



*EU Environmental Policy Briefing**

Launch of the European Commission's CAP Health Check Proposals

23 May 2008

The Commission published its long-awaited formal legislative proposals for the 2008 CAP Health Check on 20 May 2008 in a presentation by Mariann Fischer Boel to the Agriculture Committee of the European Parliament in Strasbourg. The process started in November 2007 with the publication of the European Commission's Communication¹, setting out a set of broad proposals. Member States were invited to comment upon these proposals and a revised version, including draft legislative proposals, accompanied by an impact assessment, was produced for inter-service consultation in March 2008. The legislative proposals include the introduction of a new Council Regulation to replace Council Regulation 1782/2003², modifications to a range of Council Regulations on public intervention and direct aids³, and amendments to the European Agricultural Fund for Rural Development⁴ (Council Regulation 1698/2005) and the Community Strategic Guidelines⁵ (Council Decision 2006/144).

The publication of the formal legislative proposals will now be followed by an intensive period of debate and negotiation between the Member States and the European Commission. The Commission and Presidencies are aiming to reach political agreement on the Health Check proposals at the October Council meeting, with their formal adoption in November and publication in December. The European Parliament rapporteur on the Health Check is to be the Portuguese Socialist MEP Luis Capoulos Santos, who will produce a draft report on the proposals in July. This report will be debated by the Agriculture Committee in October and adopted in Plenary in November as the formal opinion of the European Parliament on the proposals, prior to the November Council meeting.

The aim of the Health Check has been 'to assess the experience of the 2003 CAP reform, and to introduce adjustments that simplify and increase the effectiveness of the policy, allowing it to respond to present market opportunities and face new challenges'. While the Health Check was never intended as a fundamental reform of the CAP, as has been constantly emphasised by Mariann Fischer Boel, it is significant insofar as it signals a future direction of travel and a continued orientation of the CAP away from production support towards strengthening the elements of the policy framework that focus upon maintaining and enhancing the delivery of public goods.

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While it may not go as far as some would like to see, particularly in relation to redirecting the focus of Pillar One support towards achieving public benefits, or in providing stronger means of retaining the environmental benefits of set-aside, some of the proposals, specifically those in relation to compulsory modulation, and the increased funds that would be generated for Pillar Two measures, are to be welcomed.

The broad tenor of the proposals remains consistent with the drafts that were subject to inter-service consultation and widely leaked in February this year. The main changes relate to the inclusion of a standard of Good Agricultural and Environmental Condition (GAEC) on water management, and the 'soft landing' for the dairy sector being phased in from 2009 rather than 2010, with annual one per cent increases in milk quotas. The key elements of the proposals are highlighted below.

Single Payment Scheme and SAPS

Moving to a flatter rate of support: The proposals give those Member States who applied a historic model to the SPS the option to switch the basis of support to a regional, flat rate model. This is in response to the fact that some Member States are reported to feel that historically based payments are increasingly difficult to justify. The proposals also allow for payment entitlements under both the historic and regional models to be reviewed according to a number of pre-established steps.

Eligibility for payments: Under the current rules, all those fulfilling the conditions of the regulations, whether they are farmers or not, are eligible for payments. Under these proposals, Member States are given the option to exclude those businesses whose main focus is not agricultural activity from receiving the single payment.

In addition, in order to reduce administrative burdens, and as a result of a proliferation of very small claims since the 2003 reforms, minimum eligibility criteria for the receipt of SPS or SAPs will be introduced. Member States will be given the choice on whether to do this by applying a minimum payment of €250 /ha or a minimum area (one hectare). All those currently operating SAPs already operate a one hectare lower limit. It is thought, therefore, that this proposal is not likely to affect many farms across the EU, although it may accelerate some structural adjustment at the lower end of the scale in terms of farm size.

SAPS: New Member States are to be given the opportunity to extend the application of the Single Area Payment Scheme (SAPS) until the end of 2013.

Decoupling

Partially coupled payments: The proposals signal a move towards increased decoupling in Pillar One through phasing out partially coupled support except for suckler cows and sheep and goats. Partially coupled support for the arable crops, hops and seeds sector will be integrated into the SPS with immediate effect, while allowance is made for a gradual phasing-in process for the beef sector in relation to the beef special premium and the slaughter premium. The justification for allowing the continuation of partially coupled support for the suckler cow and sheep and goats sectors is to ensure a minimum level of agricultural production in particular regions, where there are unlikely to be viable economic alternatives, in order to retain the environmental and social benefits linked to extensive livestock systems.

Energy Crop supplement: It is also proposed that the €45 per hectare payment for growing renewable energy crops, introduced in 2003, should be abolished. This payment is no longer seen as necessary now that the biofuel industry has become well established and it has been suggested by Mariann Fischer Boel, at a recent event, that the money saved would be used to invest in second generation biofuels.

Milk Quota

The proposals for the phasing out of the milk quota system by 2015 remain. The need to ensure a 'soft landing' is stressed, with the proposals changing slightly to incorporate a one per cent increase of quota annually from 2009, rather than from 2010 as was previously the case. The impact assessment suggests that this will lead to an increase in milk production of 1.3 per cent, with a price decrease of 2.7 per cent following the abolition of quotas in 2015. A review clause has been introduced, whereby a report will be produced in 2011 to assess market developments.

Set-Aside

From an environmental perspective, the solutions provided for retaining the environmental benefits of set-aside are weak in comparison to some of the other proposals outlined, and likely to present challenges for the UK in particular.

Because the potential for environmental loss associated with the abolition of set-aside is mainly considered to be an issue for France, Germany and the UK, an EU wide approach to tackling the problem has not been provided. For this reason, the suggestion for the introduction of a compulsory percentage of the arable area to be managed as an 'environmental priority area', put forward by a number of environmental organisations, does not feature as a proposal. Instead, additional provisions are included within the GAEC standards, in relation to buffer strips and landscape features. However these are relatively modest, and already used to a significant degree in the UK. In addition, the focus on using Pillar Two to incentivise appropriate management where it is required will put pressure on already stretched rural development budgets, particularly in the UK where it is unlikely that any additional money will be available.

The Commission continues to question the scale of the problem, stating that the majority of set-aside land has moved over time and is now located on the most marginal land and is not, therefore, at high risk of being ploughed up. However, this would appear to be at odds with estimates that suggest that removing set-aside could bring up to three million hectares of land back into production, with this increase in productive area, combined with improvements in crop yields, providing an additional 12-15 million tonnes/cereals for either food or biofuels⁶. Given that commodity prices for cereals are likely to remain high for the foreseeable future, and that the efficacy of the tools proposed are dependent on their use and implementation within individual Member States, it is still far from certain that significant environmental losses will be prevented.

Cross-Compliance

The main changes to the cross-compliance provisions relate to the inclusion of additional GAEC standards in relation to water management and landscape features. Annex III of the new draft common rules regulation (previously Annex IV) includes a

new 'issue' in relation to the 'protection and management of water' in order to 'protect water against pollution and run-off and manage the use of water' and two new related standards:

- the 'establishment of buffer strips along water courses', which is intended to retain some of the environmental benefits provided by set-aside as well as improving water quality more generally; and
- 'respect of authorisations procedures for using water for irrigation'

The existing standard relating to the retention of landscape features has been extended to include specific mention of which landscape features should be retained. This includes hedges, ponds, ditches, trees in line, in group or isolated and field margins. It is hoped that this will encourage greater coverage of such features within Member States' implementation of GAEC and is also intended as a means of retaining some of the environmental benefits of set-aside.

Despite much discussion about potential changes to the list of Statutory Management Requirements, all key environmental SMRs remain, although some of the articles under the Wild Birds (Article 7) and the Habitats (Article 15) Directives have been deleted as they were not considered relevant to farming activities. The Water Framework Directive has not been added to the list of SMRs as this was seen as premature, given that operational programmes will not be fully implemented until December 2012.

Article 69 (now Article 68)

The proposals in relation to Article 69 have not changed significantly from previous drafts, although it has become Article 68 within the draft new regulation and is entitled 'Assistance to sectors with special problems'. It is proposed that Member States should continue to be allowed to retain up to 10 per cent of their national ceilings for direct payments to provide support to specific sectors, but the menu of options for which this support can be used has been expanded, and the deduction of farm payments would cease to be sector specific. It is also proposed that the use of this option should be extended to those Member States operating SAPS, who are currently excluded.

The additional purposes for which the funds can be used, beyond the current objective of protecting the environment or improving the quality and marketing of products, include payments for disadvantages faced by specific sectors (dairy, beef, sheep and goats, and rice) in economically vulnerable or environmentally sensitive areas; top-ups to existing entitlements in areas where land abandonment is a threat; and support for some risk management measures such as crop insurance schemes for natural disasters and mutual funds for animal and plant diseases.

In raising the resources to be used for this type of support, a linear/across-the-board reduction needs to be made to entitlements allocated to farmers and/or from the national reserve. The intention is that these provisions should complement the move towards a net overall increase in the decoupling of Pillar One support. For this reason, support that does not clearly meet WTO Green Box conditions is limited to 2.5 per cent of national ceilings. This includes any support for types of farming important for the protection of the environment, support to address specific disadvantages, and support for mutual funds. In addition, annual payments for addressing disadvantages

experienced by specific sectors can only be provided if the Member State concerned is operating fully decoupled support within that sector. This would appear to suggest, however, that this measure could be used to re-introduce coupled support for specific sectors, albeit targeted more specifically at ‘economically vulnerable or environmentally sensitive’ areas.

New schemes to be operated under a revised Article 69 will be implemented from 2010 onwards. There has been little transparency in the operation of the existing measure and it is unclear whether or not this will be significantly improved under these proposals. For example, there is a welcome new provision whereby the Commission will set out conditions for the granting of support, to ensure consistency with other Community measures (ie agri-environment) and policies, and to avoid ‘cumulation of support’ by requiring payments to be based on ‘the additional costs incurred and income foregone to fulfil the objective concerned’. However, it is not yet clear whether or not a formal approval process will be put in place, nor do there appear to be any reporting requirements proposed to ensure that this measure is not used in a way that is counter to the Commission’s stated direction of travel for the CAP.

Modulation

Despite opposition from all Member States, the modulation proposals remain intact. Even the UK, a supporter of modulation, finds the proposals problematic due to the fact that any increase in compulsory modulation will need to be accompanied by a corresponding reduction in voluntary modulation, potentially leaving the UK with no additional funds available for use within Pillar Two.

In addition to the current five per cent rate of modulation, which will continue to operate as it does currently, with the same redistribution criteria, an additional basic rate of modulation will be applied to all payments above the €5,000 franchise, increasing by two per cent annually from 2009 until it reaches eight per cent in 2012. The progressive element means that additional rates of modulation are applied, in three per cent bands, depending on the size of direct payment received. New Member States (not Bulgaria and Romania) will become eligible for modulation in 2012 at a three per cent rate.

Thresholds (€)	2009	2010	2011	2012
1 – 5,000	0	0	0	0
5,000 – 99,999	2%	4%	6%	8%
100,000 – 199,999	5%	7%	9%	11%
200,000 – 299,999	8%	10%	12%	14%
Over 300,000	11%	13%	15%	17%

The need for an increased transfer of funds from Pillar One to Pillar Two is justified by emphasising the renewed effort that will be required to respond to the ‘new challenges’ of climate change mitigation, renewable energy, water management and biodiversity through rural development programmes. Feedback from a number of Member States indicates that they have insufficient funds within existing rural development programmes to fully meet these requirements as a result of budgetary pressures arising from the outcome of the Financial Perspectives agreed in December 2005.

Figures suggest that the modulation proposals will provide an additional €4.9 billion for rural development between 2010 and 2013 (excluding additional Member State co-financing, which will be of a similar order). This is in addition to the €8 billion that is generated already from the existing five per cent rate for the whole of the 2007-2013 programming period. All additional receipts will remain within the Member State in which they were generated and Member States will be required to use the money to meet the new challenges identified (climate change, renewable energy, water management and biodiversity) through their rural development programmes. The resulting increase in funding for rural development programmes will differ between Member States. Estimates⁷ indicate that this will lead to significant increases (over 55 per cent) in the rural development budgets for Member States such as Belgium, Denmark, France and the Netherlands, for example (assuming current levels of co-financing are continued). However, for the UK and Portugal, it is unlikely that any increase in funding for Pillar Two will result, given the concomitant reduction in voluntary modulation required. This leaves significant questions unanswered about the implications for these two Member States for meeting the new challenges, and for retaining the environmental benefits provided by set-aside in the UK specifically.

While the proposals for an increase in compulsory modulation are to be welcomed, given the increased availability of funds for rural development programmes that this will bring for the majority of Member States, it remains to be seen if they will survive intact given the extent of opposition from Member States experienced to date. Many are clearly opposed to the earmarking of the additional funds to the 'new challenges'.

New Challenges

The Commission has highlighted the need for greater and renewed effort to respond to new and ongoing environmental challenges facing rural areas in relation to climate change, renewable energy, water management and biodiversity. In particular Europe's commitments in relation to CO₂ emissions, the targets for the amount of energy to be generated from renewable sources, to halt biodiversity loss and the Water Framework Directive are highlighted. The key means for meeting these challenges is seen to be through incentive payments rather than compulsion, although, as previously mentioned, some amendments to cross-compliance have been made to better address water management issues.

The proposals require Member States to use the additional resources generated through the increases in compulsory modulation to reinforce actions under existing measures within Pillar Two to meet these challenges. A table of indicative types of operations and measures that might be deemed appropriate for each of the new challenges has been produced, as an Annex to the amended EAFRD Regulation, which includes measures from all Axes. These range from improving energy efficiency on farms, investments in infrastructure for renewable energy production, establishment grants for perennial energy crops and water saving technologies to land management activity more commonly associated with agri-environment schemes such as wetland restoration, reduction of fertiliser inputs or conversion of arable land to grassland. This is not intended as an exhaustive list and Member States may make use of any measure as long as the outcomes of the actions address the new challenges. There are, however, a number of proposed activities within this list that present doubtful value for money and would seem better placed either within cross-

compliance requirements (such as the application of low tillage methods or catch crops in relation to soil management) or provided for via the market (for example the establishing of energy crops).

Both the Community Strategic Guidelines (CSG) and the EAFRD regulation have been amended to reflect these changes. A new priority, 'addressing the new challenges', has been added to the CSG, and Member States are obliged to revise their National Strategy Plans and amend their rural development programmes to demonstrate how they will use these additional resources which will be available from 1 January 2010. No timetable or guidelines have yet been produced for this process, although the Commission has stated that they wish to make this process as simple as possible. It has been suggested that Member States may only be required to submit an 'addendum' to their RDP which demonstrates how the additional money is being used in relation to the new challenges. This will still require a significant effort by Member States over the coming 12 months and comes at the same time as revisions will need to be made to LFA schemes in terms of the areas designated and eligibility criteria.

Budgetary Implications

A financial statement accompanies the proposals⁸. Overall, the proposed reforms only provide limited financial savings through changes to market support and direct aids (€14 million in 2013); however, there is a redistribution of resources within the CAP. The main budgetary effects, therefore, comprise an increase in the proportion of direct payments that will be completely decoupled from production and the increased transfer of resources, annually, from Pillar One to Pillar Two, through modulation, estimated to rise to approximately €2 billion in 2013.

Initial Reactions from Stakeholders:

Initial reactions from stakeholders have been mixed, with environmentalists (Birdlife and RSPB) the most critical, particularly of the lack of vision shown by the proposals and the failure to address the potential negative environmental consequences of abolishing set-aside. MEP Friedrich-Wilhelm Graefe zu Baringdorf, representing the Green Party, called the proposals 'weak', saying that they represented the 'right diagnosis, [but] wrong therapy'. In particular the failure to require Member States to move away from a historical basis for direct payments and the focus within Pillar Two on biofuel production is felt to be misplaced. He has also insisted that the Health Check should be adopted on a co-decision basis by both Parliament and Council, rather than by mere consultation, although this appears to be at odds with the position of the other members of the European Parliament's Agriculture Committee.

Overall, however, the European Parliament has responded positively to the Commission's Health Check proposals, although some have raised concerns over the 'liberal' direction in which the CAP is being taken. There appears to have been general support for the Article 69 proposals and the proposals for increases in compulsory modulation to boost funds in Pillar Two, particularly as this was based on a suggestion put forward by the European Parliament in their report earlier in the year⁹. Luis Capoulas Santos, the EP's rapporteur for the Health Check, has stated that he would like to see more evidence of the practical implications of the proposals.

Farming organisations have also given the proposals a cautious welcome, although they are critical of the proposals for increases in compulsory modulation, particularly

the progressive element. The NFU is concerned that the proposals do not go far enough in providing a level playing field across Europe, citing the continued ability to employ partially coupled payments in some sectors and the potential use of Article 69 to recouple payments to production as examples of this. The UK Minister for Environment Food and Rural Affairs, Hilary Benn, has welcomed the proposals and the shift in emphasis towards the environment, but stressed that ‘the Health Check must also phase out all the price support measures which have kept consumer prices high and the export subsidies which have undermined farmers in developing countries’. The French reaction has been significantly more guarded, with the Government stating that, while the proposals are not directly opposed to the French position, they may need to re-evaluate this situation during the French Presidency, particularly if commodity prices remain high (as they are expected to do).

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