Recht der Landwirtschaft

RdL

Zeitschrift für Landwirtschafts- und Agrarumweltrecht

11/12
2023

H 20023
75. Jahrgang

Schwerpunkt: Die Zukunft der GAP

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und Herausgeber:
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AGRICOLA
VERLAG GMBH

A. ABHANDLUNGEN

An ambitious CAP is needed to underpin the green transition

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I. Introduction

This paper provides a critical appraisal of the main characteristics of EU agricultural policy as it now stands following agreement on the regulations for the Common Agricultural Policy (CAP) in 2021 for the programming period 2023–2027.[1] It also provides some recommendations for how current and future challenges should be addressed while ensuring that the CAP remains a European policy that provides value both for farmers and society.

Despite perceptions to the contrary, the CAP has seen considerable change over its more than 60-year history, including both a broadening in its policy objectives and in the instruments used to pursue those objectives. The 2021 CAP reform introduced a new delivery model that has given greater autonomy to Member States to design their national agricultural policies within a strategic planning framework. It also demanded a higher level of environmental and climate ambition, which was reinforced by the commitment of the incoming European Commission to the European Green Deal. Since the CAP reform was agreed, we have seen a rapid succession of legislative initiatives with significant implications for farmers and agricultural land management.

Farmers respond that these new legislative obligations are increasingly onerous, particularly in the absence of additional financial support. They argue that many of the new requirements would reduce production and could undermine EU food security. This argument gained traction following the surge in energy prices and subsequent food price inflation due partly to the Russian invasion of Ukraine in February 2022. A Commission Communication in March 2022 underlined that food supply was not an issue for the EU but that rising prices did have a negative impact on global food security.[2] The relative priority to be given to environmental objectives versus encouraging food production has led to an increasingly polarised debate on agricultural policy throughout 2023 with political support for some Green Deal initiatives apparently slipping. With European Parliament elections in June 2024 and the Commission expected to put forward its vision for the CAP post 2027 in mid-2025, this paper highlights some key issues for decision in the next few years.

II. The changing CAP

Recent decades have seen a significant transformation both in the objectives and instruments of the CAP. The objectives of the EU's agricultural policy set out in Article 39 of the Treaty on the Functioning of the European Union (TFEU) have remained unchanged since they were included in the original Treaty of Rome. They require the policy to contribute to increased productivity by promoting technical progress; thereby ensuring a fair standard of living for farmers; to stabilise markets; to ensure the availability of supplies; and to ensure reasonable prices for consumers.

Other Treaty provisions lay down other objectives that are applicable to all EU policies including agriculture. These include environmental protection to promote sustainable development (Article 11), consumer protection (Article 12), animal welfare requirements (Article 13), public health (Article 168) and economic, social and territorial cohesion (Articles 174 through 178). Over time, these objectives have increasingly become objectives for the CAP in their own right. In the most recent revision of the CAP which came into force on 01.01.2023, the objectives have been formalised into three general and ten specific objectives covering economic, environmental and social issues.[3] These demonstrate the significant broadening of the policy agenda that agricultural policy is asked to address and have increased the salience of debates around which policy objectives to prioritise.

It is not only with respect to policy objectives that the CAP has evolved over time. In the mid-1980s, most support took the form of market price support where producer prices were maintained above world market levels by a combination of minimum intervention prices, import tariffs and other trade barriers, as well as export subsidies. The significance of market price support has been greatly reduced as successive CAP reforms moved agricultural policy in a more market-oriented direction. The reduction in market price support was

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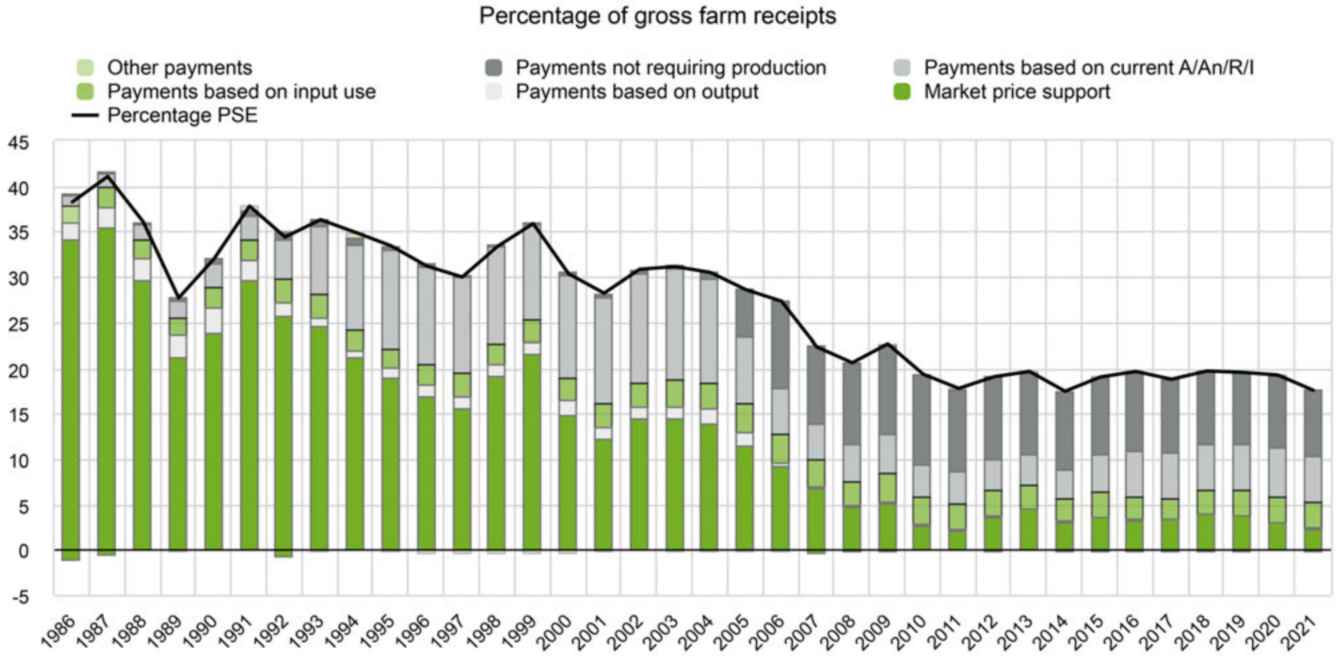
1 Regulation (EU, Euratom) 2020/2093 laying down the multiannual financial framework for the years 2021 to 2027, OJ 2020 L 433 I/11.

2 European Commission, Safeguarding Food Security and Reinforcing the Resilience of Food Systems, COM(2022) 133 (Brussels, 2022).

3 Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 Establishing Rules on Support for Strategic Plans to Be Drawn up by Member States under the Common Agricultural Policy (CAP Strategic Plans) and Financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and Repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013, OJ 2021 L 435/1.

Figure 1. CAP expenditure and CAP reform path: Level and PSE composition by support categories, 1986 to 2021



Note: A/An/R/I: Area planted/Animal numbers/Receipts/Income. PSE is Producer Support Estimate. Source: OECD[4]

originally compensated by coupled direct payments funded by the EU budget, and then subsequently by decoupled payments not requiring production, although in the most recent CAP programming period, coupled payment support has again risen in importance. Payments based on input use (reflecting agri-environment-climate measures, AECMs) have also grown in importance over time. The overall level of support in gross farm receipts as measured by the OECD's Producer Support Estimate (PSE) has fallen from around 40 % in the mid-1980s to just under 20 % today.

III. The 2023–2027 CAP

2. Main elements of recent CAP reform

The most recent reform of the CAP agreed in 2021 and which has been applicable as of 01.01.2023 included two main novelties. The first was termed a New Delivery Model where the role of the Union is to set the basic policy parameters (objectives of the CAP, broad types of intervention, basic requirements), while Member States have greater responsibility and are more accountable for how they meet the objectives and achieve agreed targets. This is summarised as a shift from a compliance-based to a performance-based or results-based CAP.

Member States were required to prepare national CAP Strategic Plans based on a needs assessment in which they identify their priorities (including taking account of national targets established in other EU legislation), set targets and milestones for these priorities, choose relevant interventions and allocate resources accordingly.[5] For the first time, this strategic planning approach was extended from rural development plans in Pillar 2 funded by the European Agricultural Fund for Rural Development (EAFRD) to also cover income support payments in Pillar 1 funded by the European Agricultural Guarantee Fund (EAGF). These national Strategic Plans were then approved by the Commission.[6] The intention was to allow Member States to better take account of local conditions and needs when tailoring their CAP interventions to maximise their contribution to EU objectives. The downside is that greater subsidiarity and flexibility for Member States in allocating CAP funds can lead to a more fragmented internal market.

The second innovation in the current programming period is heightened environmental and climate ambition. The entry into force of the Single European Act (1987) added a title on the environment to the European treaties and, for the first time, gave a legal basis for EU environmental policies. Environmental objectives have been gradually integrated into the CAP over the past 25 years.[7] We can distinguish between the role of environmental regulation which is based on the polluter pays principle and which requires farmers to observe minimum standards of good agricultural practice to avoid damage to health or the environment, and

4 OECD, Agricultural Policy Monitoring and Evaluation 2022: Reforming Agricultural Policies for Climate Change Mitigation (Paris: Organisation for Economic Cooperation and Development, 2022) 285, https://doi.org/10.1787/7f4542bf-en (last visited on 30.10.2023).

5 Articles 104 et seq. Regulation (EU) 2021/2115.

6 Article 118(4) Regulation (EU) 2021/2115.

7 *Feindt*, Policy-Learning and Environmental Policy Integration in the Common Agricultural Policy, 1973–2003, Public Administration 88, no. 2 (2010): 296–314; *Matthews*, Greening Agricultural Payments in the EU's Common Agricultural Policy, Bio-Based and Applied Economics 2, no. 1 (2013): 1–27.

payments to farmers under the CAP for the provision of ecosystem services which go beyond the minimum statutory requirements (the provider gets principle). In practice, the dividing line is a social construct reflecting the allocation of property rights between farmers and society. It is not uncommon for CAP payments to be made to farmers to compensate them for actions to reduce their negative impacts on the environment.

The growth in environmental awareness led to the introduction of a raft of environmental legislation affecting agricultural practices. Among the more important are the Nitrates Directive (1991),[8] the Pesticides Regulation (1991, updated in 2009 and complemented by the Sustainable Use of Pesticides Directive in the same year),[9] the Habitats Directive (1992),[10] the Water Framework Directive (2000),[11] and the National Emissions Ceiling Directive (2001).[12] These regulations and directives sought to protect water quality across Europe by preventing nitrates from agricultural sources polluting ground and surface waters and by promoting the use of good farming practices, to reduce the risks and impacts of pesticide use on human health and the environment, to ensure the conservation of particular habitats important for rare or threatened animal or plant species or important in their own right, to improve the governance of water quality and quantity issues through an integrated river basin management approach, and to limit emissions of air pollutants. Farmers in receipt of CAP payments must observe these statutory requirements as well as an additional set of Good Agricultural and Environmental Conditions (GAECs) set down in the CAP regulations.[13]

Article 105 of Regulation (EU) 2021/2115 (CAP Strategic Plans Regulation) required Member States to have increased ambition with regard to environment and climate-related objectives. Several provisions in the Regulation underpinned this greater ambition. The conditions (previously called cross-compliance and now called conditionality) that farmers must respect to be eligible for CAP payments were strengthened in several ways. The minimum share of Pillar 2 funds to be allocated to these objectives was increased from 30 % to 35 % while permitting only 50 % of expenditure on disadvantaged area payments to count towards this target. The most significant innovation was the requirement to repurpose at least 25 % of Pillar 1 direct payments as eco-schemes, rewarding farmers for voluntary efforts to pursue environmental, climate and animal welfare objectives beyond the regulatory baseline.[14]

2. Integration of Green Deal targets

The proposal for changes in the CAP regulations was made in 2018 under the Juncker Commission. Following elections to the European Parliament in May 2019, a new Commission under President Ursula von der Leyen took office in December 2019. Von der Leyen had proposed a European Green Deal in her Political Guidelines to make Europe the first climate-neutral continent and to enshrine the 2050 climate neutrality target into law.[15] The Commission confirmed and extended this ambition to include decoupling economic growth from resource use with zero pollution in a Communication at the end of 2019.[16] This was followed in May 2020 by two further Communications on sustainable food systems, the Farm to Fork Strategy,[17] and a Biodiversity Strategy,[18] both of which set ambitious targets for input and land use with direct implications for agriculture.

Despite pressure from the Commission and the European Parliament, Member States resisted including these targets in the ongoing negotiations on the CAP Strategic Plans Regulation, on the grounds that they were not yet legally binding.[19] The final Regulation merely notes in the recitals that Member States should explain how their Strategic Plans contribute to achieving the targets set out in these strategies, and that the Commission should assess these contributions when approving the Strategic Plans and should subsequently report on these contributions.

Since the publication of the two strategies, the Commission has proposed several additional regulations and wide-ranging revisions to existing regulations designed to put the strategies' targets on a legal footing. Only the most important are highlighted here. The European Climate Law established the target of net zero emissions by 2050 in law as well as increasing the ambition of the EU's 2030 emissions reduction target.[20]

8 Council Directive 91/676/EEC concerning protection of waters against pollution caused by nitrates from agricultural sources, OJ 1991 L 375/1.

9 Directive 2009/128/EC establishing a framework for Community action to achieve the sustainable use of pesticides, OJ 2009 L 309/71.

10 Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, OJ 1992 L 206/7.

11 Directive 2000/60/EC establishing a framework for Community action in the field of water policy, OJ 2000 L 327/1.

12 Directive (EU) 2016/2284 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC, OJ 2016 L 344/1.

13 Article 12 in conjunction with Annex III of Regulation (EU) 2021/2115.

14 Article 31 in conjunction with Article 97(1) Regulation (EU) 2021/2115.

15 *von der Leyen*, A Union That Strives for More: My Agenda for Europe. Political Guidelines for the next European Commission 2019–2024, https://commission.europa.eu/system/files/2020-04/political-guidelines-next-commission_en_0.pdf, 2019 (last visited on 27.09.2023).

16 European Commission, The European Green Deal, COM(2019) 640 (Brussels, 2019).

17 European Commission, A Farm to Fork Strategy for a Fair, Healthy and Environmentally-Friendly Food System, COM(2020) 381 (Brussels, 2020).

18 European Commission, EU Biodiversity Strategy for 2030: Bringing Nature Back into Our Lives, COM(2020) 280 (Brussels, 2020).

19 As now explicitly expressed in Article 118(4) second sentence of Regulation (EU) 2021/2115.

20 Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 Establishing the Framework for

The Commission is planning to adopt a draft law in the first half of 2024 setting the 2040 target. There is no specific EU target for reducing agricultural emissions, but these are covered by Member States' stricter national 2030 targets under the revised Effort Sharing Regulation.[21] As agricultural emissions with existing measures are hardly expected to drop by 2030, greater efforts by farmers to reduce emissions will be required. In addition, revisions to the Land Use, Land Use Change and Forestry (LULUCF) Regulation adopted in 2023 established more ambitious national targets for net removals in the LULUCF sector by 2030.[22] While afforestation and forest management will be the key levers to meet these targets, the Commission has also proposed to incentivise carbon farming (for example, the re-wetting of peatlands or the sequestration of carbon in soils). The Commission has proposed a Certification Framework for Carbon Removals under which it will propose methodologies to ensure that only high-quality credits will be certified under this scheme.[23]

The current Sustainable Use of Pesticides Directive[24] does not reflect the Farm to Fork ambitions to reduce both the use of, and risk from, pesticides by 50% by 2030 while also failing to adequately incentivise effective sustainable use of pesticides. The Commission has proposed to convert this into a Regulation (which would be directly applicable in Member States) and to set binding national targets for reductions in pesticide use, mandatory enforcement of the principles of Integrated Pest Management, and a ban on the use of pesticides in sensitive areas.[25] In addition, many active substances used in pesticides have been withdrawn under the Pesticides Regulation, either because their approval was revoked or because manufacturers decided not to provide the necessary supporting dossier that would allow approval to be continued. The new rules reflect both health and environmental concerns. Farmers claim the lack of effective alternatives will reduce their ability to control disease and result in lower yields, although protecting biodiversity and pollinators damaged by pesticide use may be indispensable to maintain food production and food security in the long run.

Protecting biodiversity is also the goal of the Nature Restoration Law (NRL) proposed by the Commission in 2022.[26] Under its previous biodiversity strategy, the EU had set itself a voluntary target to restore by 2020 at least 15% of degraded ecosystems, but this target was not met. The NRL would set legally binding targets to restore degraded ecosystems. It requires Member States to put in place restoration measures which together shall cover at least 20% of the EU's land and sea areas by 2030 and all ecosystems in need of restoration by 2050. Specific restoration targets are set for habitat types and ecosystems protected by the Habitats Directive. For agroecosystems, Member States will have an obligation to reverse the decline in pollinators until satisfactory levels are reached and to achieve an increasing trend for a set of indicators that are particularly important for the biodiversity of those ecosystems. The proposal includes specific targets to restore 30% of drained peatlands under agricultural use by 2030 and 70% by 2050.

Finally, we note that the Commission proposes to put forward a new Framework Law on Sustainable Food Systems by the end of 2023. This is intended as a horizontal regulatory instrument to act as a guiding framework that coordinates and drives changes to improve the sustainability of the EU food system. Its objectives are to strengthen the coherence of EU food system law by mainstreaming a harmonised approach to sustainability in all food system policies, to establish a transparent food environment that will facilitate sustainable choices by food system actors, and to incentivise food related operations to become increasingly sustainable. It will include definitions, overarching principles and governance mechanisms, while including specific proposals around sustainability-related labelling and public procurement to adapt the food environment. Because sustainability objectives have already been integrated into the CAP the direct implications of this new Law for agriculture will be limited, but the greater emphasis on sustainability for other actors in the food system will reinforce the pressures for change in agricultural practices.

IV. Challenges for the CAP post 2027

The scientific evidence is clear that agricultural practices and land use must change.[27] Greenhouse gas

Achieving Climate Neutrality and Amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ("European Climate Law"), OJ 2021 L 243/1.

21 Regulation (EU) 2023/857 of the European Parliament and of the Council of 19 April 2023 Amending Regulation (EU) 2018/842 on Binding Annual Greenhouse Gas Emission Reductions by Member States from 2021 to 2030 Contributing to Climate Action to Meet Commitments under the Paris Agreement, and Regulation (EU) 2018/1999, OJ 2023 L 111/1.

22 Regulation (EU) 2023/839 of the European Parliament and of the Council of 19 April 2023 Amending Regulation (EU) 2018/841 as Regards the Scope, Simplifying the Reporting and Compliance Rules, and Setting out the Targets of the Member States for 2030, and Regulation (EU) 2018/1999 as Regards Improvement in Monitoring, Reporting, Tracking of Progress and Review, OJ 2023 L 107/1.

23 European Commission, Proposal for a Regulation of the European Parliament and of the Council Establishing a Union Certification Framework for Carbon Removals, COM(2022) 672 (Brussels, 2022).

24 Directive 2009/128/EC establishing a framework for Community action to achieve the sustainable use of pesticides, OJ 2009 L 309/71.

25 European Commission, Proposal for a Regulation of the European Parliament and of the Council on the Sustainable Use of Plant Protection Products and Amending Regulation (EU) 2021/2115, COM(2022) 305 (Brussels, 2022).

26 European Commission, Proposal for a Regulation of the European Parliament and of the Council on Nature Restoration, COM(2022) 304 (Brussels, 2022).

27 EEA, The European Environment – State and Outlook 2020 (Luxembourg: Publications Office of the European Union on

emissions from agriculture must be reduced, while land use and land management practices must contribute significantly more to carbon sequestration. Emissions of ammonia must be reduced to lower fine particulate matter formation damaging to human health as well as limiting nitrogen deposition damaging to conservation status in Natura 2000 sites. Further significant reductions in nitrogen and phosphorous leakage are needed to restore water bodies to good ecological status. Biodiversity loss must be halted and reversed through the restoration and creation of necessary habitats and ecosystems. The use of harmful chemical pesticides must be reduced to avoid contamination of groundwater and to prevent damage to biodiversity, not least pollinators. Soil degradation must be reversed and soil health restored through the adoption of more regenerative farming practices. The growing pressure on water resources particularly in southern Europe where most freshwater abstraction is for agricultural use also requires a reduction in water use. At the same time there is a need for agriculture to increase its resilience and to adapt to the consequences of a warming climate with more frequent weather extremes. Change needs to happen quickly, while at the same time maintaining levels of food production to the extent possible while also supporting those who are most vulnerable to losing out from the changes required.

Implementing these necessary changes will require a multi-pronged policy approach, including regulation, innovation, the use of market-based instruments, and a much greater emphasis on education, training and knowledge exchange. In this section, we examine how the use of subsidies provided under the CAP might be repurposed to better support this green transition. There is space only to outline some key considerations.

1. The future for direct payments

The 2021 CAP reform increased the share of the CAP budget allocated to environmental and climate objectives. Nonetheless, nearly half of the total planned public spending (including national co-financing) continues to be allocated to area-based direct payments or coupled payments justified as income support.[28]

There are good reasons to rethink the role of direct payments in providing income support.[29] A high share of this support goes to larger farms where the need for income support is not obvious. In the 2014–2022 CAP, Member States could use a combination of capping, degressivity and a redistributive payment to shift support to smaller farms but the impact on the distribution of payments was minimal. The redistributive payment has been made mandatory for Member States in the 2023–2027 reform and will have a greater impact, but it is unlikely to shift the distribution of payments significantly. The distribution of payments follows the distribution of land use in the EU which is highly skewed. These income support payments are also not well targeted on households in need as they do not take account of the total income of farm households. For many households with income from farming, this makes up only a small share of their total household income.

Another reason to rethink the role of direct payments is that the benefits of direct payments do not necessarily remain with the farmer beneficiary but often leak out to benefit other stakeholders. This is particularly likely where the decoupled area-based or coupled payments are capitalised into the value of land and especially land rents, or where payments encourage additional production that decreases agricultural prices which benefits consumers. Empirical studies agree that capitalisation takes place, although they disagree on the scale of the phenomenon.[30] Higher land prices and rents make entry for younger farmers more difficult and thus slow the rate of generational renewal. They also delay the exit of older farmers who would otherwise lose their direct payment if they hand over the farm.[31]

Perhaps the strongest argument against continuing with area-based direct payments for income support is that they have very little impact on changing farmers' behaviour beyond any impact due to the GAEC requirements that would otherwise not be enforceable under law.

The green transition in farming is more complicated than for energy or transport because of its multi-dimensional nature.[32] It is not only about reducing emissions, but also needs to address biodiversity, and habitat restoration and water, soil, air and resource conservation. It will involve structural changes not only in the technology of production (as in energy and transport) but also changes in what is produced and how land is used. Member States will need to develop balanced transi-

behalf of the European Environment Agency, 2019).

28 Of planned public expenditure of € 307 billion in the period 2023–2037, € 96.7 billion is allocated to the basic income support for sustainability payment, € 23 billion for coupled income support, and € 20.1 billion for the redistributive payment.

29 *Matthews*, The Future of Direct Payments. Paper Prepared for Workshop on 'Reflections on the Agricultural Challenges Post 2020 in the EU: Preparing the next CAP Reform' (Brussels: European Parliament, Directorate General for Internal Policies, 2016); *Matthews*, Why Further Reform? Appendix 1, in CAP – Thinking out of the Box, ed. A. Buckwell, E. Mathijs, and A. Matthews (Brussels: RISE Foundation, 2017).

30 *Baldoni/Ciaian*, The Capitalisation of CAP Subsidies into Land Rents and Land Values in the EU, JRC Technical Report (Luxembourg: Publications Office of the European Union, 2021); *Varacca et al.*, A Meta-Analysis of the Capitalisation of CAP Direct Payments into Land Prices, European Review of Agricultural Economics, no. jbab014 (26 February 2021), https://doi.org/10.1093/erae/jbab014 (last visited on 20.10.2023).

31 *Schuh et al.*, Research for AGRI Committee – The Future of the European Farming Model: Socio-Economic and Territorial Implications of the Decline in the Number of Farms and Farmers in the EU (Brussels: European Parliament, Policy Department for Structural and Cohesion Policies, 2022).

32 *Baldock/Buckwell*, Just Transition in the EU Agriculture and Land Use Sector (London and Brussels: Institute for European Environmental Policy, 2021).

tion plans and there will be a need for supplementary transition assistance.[33] This would be a more important use of the CAP budget than untargeted income support. GAEC standards should either be incorporated into statutory standards or (for example, in the case of GAEC 7 setting land aside for nature) this could be funded through a targeted eco-scheme or AECM. Because the agricultural transformation is ongoing in several Member States, there may be a case for continuing income support payments to very small farms for a further transitional period.

Paying farmers for providing environmental services can provide an alternative revenue stream as direct payments are phased out. It is argued that the requirement that these payments should meet the criteria to be notified as WTO Green Box measures under Annex II of the Agriculture Agreement (especially the criterion that the compensation provided should not exceed the costs incurred or level of income foregone) makes these payments unattractive to farmers. Here an important change was made in the 2021 CAP Strategic Plan Regulation Article 31(8) that now specifies that payments under either eco-schemes or agri-environment-climate measures should take account of targets set in national CAP Strategic Plans. If initial payment rates are too low to meet the targets, they can be increased.

2. A complementary external dimension

Requiring a higher standard of agricultural practices to minimise negative externalities of production, as well as to reflect citizens' ethical concerns around the treatment of animals in food production, will likely raise farmer's costs of production and thus impact on their competitiveness. The empirical studies to date that have examined the likely effects on production and farm income of achieving the targets set out in the Farm to Fork Strategy all highlight a potential reduction in production, although there are more mixed views on the likely impacts on farm income.[34] Advocates of non-conventional farming such as organic, agroecological or regenerative farming, may dispute this, arguing that comparisons with the economic returns from these systems do not fully account for the likely deterioration in yields if we continue with business as usual and that alternative systems can be equally productive.

Nonetheless, farmers perceive a loss in competitiveness relative to third country producers and demand reciprocity, i. e., that imported products should be produced to the same standards as required of EU farmers.[35] Farmers are particularly aggrieved that products produced with pesticide active substances that are banned in the EU can continue to be imported. This demand for *mirror clauses* requiring imported products to be produced to the same standards as in the EU is also supported by environmentalists who recognise that if EU production is replaced by imports, this will just result in the displacement of pollution abroad. Environmental activists favour import restrictions in any case as a way of reducing the EU's external environmental footprint. Mirror clauses are also supported as a way of minimising political opposition to more demanding environmental legislation within the EU but also as a way of triggering more ambitious environmental action in the EU's trading partners.

The EU has already begun to limit imports that do not comply with EU production standards for environmental or ethical reasons. Certain animal welfare standards have long applied to imports. A more recent decision requires that, in order to be eligible to export animal products to the EU, operators in third countries should not use antimicrobials for the purpose of promoting growth or increasing yield, and they also should not use antimicrobials on the EU list of antimicrobials reserved for human use.[36] The EU has also lowered Maximum Residue Limits (MRLs) for two neonicotinoids banned for outdoor use in the EU to the limit of determination because of the potential adverse effects on pollinators in exporting countries.[37] The European Parliament among others in the negotiations on amending the CMO Regulation called for a blanket measure requiring that imports should be produced based on production conditions prevailing in the EU but this would seem to be over-reach. It would seem preferable to take a case-by-case approach and only introduce a mirror clause where there is clear evidence of a global environmental benefit or ethical concern, where the higher EU standard imposes significant additional costs, and in compliance with the EU's WTO obligations.[38] In any case, such reciprocal measures should be introduced in dialogue with exporting countries and be

33 *Baldock* and *Buckwell*.

34 *Wesseler*, The EU's Farm-to-Fork Strategy: An Assessment from the Perspective of Agricultural Economics, Applied Economic Perspectives and Policy, 2022, https://doi.org/10.1002/aepp.13239 (last visited on 27.09.2023).

35 *Baldon et al.*, How Can We Stop the Import of Food Produced Using Banned Practices in Europe? A European Regulation to Protect the Environment and Our Farmers (Paris: Fondation Nicholas Hulot pour la nature et l'homme, Institute Veblen and Interbev, 2021).

36 European Commission, Commission Delegated Regulation (EU) 2023/905 of 27 February 2023 Supplementing Regulation (EU) 2019/6 of the European Parliament and of the Council as Regards the Application of the Prohibition of Use of Certain Antimicrobial Medicinal Products in Animals or Products of Animal Origin Exported from Third Countries into the Union, OJ 2023 L 116/1.

37 European Commission, Commission Regulation (EU) 2023/334 of 2 February 2023 Amending Annexes II and V to Regulation (EC) No 396/2005 of the European Parliament and of the Council as Regards Maximum Residue Levels for Clothianidin and Thiamethoxam in or on Certain Products, OJ 2023 L 47/29.

38 European Commission, Application of EU Health and Environmental Standards to Imported Agricultural and Agri-Food Products (Brussels, 2022).

accompanied by technical and financial assistance for low-income exporters that may be adversely affected.[39]

3. Addressing crises and improving resilience

Price volatility has always been a characteristic of agricultural markets, with recent price spikes on global markets in 2008, 2011, and again in 2022. Episodes of price volatility can be associated with surging demand, input price shocks, poor global harvests and low grain stocks but increasingly result from geo-political factors (for example, the Russian ban on EU agri-food exports responding to the sanctions introduced against Russia following its invasion of Crimea in Ukraine in 2014, and supply chain disruptions resulting from responses to the Covid pandemic and retaliatory US tariffs on EU agri-food exports in 2020). Increasing weather extremes due to a warming climate are forecast to become more likely in future. Farmers themselves are expected to prepare for and cope with 'normal' price volatility, for example, through various risk management instruments that can be financially supported by the CAP. Many elements in the green transition, for example, improved soil health and lower dependence on external inputs, are also expected to improve resilience. But in case of abnormal market situations, additional market measures and financial assistance may be required.

Traditional instruments for market management include public intervention and aids for private storage. These instruments are supplemented by the provisions in Articles 219–222 of Regulation (EU) No 1308/2013 (CMO Regulation) for exceptional measures in the event of market disturbance introduced in the 2013 CAP reform. These Articles, which were augmented in the 2021 CAP reform,[40] provide considerable discretion to the Commission to handle market crises, including the use of voluntary supply controls and financial support packages. In addition, Member States can be authorised to provide national assistance to their farmers under state aid rules.

The 2014–2022 CAP created a special crisis reserve by withholding an amount of direct payments (€ 400 million in 2011 prices) to fund emergency measures.[41] If the crisis reserve funding were not used in a particular year, it was returned to farmers in the following year and a further cycle of withholding was initiated. This measure was renamed the agricultural reserve in the 2021 CAP reform and revised so that unused monies could be carried over to subsequent years.[42] At least € 450 million in current prices should be in the reserve at the beginning of each year, although the Commission can adjust this amount at any time taking account of available appropriations under the EAGF sub-ceiling. The reserve was used for the first time in 2022. The reluctance to activate the reserve previously was mainly due to the perception that the reserve was simply a transfer between farmers and not additional support.

These changes mean that the Commission has the policy flexibility to provide crisis support to farmers but not necessarily the budget. The EU cannot borrow to finance a sudden increase in the demand for resources such as can result from an agricultural market crisis, and the available resources under the EAGF sub-ceiling are very limited. Thus, following Covid and the Russian invasion of Ukraine, the EU recognised that it did not have the financial firepower to provide support. It relied instead on Member States to provide financing by relaxing state aid rules under successive Temporary Frameworks for State Aids.[43] More than € 7 billion has been provided in aid to farmers under these arrangements.[44] The drawback with this approach is that Member States have very uneven capacities to provide this support, and the great bulk of support has been provided by a handful of countries. It thus risks creating distortions of competition within the EU single market. The EU has created several flexibility instruments both inside and outside the MFF and the potential to make the agricultural reserve more flexible should be further explored.

4. Ensuring appropriate financial support

Intimately linked with these debates on future priorities for CAP spending is the question of the resources made available through the EU's long-term budget, the Multiannual Financial Framework (MFF). The size of the CAP budget in the next MFF will be a function of the perceived needs for the sector and the likely availability of funds. The competition for funds between

39 *Matthews*, Implications of the European Green Deal for Agri-Food Trade with Developing Countries (Brussels: European Landowners' Organisation, 2022).

40 Regulation (EU) No 1310/2013 of the European Parliament and of the Council of 17 December 2013 Laying down Certain Transitional Provisions on Support for Rural Development by the European Agricultural Fund for Rural Development (EAFRD), Amending Regulation (EU) No 1305/2013 of the European Parliament and of the Council as Regards Resources and Their Distribution in Respect of the Year 2014 and Amending Council Regulation (EC) No 73/2009 and Regulations (EU) No 1307/2013, (EU) No 1306/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as Regards Their Application in the Year 2014, OJ L 347/865.

41 Article 25 of Regulation (EU) No 1306/2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008, OJ 2013 L 347/549.

42 Article 16 Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013, OJ 2021 L 435/187.

43 See the Section on the Temporary Crisis and Transition Framework on the Commission's website, https://competition-policy.ec.europa.eu/state-aid/temporary-crisis-and-transition-framework_en (last visited on 27.09.2023).

44 Statement by Commissioner *Janusz Wojciechowski* regarding MEP *Mortler's* report on "ensuring food security and long-term resilience of the EU agriculture" at the European Parliament, Strasbourg, 13.06.2023.

competing spending areas will be even more intense than usual in the negotiations on the MFF. It will reflect both the overall willingness of Member States to contribute to the EU budget (expressed as a limit on the percentage of EU gross national income, GNI) and the priority given to the different spending areas. In the 2021–2027 financing period, an explicit ceiling on MFF payment appropriations of 1.08 % of GNI was agreed by the European Council. This represented a slight increase in the percentage share of the EU budget in EU GNI but a decrease in absolute terms given that Brexit implied the departure of the second largest net contributor to the EU budget. Given the extraordinary demands on the EU budget not foreseen when the 2021–2027 MFF was agreed (recovery from the COVID pandemic, Russia's invasion of Ukraine, high energy prices and a cost of living crisis), the EU has increasingly resorted to additional funds outside the MFF. It is too early to say what Member States' attitudes to a further increase in the MFF ceiling in the next programming period will be. But it is already clear that there are increasing demands on the EU budget, whether to fund defence spending, migration policy, the green and digital transitions, strategic industrial policy, or support for Ukraine during and hopefully after the war.

Given this budgetary context, the case for increasing the agricultural budget will require a much more compelling narrative than simply arguing that more money is needed to compensate farmers for the reduced value of direct support due to inflation. Clearly stating that area-based direct payments and most coupled payments would be phased out and CAP funding redirected to funding the green transition and paying for environmental services would be a narrative that could not only maintain existing funding (which is not a given) but also underwrite necessary additional transitional funding to support farmers in making the risky transition to more sustainable practices (akin to the distinction between the conversion payments and maintenance payments for organic producers). Given the path dependence of CAP reforms and the incentives for insider stakeholders to oppose measures that would limit their rents, there is a case to consider carving out a separate land management and transition fund managed by environmental authorities from the existing CAP to ensure a clear focus on sustainability objectives.[45]

In addition to the debate over the size of the CAP budget, two weaknesses in the CAP budget should be addressed. One is that the distribution of pre-allocated CAP amounts between Member States lacks a clear rationale. For EAGF (Pillar 1) direct payments there has been a gradual move towards Member State allocations based on uniform payments per hectare of eligible area, but EAFRD (Pillar 2) ceilings seem arbitrarily based on historical payments. Another weakness is that because ceilings are pre-allocated, payments are not linked to performance at the Member State level. This limits the incentive for Member States to include ambitious interventions in their CAP Strategic Plans because it does not attract additional funding. A move to allocate a share of the CAP budget on a demand-driven basis irrespective of national quotas, as is the case for EU competitiveness funding under instruments such as InvestEU,[46] should be supported.

V. Conclusions

The recent political pushback against specific legislative proposals implementing aspects of the European Green Deal in the farm and food sectors[47] reflects the fact that many farmers fear the impact of these measures on their incomes and farm viability. This paper argues that implementing the Green Deal measures is an urgent necessity to reverse the deterioration in environmental quality and to ensure a more sustainable balance between food production and natural resources. The way in which CAP resources are used needs to be re-examined in this light.

Nearly half of the CAP budget (including national co-financing) still goes to area-based and coupled direct payments intended as income support. These payments are poorly targeted, only partially effective, and make a very limited contribution to encouraging and supporting the changes in agricultural practices that are necessary. These payments should be gradually phased out and substituted by payments that reward farmers for providing environmental services and provide support to those farmers making the transition to more sustainable agricultural practices. There is a case for putting these payments into a separate land management and transition fund that would be administered by environmental authorities to ensure their sustainability focus. Such a transformation of CAP funding should be used to argue for additional budget resources for the agricultural transition in the next round of MFF negotiations.

While this transformation of CAP payments is the right thing to do, it would have the additional benefit of preparing the CAP for the foreseen accession of additional members, most notably Ukraine. Ukraine was granted candidate status in 2022. Leading political figures have called for membership negotiations to be completed by 2030 which would be in the middle of the next CAP programming period, even if this seems aspirational given the preparations that will be required both by the applicant countries including Ukraine but also inside the EU. Ukraine has 33 million

45 *Baldock, Bradley*, Transforming EU Land Use and the CAP: A Post-2024 Vision, Policy Paper (Brussels: Institute for European Environmental Policy, 2023).

46 Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017, OJ 2021 L 107/30.

47 COM(2019) 640 final.

hectares of agricultural land compared to 157 million hectares in the EU. Extending the existing model of direct payments to Ukraine would imply that around 17 % of the direct payments budget would be redirected to Ukraine. While this is not unthinkable (the enlargement to central and eastern European countries in 2004 and 2007 added 59 million hectares to the EU's agricultural area), the rationale for providing income support to Ukraine's much more competitive agricultural sector is less obvious. Ukrainian accession will thus likely further erode support for the existing model of direct payments. This makes it even more attractive to rethink the way the CAP supports farmers as the debate on the shape of the CAP post 2027 gets underway.