
The Health Check: further steps to adapt the Common Agricultural Policy to new realities



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- Peter TIMMERMAN -

Research Fellow at EGMONT - The Royal Institute for International Relations

www.egmontinstitute.be

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AUTHOR:

Peter TIMMERMAN is Research Fellow at **EGMONT** - The Royal Institute for International Relations - Brussels

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INTRODUCTION

The Health Check (HC) of the Common Agricultural Policy (CAP) was launched in November 2007 and concluded at the end of 2008. The European Commission presented it as an evaluation of the 2003 CAP reforms¹ addressing three specific issues. It sought to streamline the Single Payment Scheme (SPS), improve the market orientation of the CAP and provide adequate policy tools for new challenges such as climate change and biofuels².

From the start, the Commission made serious efforts to downplay the impact of the HC. The name in itself does not quite reflect a strong sense of ambition: performing a ‘health check’ remains at a safe linguistic distance from the more intrusive notion of ‘reform’ or ‘review’. The Commissioner for Agriculture and Rural Development, Mariann Fischer Boel, has on several occasions talked soothingly about the HC. According to her, its purpose was “*not to change the essential direction of the CAP*”³, and “*it was never meant to be about further fundamental reform*”⁴. Instead, she presented the HC as “*an opportunity to fine tune our tool box*”⁵.

¹ For a comprehensive overview of the 2003 CAP reform and the changing context of the agricultural debate: DEHOUSSE, Franklin and TIMMERMAN, Peter, The new Context of the Agricultural Debate in Europe. Egmont Paper No. 22, June 2008, 41 p. (<http://www.egmontinstitute.be/paperegm/ep22.pdf>).

² Communication from the Commission to the Council and the European Parliament. Preparing for the “Health Check” of the CAP reform, European Commission, 20 November 2007, p. 3. (COM(2007)722) (Hereinafter: Communication ‘Preparing for the Health Check’).

³ Speech by European Commissioner Fischer Boel: The CAP in the European Scenario. Cernobbio, 20 October 2006, p. 4. (SPEECH/06/622).

⁴ Speech by European Commissioner Fischer Boel: European Model of Agriculture. Helsinki, 12 October 2006, p. 3. (SPEECH/06/589).

⁵ Ibid., p. 3.

The scope of this Working Paper is to give a comprehensive overview of the adopted measures. Therefore, some of the initial proposals will be compared with what is finally agreed upon, while elucidating some of the dynamics of the legislative process.

1. CONTEXT

In the framework of the Nice Treaty, the HC was subject to the consultation procedure⁶, which means that the European Parliament has limited powers to amend the proposal. However, the Lisbon Treaty would provide for the codecision of the European Parliament on CAP matters. At the time when the Commission presented the HC, the Lisbon Treaty was supposed to enter into force in 2009. This put pressure on the Agricultural Council to come to a conclusion before the end of 2008, because a failure to do so would mean that the entire legislative process would have to start all over again. However, the failure to have the Treaty ratified before 2009 by all member states after the no vote in the Irish referendum, removed some of the pressure for closing the deal before the end of 2008. Nevertheless, France as the acting Presidency of the Council of the EU in the second half of 2008, was keen on closing the deal before the end of the year. The HC constituted one of its four priorities during its Presidency⁷.

2. SINGLE PAYMENT SCHEME

2.1 A more flat rate model

In 2003, with the introduction of the system of direct payments called the Single Payment Scheme (SPS), it was left to the member states to choose how to apply the SPS. There were three possible options: a historic model (payment entitlements based on previous individual reference amounts), a regional model (entitlements based on regional reference amounts) or a mixture of historic and regional approaches⁸. This created a situation with over twenty different models in use in the seventeen countries that had adopted the SPS⁹.

⁶ Art. 37 EC Treaty states that ‘The Council shall, on a proposal from the Commission and after consulting the European Parliament, acting by a qualified majority, make regulations, issue directives, or take decisions, without prejudice to any recommendations it may also make’. (OJ 2006 C321E/1-331).

⁷ Europe: les quatre chantiers de Nicolas Sarkozy. Le Monde, 30 June 2008.

⁸ Regulation 1782/2003 (OJ 2003 L 270/16-25).

⁹ ATKIN, Carl, FANE, Peter, Progress on the ‘CAP Health Check’ Is the Diagnosis Correct? Bidwells Land & Business Research, September 2007, p. 2. Accessed, 5 November 2007,

[http://www.foodeast.com/news/newsarchive/CAP%20Health%20Check%20\(September%202007\).pdf](http://www.foodeast.com/news/newsarchive/CAP%20Health%20Check%20(September%202007).pdf).

The HC wanted to allow member states to adjust their chosen model towards a flatter rate during the period from 2009 to 2013. The Commission particularly envisaged that member states with a historical model should be able to redistribute the value of payment entitlements on a regional basis. The Commission did not intend to oblige member states to shift to a flat rate model, but it favoured a move away from the historic model, since “*as time goes by it will become more difficult to justify differences in this support*”¹⁰. With the system of direct payments based on a more objective criterion, public opinion would probably perceive them as being more legitimate¹¹. Moreover, administering the regional model is simpler and more transparent compared to the historic model.

For member states opting for the gradual move to a more flat rate of support, it would mean a further decoupling of payment entitlements, since the historic model maintained a link with historic production capacities. Furthermore, the move to the regional model would introduce some redistributive effects between farmers of the same region.

The Council agreed on the three ways proposed by the Commission to introduce additional flexibility in the geographical distribution of decoupled support. As early as 2010, member states applying the historical model can either shift gradually towards the regional model¹², or they can make use of progressive modifications of the payment entitlements while holding on to the historic model¹³. Member states applying the regional model can also review their decisions with the aim to approximate the value of payment entitlements¹⁴. In all three concepts, modifications should be implemented in at least three pre-established steps and in accordance with objective and non-discriminatory criteria. The total value of payment entitlements may not be reduced more than 50% of their initial value.

2.2 Coupled support

The HC put the relevance of the remaining coupled support into question. In the 2003 reforms, decoupling was introduced as a general principle, but a number of exceptions remained in order to avoid disturbance of agricultural markets or abandonment of production, such as, *inter alia*, the arable crops payments, the durum wheat supplement and the sheep and goat payments.

¹⁰ Communication ‘Preparing for the Health Check’, o.c., p. 3. (COM(2007)722).

¹¹ COOPER, Tamsin, BALDOCK, David, FARMER, Martin, Towards the CAP Health Check and the European Budget Review. The Proposals, Options for Reform, and Issues Arising. Institute for European Environmental Policy, September 2007, pp. 8-9. Accessed, 15 November 2007, http://www.ieep.eu/publications/pdfs/2007/health_check_12_10_07.pdf

¹² Regulation (EC) 73/2009 (OJ 2009 L30/34-35).

¹³ Ibid. (OJ 2009 L30/34).

¹⁴ Ibid. (OJ 2009 L30/35).

The Commission proposed to remove the remaining coupled support and to move to full decoupling¹⁵. However, the Commission recognised that in some cases, partially coupled support might retain relevance, especially in regions where the production is rather small but its economic or environmental importance high. Therefore, the Commission proposed to make an exception for the suckler cow, sheep and goat meat premiums in those countries where coupled support was already applied¹⁶.

Moreover, the Commission also wanted to abolish a number of other support schemes from 2010 onwards, such as for energy crops, durum wheat, protein crops, rice and nuts. Support would then be transformed in decoupled direct payments in the SPS¹⁷.

In the Council compromise, it was agreed to move to full decoupling by 2010 (for arable crops, olive oil and hops¹⁸) or 2012 (for beef and veal¹⁹ and seeds²⁰). Only the support for suckler cows, sheep and goats remains coupled²¹, as the Commission had envisaged. The Commission declared to evaluate progress on decoupling by the end of 2012²².

Regarding other support schemes, the Council decided to abolish the support schemes for durum wheat by 2010 and bring it into the SPS. The abolishment of support for dried fodder, potato starch, flax and hemp, rice, nuts, protein crops and aid for starch potato growers would be in effect in 2012 at the latest²³. Finally, the Council also abolished the energy crops premium²⁴.

¹⁵ Proposal for a Council Regulation establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers; Proposal for a Council Regulation on modifications to the common agricultural policy by amending Regulations (EC) No 320/2006, (EC) No 1234/2007, (EC) No 3/2008 and (EC) No [...] /2008; Proposal for a Council Regulation amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD); Proposal for a Council Decision amending Decision 2006/144/EC on the Community strategic guidelines for rural development (programming period 2007 to 2013), European Commission, 20 May 2008, p. 5. (COM(2008) 306 final). (Hereafter : Legislative Proposal).

¹⁶ Ibid., pp. 44-45. (COM(2008) 306 final).

¹⁷ Ibid., p. 89. (COM(2008) 306 final).

¹⁸ Regulation (EC) 73/2009 (OJ 2009 L30/39-40).

¹⁹ Ibid. (OJ 2009 L30/36).

²⁰ Ibid. (OJ 2009 L30/39-40).

²¹ Ibid. (OJ 2009 L30/36).

²² Communiqué de Presse de la 2904^{ème} session du Conseil Agriculture et Pêche, Bruxelles, 18-20 Novembre 2008, p. 10. (15940/08).

²³ Regulation (EC) 73/2009 (OJ 2009 L30/39).

²⁴ Ibid. (OJ 2009 L30/65).

2.3 Upper and lower limits of payments

The Commission proposed to install upper limits to the support given to big farmers. This proposal was later integrated in progressive modulation (cfr. infra).

Besides upper limits of support, the Commission also proposed to set a minimal threshold for eligibility to receive support, in order to eliminate “pseudo-farmers” from CAP support²⁵. It proposed to install either a minimum level of annual payments (250 €) or an increase of the minimum area requirement (1 ha)²⁶. Because of the high number of small beneficiaries of CAP support, the elimination of the smallest claims for support would promote administrative simplification²⁷.

Nevertheless, the European Parliament wanted to mitigate the effects for the large number of small farmers. It recognised the arguments of administrative simplification and confirmed the proposed financial or surface limits, but proposed that payments of maximum 500 € would only be paid every two years²⁸.

The final agreement set specific minimal thresholds, both in financial terms (100 €) and in terms of eligible area (1 ha). Member states are allowed to adjust the thresholds, taking into account the structure of their agricultural economies²⁹.

2.4 Cross-compliance

The system of cross-compliance standards links direct payments with the observance of requirements concerning the environment, public, animal and plant health and animal welfare. The HC confirmed cross-compliance as an essential element of the CAP, but envisaged a simplification of the system. Such administrative simplification was already well under way, because the Commission already issued a report on the issue and proposed measures to improve its functioning³⁰.

In the HC, the Commission proposed to alter the provisions of cross-compliance to a limited extent. Regarding Statutory Management Requirements (SMRs), the Commission proposed to delete certain articles under the wild birds and habitats

²⁵ Speech by European Commissioner Fischer Boel: The Health Check of the Common Agricultural Policy: fit for new opportunities. Presentation of the Health Check at the Agricultural Committee of the European Parliament, Brussels, 20 November 2007, p. 5. (SPEECH/07/727).

²⁶ Legislative Proposal, o.c., p. 34. (COM(2008) 306 final).

²⁷ COOPER, Tamsin, BALDOCK, David, FARMER, Martin, o.c., p. 9.

²⁸ Report on the proposal for a Council regulation establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, European Parliament, Committee on Agriculture and Rural Development, 21 October 2008, p. 99. (A6-0402/2008).

²⁹ Regulation (EC) 73/2009 (OJ 2009 L30/30).

³⁰ Report from the Commission to the Council on the application of the system of cross-compliance, European Commission, 29 March 2007. (COM(2007)147).

directives (SMR 1 and 5), because they were not relevant to farming activities. Moreover, the requirements on eartags, holding registers and passports of bovine animals would be abandoned, because it would be redundant with the new to be inserted SMR on identification and registration of ovine and caprine animals. The Commission envisaged some new provisions of Good Agricultural and Environmental Conditions (GAECs). Two additional GAEC standards on water management and protection of water against pollution and run-off were proposed. The requirement to establish buffer strips along water courses should compensate the abolition of the compulsory set-aside provision and retain the benefits thereof (cfr. infra). Furthermore, an elaboration of the current standard on the retention of landscape features was envisaged by specifying which landscape features should be retained: hedges, ponds, ditches trees in line, in group or isolated and field margins³¹. A gradual application of the cross-compliance standards in member states applying the Single Area Payment Scheme (SAPS) was also put forward.

The European Parliament's Committee on Agriculture and Rural Development criticized the Commission's point of view concerning cross-compliance, arguing that any widening of the scope of the cross-compliance mechanism was not appropriate as long as the monitoring system is not more harmonised and simplified across member states³².

The Council endorsed the proposed changes to the list of SMRs and GAECs, which will be applied from 2010 onwards (the requirement to establish buffer strips along water courses no later than 2012)³³. In the member states applying the SAPS, the provisions on animal welfare will apply as of 2013 (for Bulgaria and Romania, this will be as of 2016)³⁴.

Concerning the GAECs, the Council decided to introduce a distinction between compulsory and optional standards. Seven standards have been qualified as optional³⁵, except where a member state has defined a minimum requirement for such a standard before 2009 and where national rules addressing the standard are applied in the member state³⁶.

³¹ Legislative Proposal, o.c., p. 94. (COM(2008) 306 final).

³² Report on the "CAP Health Check", European Parliament, Committee on Agriculture and Rural Development, 28 February 2008. (PE398.676v02-00).

³³ Regulation (EC) 73/2009 (OJ 2009 L30/24-25, 66, 69-71).

³⁴ Ibid. (OJ 2009 L30/58-59).

³⁵ The optional standards for GAEC are: retain terraces, standards for crops rotations, appropriate machinery use, minimum livestock stocking rates or/and appropriate regimes, establishment and/or retention of habitats, prohibition of the grubbing up of olive trees and maintenance of olive groves and vines in good vegetative condition. Regulation (EC) 73/2009 (OJ 2009 L30/25, 71).

³⁶ Ibid. (OJ 2009 L30/24-25, 69-71).

2.5 Specific support

Although the Commission has generally been pushing for more decoupling, it also proposed to modify the provisions on specific or coupled support by means of national envelopes for certain specific sectors. These national envelopes are used in specific types of farming for the protection or enhancement of the environment or to improve the quality and marketing of agricultural products.

In the HC, it was proposed to introduce more flexibility for member states to redirect up to 10% of direct payments as specific support from 2010 onwards. The Commission wanted to lift the restriction that linear reductions are taken from and staying in the same sector. Moreover, it would be allowed to support farmers to compensate specific disadvantages in the dairy, beef, sheep and goat meat and rice sectors in economically vulnerable or environmentally sensitive areas, in areas subject to restructuring and for contributions to crop insurance premiums and mutual funds for animal and plant diseases. Furthermore, those measures of which it cannot with certainty be established whether they would meet the conditions of WTO Green Box would be limited to 2.5% of the national envelope. Finally, these provisions would also be applicable by member states using the SAPS, whereas it previously was only allowed for member states applying the SPS³⁷.

The Council agreed to make the provisions of the article on specific support more flexible. The scope of the specific support measures is widened. It may be used to help farmers producing milk, beef, goat and sheep meat and rice in disadvantaged regions or vulnerable types of farming and for specific agricultural activities entailing additional agri-environmental benefits.. Moreover, specific support can be allocated for the enhancement of animal welfare standards. Specific support can also be used to support risk management measures such as insurance schemes for natural disasters and mutual funds for animal diseases (cfr. infra)³⁸.

The limit of measures which do not with certainty meet the conditions of WTO Green Box is set at 3.5% of the national envelope³⁹.

Countries operating the SAPS are allowed to apply the specific support provisions, based on their national ceilings specified for 2013, when full phasing-in will be completed (2016 in the case of Romania and Buglaria)⁴⁰.

³⁷ Legislative Proposal, o.c., pp. 50-55. (COM(2008) 306 final).

³⁸ Regulation (EC) 73/2009 (OJ 2009 L30/40-41).

³⁹ Ibid. (OJ 2009 L30/42).

⁴⁰ Ibid. (OJ 2009 L30/42-43).

2.6 Excluding non agricultural recipients

The Commission sought to counter some of criticism on the legitimacy of the CAP by giving member states the power to exclude non agricultural recipients “*whose principal company's objects do no consist of exercising an agricultural activity*”⁴¹ from receiving CAP funds. It also wanted to insert a circumvention clause which would allow excluding a recipient if it could be established that a beneficiary has artificially created the conditions required to obtain direct payments⁴².

*The Council adopted the provisions allowing member states to set objective and non-discriminatory criteria to ensure that no direct payments are granted to non-agricultural recipients. Natural or legal persons can either be excluded from support because its principal business does not concern agricultural activities or because the agricultural activities constitute only a marginal part of its overall economic activities*⁴³. Furthermore, the circumvention clause was also adopted, giving member states another instrument to exclude certain beneficiaries from receiving payments to which they are not entitled⁴⁴.

2.7 Extending the Single Area Payment Scheme

The member states that joined the EU since 2004 were allowed to apply the SAPS, a simplified version of the SPS. The Commission proposed in the HC to allow the countries applying the SAPS to continue to do so until the end of 2013⁴⁵.

*The Council agreed that those member states applying the SAPS were allowed to prolong its application until the end of 2013*⁴⁶.

⁴¹ Legislative Proposal, o.c., p. 35. (COM(2008) 306 final).

⁴² Ibid., p. 35. (COM(2008) 306 final).

⁴³ Regulation (EC) 73/2009 (OJ 2009 L30/30).

⁴⁴ Ibid. (OJ 2009 L30/30).

⁴⁵ Legislative Proposal, o.c., pp. 75-76. (COM(2008) 306 final).

⁴⁶ Regulation (EC) 73/2009 (OJ 2009 L30/58).

3. IMPROVING MARKET ORIENTATION

The improvement of the market orientation of European agriculture was one of the leading topics of past reforms. It was no surprise that the Commission pushed for a continuation along the same line.

The Commission expressed its intention to recreate the intervention system of the CAP to make it a genuine safety net again, as it was originally designed. Against the backdrop of high agricultural commodity prices, the Commission questioned if the supply management tools (quotas, public intervention, price support and refunds) still served a purpose, or if they rather slowed down the farmer's capacity to respond adequately to market evolutions⁴⁷.

The proposals relating to improving market orientation of the CAP affected some vested policy tools, notably the public intervention mechanism for cereals, the set-aside arrangements and the dairy quota system.

Although no further mentioning of export refunds is made in the HC, the Commission had previously indicated that it was determined to do away with this market distorting trade element. It has proposed in the Doha Development Round of the World Trade Organization to phase out export refunds⁴⁸. Despite the failure to come to a closure of the Doha Round in the course of 2008, Commissioner Fischer Boel has restated her firm position on export refunds, stating: "... *whatever happens in the Doha Round, they don't have a place in the CAP of the future*"⁴⁹. After 2013, agricultural export subsidies will no longer be used by the EU.

3.1 Cereal intervention

The Commission proposed a reduction of cereal interventions in line with the previous reduction of maize intervention in 2007. The phasing out of the maize intervention system was to be extended to all other feed grains, except for bread-making wheat⁵⁰.

The Commission mentioned two reasons for questioning the existing cereals intervention system. Firstly, the evolution on the world cereals markets creates new

⁴⁷ Communication 'Preparing for the Health Check', o.c., p. 5. (COM(2007)722).

⁴⁸ Text of the 'July package' – the General Council post-Cancun decision, 2 August 2004, p. A-4. (WT/L/579) Accessed, 14 December 2007, http://www.wto.org/english/tratop_e/dda_e/ddadraft_31jul04_e.pdf.

⁴⁹ Speech by European Commissioner Fischer Boel: A few Things you need to know about the CAP Health Check. Brussels, 6 December 2007, p. 3. (SPEECH/07/791).

⁵⁰ Communication 'Preparing for the Health Check', o.c., p. 6. (COM(2007)722).

potential market outlets for cereal farmers. Rising global demand, and specifically the booming biofuels industry, is contributing to a high average world price for cereals, which on the medium term is likely to remain relatively higher than the average over the last decade⁵¹.

Secondly, the successful reduction of maize intervention pressed the Commission to extend the reduction to other cereals. The Council in 2007 agreed to phase out public intervention of maize over a period of three years in order to bring maize production in line with market demand⁵². The reduction was necessary to prevent maize constituting an ever increasing amount of cereal stocks, because projections had shown that maize intervention stocks could rise to 15.6 million tonnes by 2013 (compared to 5.6 million tonnes in 2005/06) under a business as usual scenario. The Commission argued that the maize intervention system thus no longer responded to its original design as a safety net⁵³.

In the HC, the Commission argued that the phasing-out of public maize interventions might lead to a relative loss in competitiveness for barley and soft wheat, which could trigger in turn increasing public stocks for these cereals. In order to prevent public stocks accumulating excessively and to allow cereals farmers to react more agile to market forces, the Commission therefore proposed to abolish other cereal interventions as well. Intervention for wheat would become subject to tendering from the beginning without quantitative limits⁵⁴.

The extent of the proposal was not as limited in scope as the Commission wanted to portray it. The system of public intervention of agricultural products, including cereals, already exists since the 1960s⁵⁵. Abolishing most of the intervention mechanisms for cereals means more than simply fine tuning the tool box. Some member states⁵⁶ and agricultural organisations opposed the proposal, arguing that no guarantees existed on the evolution of cereal markets in the longer term⁵⁷.

⁵¹ Agricultural Commodity Markets Outlook 2007-2016. A Comparative Analysis of projections published by OECD&FAO, FAPRI, USDA and EC AGRI G.2, European Commission, 31 July 2007, p. 3. Accessed, 26 November 2007, http://ec.europa.eu/agriculture/analysis/tradepol/worldmarkets/outlook/2007_2016_en.pdf

⁵² Regulation 735/2007. (OJ 2007 L169/6).

⁵³ Proposal for a Council Regulation amending Regulation (EC) No 1784/2003 on the common organisation of the markets in cereals, European Commission, 15 December 2005, pp. 2-3. (COM(2006)755).

⁵⁴ Legislative Proposal, o.c., pp. 128-130. (COM(2008) 306 final).

⁵⁵ EQUER, Maurice, L'Organisation Commune du Marché des Céréales. In : Revue du Marché Commun, 1967, pp. 575-576.

⁵⁶ VERNET, Luc, CAP 'Health Check' receives cautious welcome from ministers, Europolitics, 27 November 2007.

⁵⁷ Boerenbond evalueert Europese blauwdruk 'health check', Boerenbond, 21/11/2007. Accessed, 29 November 2007,

[http://www.boerenbond.be/hosting/boerenbond/bb_site.nsf?open&unikey=http://www.boerenbond.be/hosting/boerenbond/bb_site.nsf/vPAG/A01+-+Persberichten_Boerenbond+-+evalueert+-+Europese+-+blauwdruk+-+health+-+check'+-+-+\(20+-+november+-+2007\)?opendocument](http://www.boerenbond.be/hosting/boerenbond/bb_site.nsf?open&unikey=http://www.boerenbond.be/hosting/boerenbond/bb_site.nsf/vPAG/A01+-+Persberichten_Boerenbond+-+evalueert+-+Europese+-+blauwdruk+-+health+-+check'+-+-+(20+-+november+-+2007)?opendocument).

Finally, the Council agreed not to abolish intervention of durum wheat and rice, but to set intervention thereof at zero. For common wheat, as of July 2010, intervention is still possible at an intervention price of 101.31 € per tonne to a maximum quantity of 3 million tonnes. Beyond that, intervention buying will be done by way of buying in by tender⁵⁸.

3.2 Compulsory set-aside

The HC contained a proposal to permanently abolish the compulsory set-aside instrument⁵⁹. The Commission saw two reasons why the system had lost much of its relevance. Firstly, there existed a tighter situation on the cereals market due to rising global demand. Secondly, decoupling had substantially reduced the incentive for farmers to massively produce cereals in order to benefit from the Community's intervention system⁶⁰.

Set-aside of arable land as a way of limiting production was first introduced in 1988, because public intervention stocks were increasing dramatically, particularly with respect to cereals⁶¹. In later reforms, its scope was expanded as it became compulsory for a farmer to set-aside a certain percentage of his arable land in order to be entitled to compensatory payments⁶². In 2006, compulsory set-aside accounted for four million hectares of a total of 7.2 million hectares set-aside⁶³.

Environmental organisations blamed the Commission that the proposal to permanently abolish compulsory set-aside neglected the environmental benefits it had created⁶⁴. They protested against the lack of thorough analysis of the environmental consequences of the abolition of compulsory set-aside. As with the

⁵⁸ Regulation (EC) 72/2009 (OJ 2009 L30/6).

⁵⁹ In 2007, the Council agreed to a temporary end to compulsory set-aside for the sowings of autumn 2007 and spring of 2008, because rising demand for cereals and decoupling had made it less relevant. (Regulation 1107/2007 (OJ 2007 L253/1)).

⁶⁰ Communication 'Preparing for the Health Check', o.c., p. 6. (COM(2007)722).

⁶¹ Regulation 1094/1988. (OJ 1988 L106/28).

⁶² Regulation 1765/1992. (OJ 1992 L181/12-20) and Regulation 1251/1999. (OJ 1999 L160/6)

⁶³ Prospects for Agricultural Markets and Income in the European Union 2007-2014, European Commission, July 2007, p. 15. Accessed, 26 November 2007,

<http://ec.europa.eu/agriculture/publi/caprep/prospects2007a/fullrep.pdf>.

⁶⁴ Reports demonstrated that set-aside land provided a range of environmental benefits, such as a habitat for farmland biodiversity, improved water quality through reduced use of pesticides and fertiliser and less risk of soil erosion. (HODGE, Ian, READER, Mark, REVOREDO, Cesar, Project to Assess Future Options for Set-Aside. Report for the Department for Environment, Food and Rural Affairs, University of Cambridge, Department of Land Economy, 28 February 2006, pp. v-viii. Accessed, 5 December 2007,

<http://statistics.defra.gov.uk/esg/evaluation/futuresetaside/Fullreport.pdf>).

temporary adjournment in 2007, it was feared that the proposal would be rushed through without proper compensatory environmental measures⁶⁵.

The Council abolished the set-aside obligation from 2009 onwards⁶⁶ and compensated the environmental effects by adding a cross-compliance standard on establishment of buffer strips along water courses, which has to be applied in 2012 at the latest⁶⁷.

3.3 Milk quotas

The Commission proposed not to extend the current milk quota system, which will end as of 31 March 2015. In order to guarantee a smooth transition, a so-called soft landing or gradual increase of the quotas was proposed in order to allow the most efficient farmers to take advantage of the new opportunities. In concrete terms, the Commission proposed to increase the milk quotas annually by 1% in the period between marketing years 2009/10 and 2013/14⁶⁸.

Dairy quotas were introduced in 1984 as a way of managing dairy production and keeping the budget from derailing. Under the quota system, each member state was allotted a maximum production quantity or reference quantity. If production exceeded the attributed quota, a levy had to be paid⁶⁹. The quota system succeeded in the goal of limiting production. Projections of international dairy markets forecasted a steady increase in both global consumption and production of milk and milk products⁷⁰. Taking account of these market developments, the Commission argued in the HC that the reasons for which the dairy quotas were introduced, were no longer valid. Therefore, it proposed to increase the quotas 1% annually during 5 years.

As the Commission opted for the gradual increase of dairy quotas, it has discarded several other options. The Commission's impact assessment evaluated three scenarios, notably extension, expiration and phasing out of milk quotas. Extending the milk quotas beyond 2015 was discarded because it would prevent necessary reforms in the dairy sector and increase milk prices by 7% by 2015. The expiry option was negatively evaluated as well. The impact assessment found that letting the quota system expire in 2015 would result in a hard landing, causing a projected

⁶⁵ Weak CAP Health Check proposal fails to stand up to environmental crises. Birdlife International, 29 February 2008. Accessed, 15 May 2008, <http://www.birdlife.org/news/pr/2008/02/healthcheck.html>.

⁶⁶ Regulation (EC) 73/2009 (OJ 2009 L30/31).

⁶⁷ Ibid. (OJ 2009 L30/71).

⁶⁸ Legislative Proposal, o.c., pp. 123, 136, 139. (COM(2008) 306 final).

⁶⁹ Regulation 856/1984 (OJ 1984 L90/10-12) and Regulation 857/1984 (OJ 1984 L90/13-16).

⁷⁰ Agricultural Commodity Markets Outlook 2007-2016. A Comparative Analysis of projections published by OECD&FAO, FAPRI, USDA and EC AGRI G.2, European Commission, 31 July 2007, p. 36. Accessed, 26 November 2007, http://ec.europa.eu/agriculture/analysis/tradepol/worldmarkets/outlook/2007_2016_en.pdf.

price decrease of 8.2% in the first two years following the expiry and causing considerable restructuring. Finally, the Commission was of the opinion that only a gradual transition⁷¹ could provide dairy farmers a predictable scenario and adequate time to adapt to the 2015 market situation. The phasing out option was also found to have less drastic social and environmental consequences⁷². Other studies looked into options such as a trading scheme of quotas between member states or a reduction of the quota levy. These options have been dropped for a number of reasons, such as the potential of legal objections against a trading scheme or the fear that unnecessary complexity would be created by reducing the levy⁷³.

The HC recognised that special measures should be taken for certain regions, especially mountainous regions, as it is expected that farmers in these regions would face difficulties in keeping a minimum level of production. The Commission proposed to allow specific support measures to compensate the specific disadvantages of the dairy sector in economically vulnerable or environmentally sensitive areas and in areas subject to restructuring⁷⁴. Over the board, there was a large majority among member states in favour of accompanying measures⁷⁵.

Milk quotas constituted one of the most controversial items of the HC. Although a majority of member states favoured increasing the quotas, there was disagreement among them on the extent of the increase, while again other member states objected the quota increase⁷⁶. In order to assuage these objections, the Commission proposed to present an intermediary assessment of the phasing out of milk quotas by June 2011⁷⁷.

The Council finally compromised on five consecutive quota increases of 1% between marketing years 2009/10 and 2013/14. Italy is allowed to execute a single 5% increase in 2009/10, which would allow for a one-shot compensation of the

⁷¹ The impact assessment provided two scenarios. The first scenario envisaged an annual 1% increase of milk quotas over a period of six years, which would result in an production increase of 1.3% after the quota expiry and a price decrease of 2.7%. A second scenario envisaged an annual 2% increase of milk quotas over a period of six years, which would result in an production increase of 0.6% after the quota expiry and a price decrease of 0.9%. (CAP Health Check Impact Assessment Note N° 6: Milk quotas. European Commission, 20 May 2008, pp. 7-9. (D (2008) MC/15332).

⁷² Ibid., pp. 3-18. (D (2008) MC/15332).

⁷³ BINFIELD, J., DONNELLAN, T., HANRAHAN, K., WESTHOFF, P., CAP Health Check Analysis: Impact of EU Milk Quota Expansion, Teagasc (Ireland), Rural Economy Research Centre, 9 October 2007, No. 51, p. 3. Accessed, 5 December 2007, http://www.tnet.teagasc.ie/fapri/downloads/pubs2007/outlook2007/FAPRI-IRELAND_Milk_Quota_Scenario_2007.pdf.

⁷⁴ Legislative Proposal, o.c., pp. 50-51. (COM(2008) 306 final).

⁷⁵ AgraFocus, August 2008, pp. 4-5.

⁷⁶ Bulletin Quotidien Europe, N° 9752, 2 October 2008, p. 10.

⁷⁷ Legislative Proposal, o.c., p. 136. (COM(2008) 306 final).

expected excess of their quotas by 6%⁷⁸. However, in market years 2009/10 and 2010/11, a levy 50% higher than the normal penalty will have to be paid by producers exceeding their quotas by more than 6%⁷⁹.

Moreover, the Commission has to present a report in 2010 and 2012 evaluating the dairy market situation and the conditions for phasing out milk quotas⁸⁰.

Furthermore, the Commission would present a proposal to the management committee to reduce the fat adjustment coefficient (0.9 instead of 0.18) for those countries whose fat content in their milk deliveries is over their reference fat level. This allows additional flexibility for limited quota increase for countries such as the Netherlands, Belgium, Italy and France⁸¹.

Finally, a number of accompanying measures for the dairy sector was agreed. Dairy farmers can benefit from more flexible provisions on national envelopes to help sectors with specific problems. Member states are allowed to grant state aid of total amount up to 55% of the ceiling set out (3.5% of national envelopes)⁸². Regarding other market instruments for the dairy sector, the Council agreed to maintain a simplified version of the intervention buying system for the dairy sector. Public intervention of butter and skimmed milk powder is possible at fixed prices from the beginning of the intervention period (1 March until 31 August) up to a maximum offered quantity of 30,000 tonnes of butter and 109,000 tonnes of skimmed milk powder. Buying-in can continue beyond these quantities by tender and at the discretion of the Commission⁸³. The Council agreed to increase the coefficient of the quota inactivity rule from 70% to 85%. This is the percentage of the quota a producer should use during a twelve-month period. The increase of the coefficient makes it easier to reallocate unused quotas⁸⁴. The dairy sector can also benefit from 2010 onwards of accompanying measures for restructuring under the rural development⁸⁵.

Since the second half of 2008 agricultural commodity prices have undergone a significant decrease. This evolution constituted a significant reverse of trend compared to 2006 and 2007, which were characterised by firm global food price rises⁸⁶. The recent downward price evolution had particularly strong repercussions

⁷⁸ Regulation (EC) 72/2009 (OJ 2009 L30/12-13).

⁷⁹ Ibid. (OJ 2009 L 30/7).

⁸⁰ Ibid. (OJ 2009 L 30/10).

⁸¹ Bulletin Quotidien Europe, N° 9787, 21 November 2008, p. 10.

⁸² Regulation (EC) 72/2009 (OJ 2009 L30/10).

⁸³ Ibid. (OJ 2009 L 30/6).

⁸⁴ Ibid. (OJ 2009 L 30/7).

⁸⁵ Regulation (EC) 74/2009 (OJ 2009 L30/103, 110-111).

⁸⁶ DEHOUSSE, Franklin, TIMMERMAN, Peter, The new Context of the Agricultural Debate in Europe, Egmont Paper, 22, June 2008, pp. 29-30.

on the European dairy sector. Data show that producer prices for milk and milk products have fallen by a third over the last year⁸⁷. In response to dairy farmers' protests, Commissioner Fisher Boel acknowledged the difficult situation for the sector and argued that dropping consumer purchases were the cause, rather than the EU milk quota policy⁸⁸. In concrete terms, the EU reacted by re-introducing export subsidies for milk and milk products as of January 2009⁸⁹. The Council is discussing the possibility of advancing 70% of direct payments on 16 October instead of in the beginning of December, in order to provide urgently needed cash flow to farmers. The Council will also look further into the following measures: extending school milk to healthy dairy products, extending the intervention beyond 31 August and extending butter storage aid beyond 15 August⁹⁰.

4. NEW CHALLENGES

The HC identified the principal challenges facing European agriculture in the years to come: climate change, sustainable water management, biodiversity, development of bio-energy and better risk management⁹¹. The Commission proposals addressing these challenges relied heavily on the rural development policy.

One can wonder to what extent these are truly new challenges. Water management, biodiversity and the development of bio-energy have been on the agenda for a considerable time and specific policy instruments are in place. A genuinely new challenge was presented by the surge in agricultural commodity prices in 2007, raising the question how agriculture would be able to provide sufficient, good quality food against reasonable prices and with minimal negative effects on the environment.

4.1 Rural development policy

The HC very often referred to rural development measures as appropriate tool to deal with the challenges confronting European agriculture. The Commission's thrust to increase the importance of rural development relative to direct support comes as no surprise, because this tendency has been going on for several years.

⁸⁷ March 2009 update on recent agricultural commodity and food price developments in the EU, European Commission. (CM D(2009) 8498 (FIN-REV)). Accessed, 23 April 2009, http://ec.europa.eu/agriculture/analysis/markets/foodprices/food03_2009_en.pdf.

⁸⁸ RANKIN, Jennifer, EU to pay dairy farmers early, European Voice, 26 May 2009.

⁸⁹ Regulation (EC) 57/2009 (OJ 2009 L19/5-8).

⁹⁰ Press release of the 2944th Agriculture and Fisheries Council Meeting, Brussels, 25 May 2009, p. 11. (10245/09).

⁹¹ Communication 'Preparing for the Health Check', o.c., pp. 8-9. (COM(2007)722).

In the HC, the Commission envisaged strengthening existing rural development measures to create incentives for mitigation and adaptation to climate change, for better water management, for biodiversity protection and for providing environmental services in the area of renewable energy⁹². The Commission put forward an indicative list of 25 types of operations falling into the scope of the new challenges⁹³.

The Council decided that rural development would focus on six specific priorities as of 2010. These six priorities are climate change, renewable energies, water management, biodiversity, measures accompanying restructuring of the dairy sector and innovation related to these priorities⁹⁴. Moreover, it adopted a considerably wider indicative list comprising 47 types of operations linked to the new challenges that can be applied within the rural development framework. This is in particular caused by the Council's decision to extend the scope of the new priorities for rural development. Henceforth, accompanying measures in the dairy sector and innovative approaches linked to the new priorities can benefit from rural development funds⁹⁵. For measures focusing on the new priorities, it was agreed to raise the rate of co-financing to 75%, or 90% in case of convergence regions⁹⁶. Taking into consideration these new priorities, the EU-15 member states are obliged to revise their national strategy plans of rural development by July 2009⁹⁷. The funds to address the new challenges have to come from the funds generated by the extra modulation agreed in the HC (cfr. infra).

Furthermore the restriction of investment support to dairy farmers is abolished. A digressive flat-rate aid which cannot exceed 4,500 € (in 2011), 3,000 € (2012) and 1,500 € (2013) is provided to agricultural holdings whose direct payments are reduced more than 25% compared to 2009 on the conditions that the holding is undergoing restructuring and submits a business plan. Finally, the investment limit for young farmers is increased from 55,000 € to 70,000 €⁹⁸.

4.2 Progressive modulation

The Commission's proposal concerning progressive modulation was a combination of two initially distinct proposals: one on modulation and one on the progressive capping of high payments. The alternative combining modulation and progressive capping was first proposed by MEP Goepel in his report on the HC Communication and later picked up by the Commission. Before going into detail on progressive

⁹² Legislative Proposal, o.c., p. 145. (COM(2008) 306 final).

⁹³ Legislative Proposal, o.c., pp. 149-151. (COM(2008) 306 final).

⁹⁴ Regulation (EC) 74/2009 (OJ 2009 L30/103).

⁹⁵ Ibid. (OJ 2009 L30/107-111).

⁹⁶ Ibid. (OJ 2009 L30/105).

⁹⁷ Ibid. (OJ 2009 L30/102-103).

⁹⁸ Ibid. (OJ 2009 L30/103-105).

modulation, it is important to return to the initial proposals on the progressive capping of high payments and on modulation.

First, by reducing the largest payments, the Commission wanted to address the persistent criticism on the way in which Community funds for agriculture are allocated, the amount of support given and who benefits from it. In response to the growing negative public opinion concerning CAP expenditures, the Commission proposed to install upper limits to the support given to big farmers. This idea was not new, as former Commissioner Fischler already came up with a similar proposal in 2002⁹⁹, which eventually did not make it.

In the HC the Commission wanted to reduce the support level of high payments gradually, although guaranteeing to retain some support, even at the highest levels of overall payments¹⁰⁰. By discarding an absolute cap on payments above a certain level, as the Fischler proposal did, the Commission wanted to prevent the division of holdings into separate legal entities to circumvent the cap on high levels of support, because this would not bring any fundamental change¹⁰¹.

Second, as one of the principal aspects of the HC, the Commission envisaged reinforcing the rural development policy of the CAP. Additional funding would be required, but because funding is fixed per pillar over a multi-year period, modulation of first pillar funds towards the second pillar is the only way of increasing rural development funds. The Commission proposed to increase the compulsory modulation rate with annual increases of 2% in the EU-15 during the period 2010-2013¹⁰², on top of the existing 5% of compulsory modulation rate. A total compulsory modulation rate of 13% by 2013 would equal 1,985 € million extra funds for the second pillar in 2013¹⁰³.

In his report, MEP Goepel proposed to merge modulation and progressive capping into progressive modulation¹⁰⁴. The Commission retained this idea in the legislative

⁹⁹ Fischler pleaded for a ceiling of maximum 300,000 € in CAP payments per recipient. This would have affected less than 3,000 recipients, but reduced payments by 750 € million or 2.3% of direct payments (THURSTON, Jack, CAP payment limits would hit 0.3% of farms, 20 November 2007. Accessed, 3 December 2007, http://farmssubsidy.org/allcountries/CAP_payment_limits_would_hit_0.3_per_cent_of_farms/201107).

¹⁰⁰ An example in the HC suggests to reduce payments above 100,000 € by 10%, above 200,000 € by 25% and once above 300,000 € by 45%. (Communication 'Preparing for the Health Check', o.c., p. 5. (COM(2007)722)). Analysis indicated that the result of this progressive reduction of expenditure would be limited. Only 0.3% of all farms (totalling some 23.500) would be affected, accounting for 554 € million or 1.7% of the CAP budget spent on direct payments (THURSTON, Jack, o.c.).

¹⁰¹ Communication 'Preparing for the Health Check', o.c., p. 5. (COM(2007)722).

¹⁰² Communication 'Preparing for the Health Check', o.c., p. 10. (COM(2007)722).

¹⁰³ CAP Health Check Impact Assessment Note N° 10: Modulation. European Commission, 20 May 2008, p. 8. (D (2008) MC/15338).

¹⁰⁴ Four progressive reductions of direct payments are proposed on top of the existing 5% compulsory modulation: 1% between 10,000 € and 100,000 €, 2% between 100,000 € and 200,000 €, 3% between 200,000 € and 300,000 €

proposals, although in an adapted, more far-reaching version. According to the Commission's legislative proposal, basic compulsory modulation in the EU-15 would increase annually by 2% in the period 2009-2012, while leaving the franchise of 5,000 € untouched¹⁰⁵. Additionally, a progressive element would reduce high payments by additional steps of 3% in three successive thresholds¹⁰⁶. The Commission wanted to introduce modulation in the new member states as well. The EU-10 would become subject to modulation in 2012, with a basic rate of 3%, while Bulgaria and Romania would remain exempted. All newly generated modulated funds would stay within the same member state. Once progressive modulation would be fully operational, it would result in a shift of funds from the first pillar to the second of 2,022 € million per year¹⁰⁷.

The budgetary impact would be neutral, since modulation requires no new Community funds because it only shifts money between the two pillars of the CAP. Nevertheless, because these extra modulated funds become rural development funds, they will be subject to co-financing. This will have two side-effects of which the consequences remain unclear for the moment. First, to what extent will the co-financing requirement put an additional burden on national budgets? Second, how much will rural development spending eventually increase? A prognosis on the basis of the current co-financing rate, shows that rural development spending would increase by 3,684 € million, because on top of the 2,022 € million modulated funds, there would also be an extra 1,661 € million of national funding¹⁰⁸.

The main drawbacks linked to progressive modulation are threefold. Firstly, progressive modulation is complex and would significantly increase the administrative burden on member states because it would imply a change in the current financial management system¹⁰⁹. Secondly, when it comes to the reduction of high payments, the proposal is not only limited in ambition, it lacks visibility. Since the reduction of highest payments is being justified as a principal way to enhance public acceptability of the CAP, it seems contradictory to include such a measure in an existing mechanism as compulsory modulation. Thirdly, although the Commission was aware of potential circumvention of progressive capping, the proposals contain no mechanisms to prevent splitting up of farms that receive high amounts of aid. However, the incentives to do so are reduced compared to some of

and 4% of support exceeding 300,000 €. (Report on the "CAP Health Check", European Parliament, Committee on Agriculture and Rural Development, 28 February 2008 (A6-0047/2008)).

¹⁰⁵ All direct income support exceeding 5,000 € would thus be subject to 7% compulsory modulation rate in 2009, 9% (2010), 11% (2011) and 13% (2012). (Legislative Proposal, o.c., p. 25. (COM(2008) 306 final)).

¹⁰⁶ Payments between 100,000 € and 199,999 € would be subject to 3% additional modulation, between 200,000 € and 299,999 € to 6% and payments exceeding 300,000 € to 9%. (Ibid., p. 25. (COM(2008) 306 final)).

¹⁰⁷ CAP Health Check Impact Assessment Note N° 10: Modulation, o.c., p. 24. (D (2008) MC/15338).

¹⁰⁸ Ibid., p. 24.

¹⁰⁹ Ibid., pp. 18-19.

the alternatives, which contained a higher rate of reduction or an absolute cap of the payments.

The Commission sought the middle ground between its initial proposal, the member states' concerns and parliamentary opinion. It estimated that progressive modulation would be more acceptable to the member states, because the proposed reduction of the highest payments were substantially lower than initially suggested and all the money generated would remain in the same member state. Nevertheless, progressive modulation remained an contentious issue until the final phase of the negotiations.

A second parliamentary report, in reaction to the legislative proposals, favoured the less far-reaching model for progressive modulation presented by MEP Goepel over the one presented by the Commission¹¹⁰. Moreover, Parliament wanted to introduce an absolute cap of payments fixed at 500,000 €¹¹¹.

Among member states, there existed considerable resistance against progressive modulation for two reasons. First, a group of countries opposed the increase in compulsory modulation, because they favoured retaining a strong pillar for direct income support over more rural development support. This concerned, inter alia, France, Belgium, Spain, Ireland, Greece, Luxemburg and Hungary¹¹². Secondly, the progressive element was difficult to accept for Germany, the Czech Republic, the United Kingdom, Romania, Slovakia and Hungary because their large exploitations would be hardest hit¹¹³.

The Council finally agreed to increase the basic modulation rate by another 5%, spread over four steps: in 2009 an additional 2% will be subject to modulation, followed by 1% increases in the three following years. From 2012 on, compulsory modulation rate will thus reach 10%. The progressive element was limited to a single threshold: funds over 300,000 € will be subject to 4% additional modulation¹¹⁴.

If the modulated funds are allocated to support the rural development measures directed towards the new priorities, the EU will co-finance them at a rate of 75% and 90% in convergence regions¹¹⁵.

¹¹⁰ Report on the proposal for a Council regulation establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, o.c., p. 98. (A6-0402/2008).

¹¹¹ Ibid., p. 99. (A6-0402/2008).

¹¹² Bulletin Quotidien Europe, N° 9669, 28 May 2008, pp. 10-11.

¹¹³ AgraFocus, August 2008, p. 4.

¹¹⁴ Regulation (EC) 73/2009 (OJ 2009 L30/25).

¹¹⁵ Regulation (EC) 74/2009 (OJ 2009 L30/105).

Producers in the new member states remain exempted from compulsory modulation until their direct payments are completely phased in to 'old member state' level.

4.3 Risk management

Risk management in agriculture is about guaranteeing a farmer against an unexpected loss of income, which is one of the basic principles of the CAP since its inception¹¹⁶. The principle of decoupling, introduced in the 2003 CAP reform, provided a farmer already with a significant and stable part of his income, since his income was no longer solely dependent on production¹¹⁷. Volatile external conditions, such as bad weather or sanitary crises, can affect a farmer's income substantially and are linked to some of the new challenges for agriculture summed up in the HC.

Initially, the Commission was of the opinion that the rural development policy could contribute best to deal with unexpected risks for farmers¹¹⁸. It argued that risks vary so much throughout the EU, that no single approach is appropriate. Instead of setting up a one-size-fits-all approach, each Member State should be able to provide targeted solutions according to its specific national situation. That is why the Commission considered the rural development policy to be the best option for the task of risk management, because it is designed at national level¹¹⁹.

However, during the legislative procedure, the Commission abandoned the idea of funding risk management through rural development measures and inserted the risk management provisions in the proposed revision of article 69 on specific support.

On the one hand, it proposed to set up crop insurance schemes against a loss of more than 30% of average annual production caused by adverse climatic events. Member states would be allowed to grant financial contributions to these crop insurance schemes. 'Adverse climatic events' were defined as weather conditions which can be assimilated to a natural disaster, such as frost, hail, ice, rain or drought. The proposed financial contribution would not be allowed to exceed 60% of the cost, of which 40% would be co-financed by the Community budget¹²⁰.

¹¹⁶ See article 33 (formerly art. 39) of the Consolidated Versions of the Treaty on European Union and of the Treaty Establishing the European Union Community. (OJ 2006 C321/54).

¹¹⁷ Communication from the Commission to the Council on risk and crisis management in agriculture, European Commission, 9 March 2005, p. 1. (COM(2005)74).

¹¹⁸ In a 2005 report on risk management, the Commission already advocated risk management measures taken in the framework of rural development. According to the report, these measures would add to the competitiveness and sustainability of the agricultural and forestry sector, and thus fitted the scope of 'Axis 1' of the rural development policy. (Communication from the Commission to the Council on risk and crisis management in agriculture, o.c., pp. 5-8).

¹¹⁹ Communication 'Preparing for the Health Check', o.c., p. 8. (COM(2007)722).

¹²⁰ Legislative Proposal, o.c., pp. 52-53. (COM(2008) 306 final).

On the other hand, the Commission wanted to allow member states to provide compensations for economic losses caused by the outbreak of animal or plant disease by way of financial contributions to mutual funds. 'Economic losses' were defined as any additional cost incurred by a farmer as a result of exceptional measures taken by the farmer with the objective to reduce supply on the market concerned or any substantial loss of production. As for the crop insurance scheme, the proposed financial contribution would not be allowed to exceed 60% of the cost, of which 40% would be co-financed by the Community budget¹²¹.

Parallel to creating a risk management facility to deal with loss of income following an outbreak of animal disease, the Commission wanted to abolish the provision on exceptional support measures in case of animal disease¹²². This met with resistance from several member states¹²³.

The Council adopted the risk management provisions proposed by the Commission and even extended them to include insurance schemes for animals and plants and mutual funds to counter environmental incidents.

Regarding insurance schemes, member states are allowed to grant financial contributions to premiums for crop, animal and plant insurance against economic losses caused by adverse climatic events and animal or plant diseases or pest infestation. The financial contribution granted per farmer cannot exceed 65% of the insurance premium. Community co-financing is set at a maximum rate of 75%¹²⁴.

The provisions regarding financial contributions to mutual funds allow member states to provide for financial compensation to be paid to farmers for economic losses caused by the outbreak of an animal or plant disease or an environmental incident. An 'environmental incident' is defined as a specific occurrence of pollution, contamination or degradation in the quality of the environment related to a specific event and of limited geographical scope. It does not cover general environmental risks not connected with a specific event, such as climate change or acid rain. The financial contribution granted per farmer cannot exceed 65% of the costs and Community co-financing is set at a maximum rate of 75%¹²⁵.

The exceptional support measures in case of animal disease are retained.

¹²¹ Ibid., pp. 53-55. (COM(2008) 306 final).

¹²² Ibid., p. 131. (COM(2008) 306 final).

¹²³ AgraFocus, July 2008, p. 5.

¹²⁴ Regulation (EC) 73/2009 (OJ 2009 L30/43).

¹²⁵ Ibid. (OJ 2009 L30/44-45).

CONCLUSION

The HC does not constitute a revolutionary reform of the CAP. It largely continues on the path set out by previous reforms, by enhancing market orientation of the agricultural sector, generalising decoupling and strengthening rural development. The Commission consistently emphasized that the HC was not a reform, rather a fine tuning of the tool box. However, it does contain some far-reaching decisions, notably the weakening of market support mechanisms which have been central elements of the CAP for years, such as cereal intervention, milk quotas and compulsory set-aside. Moreover, the generalisation of decoupling and the increased compulsory modulation rate confirm the reform path. The introduction of a form of digressive aid for large farms is another important achievement of the Commission, although it was considerably reduced in scope.

The agreement on the HC creates also more flexibility for member states, allowing them to tailor solutions according to their specific situations. But this also means that more national co-financing is required, which might lead to a CAP that is less common in the future and can create Internal Market distortions.

Reaching a political agreement before the end of 2008 can be considered a success, because of the deteriorating conditions to reach an agreement during the negotiating process. Firstly, the pressure to close a deal before the end of 2008 vanished once the Irish rejected the Lisbon Treaty in a referendum. The delay for the entry into force of the Treaty removed the prospect of the European Parliament having codecision power on agricultural matters as of January 2009. Secondly, the significant drop in agricultural commodity prices in the course of 2008 made member states more reluctant to go ahead on the path set out. Finally, the failure to reach an agreement on the Doha Development Agenda in the WTO weakened the external pressure, though limited, to conclude the HC.

In light of the upcoming budgetary review in 2008/9, it is questionable whether the HC will have changed anything substantial in the discussion on the future of the CAP. The HC was a compromise agreement, which is interpreted differently by CAP reformers and CAP conservatives. The former consider the HC as a prelude to more fundamental reform for the CAP post-2013, while the latter see modest reform now as the best defence against radical reform later.

Peter TIMMERMAN is Research Fellow at EGMONT - The Royal Institute for International Relations

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Contact



Tel : + 32 (0)2 223 41 14

Fax : + 32 (0)2 223 41 16

Rue de Namur, 69
B-1000 Brussels
BELGIUM

E-mail : info@egmontinstitute.be