP post-2013

The next major reform of the CAP is currently under negotiation in the Council and the European Parliament and is due to be agreed in 2013, to fit in with the next Financial Perspective (2014–2020).

The EU2020 Strategy (see section on the Sustainable Development Strategy and the Lisbon Strategy), formally adopted by the European Council in June 2010, setting out the priorities for Europe over the coming decade, in conjunction with the ongoing [Budget Review](#) and the imminent discussions on the next Financial Perspective, prompted a much wider debate about what the future purpose and priorities of the Commission's spending should be. The CAP, given that it accounts for a large proportion of the EU budget, has been placed under considerable scrutiny, with the current system of providing all farmers with direct income support payments being increasingly contested, and the purpose and efficiency of such payments questioned.

As a result, various arguments were put forward as to what a defensible rationale for future public expenditure on European agricultural policy might be. These centred largely on two objectives. Firstly, the case has been made for more emphasis to be placed on using payments to ensure food security and the ongoing viability of farm businesses, to protect farmers from potential increases in price volatility as a result of climate change and reduced levels of market intervention. Secondly there has been a growing emphasis on the need for future support to be focused on the delivery of public goods, focusing on the delivery of environmental and social benefits whose provision cannot be guaranteed by the market. A re-focusing of the CAP in this way is seen as critical for ensuring the delivery of management practices that can benefit the environment and help to meet the targets relating to, for example, biodiversity, water quality and reductions in greenhouse gas emissions.

The Commission launched its outline proposals ([COM \(2010\) 679 final](#)) for a reform of the Common Agricultural Policy (CAP) on 18 November 2010 and a stakeholder consultation on the proposals was launched on 23 November 2010. Legislative proposals were published on 12 October 2011, alongside an impact assessment on the economic, social and environmental impacts of the policy options put forward. A series of seven proposed regulations were put forward as follows:

- Proposals on the rules for direct payments ([COM\(2011\)625](#));
- Proposals for the single CMO establishing a common organisation of the markets in agricultural products ([COM\(2011\) 626](#));
- Proposals on support for rural development ([COM\(2011\) 627](#));
- Proposals on financing, management and monitoring, including proposals regarding cross compliance and the Farm Advice System ([COM\(2011\) 628](#));
- Proposals on fixing certain aids and refunds ([COM\(2011\) 629](#));
- A proposal on the application of direct payments in respect of the year 2013 ([COM\(2011\)630](#)); and
- A proposals on the regime of the single payment scheme and support to vine-growers ([COM\(2011\)631](#)).

The legislative proposals represent a potentially bold move to reorient the CAP into a policy that meets the needs of EU society and the economic, social and environmental challenges of the next decade. It proposes three objectives for a future CAP:

- Viable food production;
- Sustainable management of natural resources and climate action; and
- Balanced territorial development.

In terms of the policy instruments needed to deliver these objectives, the proposals suggest that the two-pillar structure of the CAP should be retained. In relation to Pillar One direct payments, the Communication accepts the need for the redistribution, redesign and better targeting of support, and proposes the introduction of common objective criteria for their calculation to reflect the ‘very different economic and natural conditions across the EU’⁴. It also proposes a revised structure for direct payments. Member States would be required to introduce:

- a Basic Payment Scheme (BPS);
- a ‘green’ payment for agricultural practices beneficial to climate change and the environment (30 per cent of the national ceiling); and
- a payment for young farmers (up to 2 per cent of the national ceiling).

Additional payments that may be provided at the discretion of a Member State are:

- a per hectare payment to farmers in areas facing ‘natural constraints’ (up to 5 per cent of the national ceiling); and
- coupled payments ‘where specific types of farming or specific agricultural sectors undergo certain difficulties and are particularly important for economic and/or social and/or environmental reasons’ – these payments should only maintain production levels, not increase them (up to 5 per cent of the national ceiling, with the possibility to use up to 10 per cent or more in certain circumstances). This is the successor to Article 68.

All Member States will also be required to introduce a ‘Small Farmers Scheme’, which farmers may opt to participate in. This scheme would provide a standard payment of between €500-1000 to any farmer who wished to apply, replacing all other direct payments (including the ‘green’ payments). It is proposed that cross compliance requirements would also not apply to recipients of payments under this scheme.

Of these proposals, perhaps the most significant for the environment is the proposed ‘greening’ of direct payments, with mandatory environmental action required in return for additional per hectare payments. This has the potential to mark a significant departure from the current system of support and is intended to deliver a basic level of environmental management across all European farmland.

For Pillar 2, the changes relate more to the architecture of the regulation, rather than the content, with a few exceptions. The axes which are characteristic of current rural development policy (see section on European Agricultural Fund for Rural Development) have been replaced by six priorities:

- Fostering knowledge transfer and innovation;
- Enhancing competitiveness;
- Food chain organisation and risk management;
- Restoring, preserving and enhancing ecosystems;
- Promoting resource efficiency and transition to a low carbon economy; and
- Promoting social inclusion, poverty reduction and economic development of rural areas

Notable changes to the EAFRD include the addition of ‘climate’ to the name of the agri-environment measure, now the ‘agri-environment-climate’ measure, the introduction of new measures for the setting up of producer groups and for risk management and the inclusion of a separate measure for organic farming (previously included within the agri-environment measure). There is recognition of the benefits of collaborative action at the landscape scale, with higher transaction costs permitted within the payment calculation for agreements involving more than one land manager. A new initiative, the European Innovation Partnership for agricultural productivity and sustainability, has also been introduced, which amongst other things aims to ‘promote a resource efficient, productive and low emission agricultural sector, working in harmony with the essential natural resources on which farming depends’ (see also COM(2012)79).

Proposals for budget allocations to the CAP for the next multi-annual financial framework (MFF) were published on 30 June by the European Commission ([COM\(2010\)500](#)). This proposes that €281.8 billion is allocated to Pillar 1, €89.9 billion to Pillar 2, with a further €15.2 billion available from a range of sources, including €4.5 billion for research and innovation, €2.2 billion for food safety, €2.5 billion for food support for the most deprived persons in other headings of the MFF, €3.5 in a new reserve for crises in the agricultural sector, and up to €2.5 billion in the European Globalization Fund. This brings the total proposed budget for agriculture for 2014-2020 to €386.9 billion, in 2011 prices.

References

1 Dixon, J (1995) Regulation 2078/92 – an NGO view, in *Greening the CAP Centre for Agriculture and Environment*, Utrecht and IEEP, London.

2 European Court of Auditors (2003) *Special Report No 4/2003 (Pursuant to Article 248 (4) Second Paragraph EC) Concerning Rural Development: Support for Less-favoured Areas together with the Commission's Replies*. ECA, Luxembourg.

3 Agra Europe, EU12 seek CAP Reform Unity, 26/10/2010