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The CAP in quest of legitimacy

Two studies by Daniele Bianchi and Nicolas-Jean Brehon

ABSTRACT

On the eve of the G20 Agriculture, which will take place on 22nd and 23rd June next, it is clear that from the spectacular increase in agricultural commodity prices over the last few years to the bacterial E-Coli sanitary crisis, agriculture is the focus of debate and will remain so, notably on the occasion of the upcoming negotiation of the European Budget (2014-2020).

The Common Agricultural Policy (CAP) is one of the most important common policy: decisions taken by 27 and implemented by 27, the agricultural sector is almost entirely funded by the Union. However the reforms of the Common Agricultural Policy (CAP) have not succeeded in rising to the challenges of the agricultural world because they do not address the heart of the matter: the CAP is experiencing a political legitimacy crisis. How can a policy continue functioning if it no longer makes sense and has no support? Defining the CAP other than declining its acronym is a challenge. From the start the CAP has constantly been criticised. There is a gulf between societal expectations and the agricultural world, particularly from an environmental point of view. The CAP is now facing a generalised confidence crisis.

Will the European Union succeed in reforming the CAP? The idea behind the ongoing reform is to overhaul the CAP and base it on public goods, which are complementary to agricultural products and just as useful (countryside, environment ...). The application of this theory should lead to a greening of the CAP comprising an increase in environmental aid. But is greening the right answer? Emphasis on the environmental consequences of farming responds to a demand and probably also to a fashion. Is it enough to justify the reform of the CAP?

How can the link with the citizen be made again? The first issue focuses on the general orientation of aid. Directing the CAP in its majority towards support for food production has not proved possible. However several crises have recently given a new profile to food security and should encourage us to get our priorities right. The second issue addresses the equity of aid distribution between farmers and between sectors. Maintaining budgetary aid when prices are high is questionable. In the bid to produce a policy that matches present societal expectations– ecological, citizen – we might forget that the CAP also concerns farmers. Their concerns focus on price volatility, water, clearly the challenge of the century. The reform has to look to the long term.

Concerned at making its contribution to the debate on this fundamental issue the Robert Schuman Foundation has published two studies that give two specific views of this extremely topical theme. After fifty years of "crisis", a real agricultural policy, together with a real environmental policy could provide the CAP with new direction. After fifty years of "crisis" this might be the last chance to save the CAP.

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First study by Nicolas-Jean Bréhon: the CAP on the quest for legitimacy

Agriculture experiences crisis after crisis. The issues change and the pace reaches vertiginous speeds: the collapse of milk prices one year ago, the rise in cereal prices at present, green algae, farmers committing suicide, price volatility on the G20 agenda, drought, health crisis ... However, year after year the Common Agricultural Policy (CAP) moves on, reform after reform. This repetitive process shows that after its initial success the CAP has run out of steam. The reforms that are started have not succeeded in rising to the challenges of the agricultural world because they do not go to the heart of the matter: the CAP is experiencing a political crisis of legitimacy.

A policy is legitimate when its base is sound, when its goals are shared, when support is sustainable. None of these conditions are currently being fulfilled. However can a policy be sustained when it no longer makes sense and has no support? This paper offers a citizen's interpretation of the situation. The next CAP reform provides an opportunity – will it be the last? – to recover that lost legitimacy.

I. THE LEGITIMACY CRISIS

A. The CAP no longer makes sense

1. The transformation of the CAP

a. Change of content

Over the last twenty years the CAP has experienced major transformation. Originally it was closely managed and is based on three factors: remunerative prices, border tariff protection measures, and almost guaranteed outlets by way of "community intervention", a key concept behind the CAP[1]. The States, which have all of these levers at their disposal[2], have proved themselves incapable however of setting effective regulations when they still have time. At that time "a good minister is one who gets a good price"[3]. Everything else was put off until later. Reform became necessary at the beginning of the 90's to fight excess production and budgetary folly. Three major reforms changed the CAP: that of 1992, which created direct income support in compensation for price decreases; that of 1999, which completed the economic oriented CAP with a second pillar devoted to rural development; that of 2003, which generalised direct income support by decoupling it (making it independent of production and by subordinating their payment to the respect of community rules, notably those pertaining to the environment (conditionality).

All of these reforms, inspired by liberalisation, gave rise to a new CAP. Agricultural prices, determined by the market, are linked to world rates. As far as foreign trade is concerned, agricultural levies on the borders have been abandoned and refunds – export subsidies – are now being phased out. As for intervention, the core of the old policy – it remains as a symbolic relic. The new policy focuses on a system of direct income support payments. Reform after reform, the CAP's spending structure has been transformed. In 1990 intervention and export support spending represented 90% of the CAP's budget. Now nearly 70% of this is affected to farmers' income support[4].

The aim of the reforms has been achieved, excessive production has ceased, spending has been brought under control. But in the same way that the old CAP had perverse side effects, the drawbacks of the new policy soon became clear. Content remains, but the CAP's content has changed. The CAP has become increasingly less political (it was presented as a tool kit in the 2007 Health Check), less common (so different are the support schemes from State to State), less and less agricultural (rural development is a patchwork, mixing rural matters, environment and social aid, but there is no direct link to production).

1. *When market prices are deemed inadequate the Council decides to regulate the offer by means of intervention ie mainly via stocking, that is meant to be temporary, of surplus produce.*

2. *Every year the Council sets prices, intervention conditions, and even production quotas and associated penalties.*

3. *Philippe Chalmin, quoted in the information report by Jean Bizet, Jean Paul Emorine, Bernadette Bourzai, Odette Herviaux, Redonner un sens à la PAC, Senate, N°102 (2010-2011), p.12*

4. *These two entries – intervention and refunds – only now represent 15% of the budget. The remaining 15% are affected to rural development.*

b. The CAP's change in nature

This reform has tolled the bell of both a political and agricultural ambition. The CAP has changed from being an agricultural policy, globally oriented to supporting production, to a support policy for farmers. Until 1957 the States which chose to create an Agriculture Ministry aimed first and foremost to satisfy the agricultural world. The CAP really was part of a general economic approach that aimed to develop a production tool, to guarantee food independence and to foster international profile. Refunds were an example of this approach, which went beyond the simple interests of the farmers because those exporting also benefited, ie traders and industrialists and not the farmers directly. The CAP has returned to being a support policy for farmers. The political CAP was just an historic parenthesis.

Hence the CAP has shifted from being a production policy by means of prices and guaranteed outlets, to an income support scheme. By doing this the CAP has changed from being an economic policy and has become a social one. This development has grown even more acute over the last few years. Because, as food production prices tended to decline, becoming insufficient to guarantee agricultural income, direct support has taken an increasing place in producers' incomes rising to 60% on average in the EU but to 80% in France[5]. Without direct support one third of European farmers would cease activity within the year[6]. Only 20% would be able to survive without support. The system that has been created by Europe has placed farmers on a drip. The CAP, an economic policy, has transformed into being one of assistance and solidarity.

2. Loss of References

a. What is the CAP for?

The question is a simple one. However explanations are always muddled. According to the terms of the Treaty the CAP aims to "increase agricultural productivity, thus to ensure a fair standard of living for the agricultural community, to stabilise markets, to assure the availability of supplies, to ensure that supplies reach consumers at reasonable prices [7]." Whilst the CAP has changed radically, the treaty has not been modified since 1957. The Union has not succeeded in redefining its goals. This inertia "reveals the extent of disagreement on the very foundations of the CAP"[8]. The States prefer to retain an empty institutional shell rather than fight to define new goals. Indeed what remains of the Treaty goals? The fair living standards for the agricultural community and market stability have been abandoned. Reasonable prices for consumers owe nothing to the CAP because the final price is disconnected from the price paid to producers. Guaranteeing the availability of supplies is refers too strongly to the war years. Only the goal of productivity or its modern corollary – competitiveness – remains topical. Of the five goals quoted only one remains.

Internet research results are barely more edifying. The first link states: "developing and modernising agriculture in Europe". What does the European Commission have to say? "The CAP guarantees loyal competition and common standards for the quality and security of our food supplies. It also contributes to the smooth running of the single market (thanks to which) we have a great variety of products"[9]. This presentation says nothing about community aid or the goals set by the Treaty! The French Agriculture Ministry does better but remains confused mixing economic, social, environmental and territorial objectives[10].

So, what is the CAP for? Defining the CAP other than just declining its acronym is a challenge. Can a policy be legitimate in the citizen's opinion if a simple, basic question leads to a confused, embarrassed answer at best? Or, worse still, an embarrassing answer! Nearly 70% of the CAP is devoted to direct support. So, what is the CAP for? It is mainly used to support farmers' incomes. This is a severe, but lucid summary of the present situation! Basically the CAP has been watered down significantly.

b. How can direct support be justified?

Even direct support struggle for justification. Three explanations have succeeded each other. Historically the establishment of income support, decided upon in 1992, was linked to a loss of revenue in the wake of price decreases. Incidentally, support was called "compensatory payment". But should compensatory aid continue ten years on? The expression was abandoned in 1999 and replaced by "direct support" then in 2003 by "direct payment" or "single payment". The reform established a Single Area Payment Scheme (SAPS) per

5. *INSEE, the weight of direct support in agricultural revenue, http://www.insee.fr/fr/ffc/docs_ffc/ref/revaind09g.PDF*

6. *http://www.momagri.org/FR/editos/Tous-les-pays-europeens-ont-besoin-de-mecanismes-de-regulation-pour-soutenir-leur-agriculture_703.html*

7. *Article 39 of the TFEU*

8. *Jean-Christophe Bureau , la PAC après 2013, futuribles n° 369, December 2010.*

9. *European Commission, agriculture and development, FAQ "what is the CAP for?" http://ec.europa.eu/agriculture/faq/why/index_fr.htm .*

10. *http://agriculture.gouv.fr/IMG/pdf/pac_zoom-1.pdf "A quoi sert la PAC?*

farm – which was no longer linked to production. The initial idea of payment to compensate for loss of revenue has disappeared. The European Union privileges the comfort of permanent, stable support which is accepted by the World Trade Organisation[11].

For some years now a new explanation has been popular in agricultural narrative and literature which heralded a return to the idea of compensatory aid. But the reason behind it has changed. It is no longer about compensating for price decreases but rather compensating for specific production conditions set by the Union, particularly in application of European environmental rules. The idea is not totally wrong. It is justification a posteriori. Justification that is not enough to compensate for the horrible impression the single payment scheme leaves us with.

B. The CAP, its critics and loss of support

1. The CAP has to face increasing criticism

a. Usual Criticism

From the start the CAP has suffered constant criticism. The oldest reproach refers to its budgetary cost - 57 billion € of the European budget in 2011. The CAP = 100€ per year, per capita. 100 € is less than the TV licence in France, to be used to ensure food security, for a profession that is still one of the hardest in modern society – is this too much? 57 billion per year is a sum comparable to the American Farm Bill's 307 billion $ over five years. But the CAP budget is also 1000 billion € in 20 years. Many Member States believe that although the CAP is not the "budgetary giant" it was, it still occupies too great a position in the community budget and prevents Europe from funding activities which are presented as having a higher return: research, environment, etc.

The system also embodies major inequity. First of all there is an unequal, internal distribution of aid between sectors and between beneficiaries since 80% of aid goes to 20% of farmers. Some payments made to large land owners have been devastating for the CAP's image and also in terms of its social acceptance. Inequality can also be seen between Member States since the new members of 2004 and 2007 are subject to an exemption regime which means a progressive application of the direct aid scheme. Hence aid calculated per hectare varies from 83 € (Latvia) to 521 € (Greece).

The third criticism is that the CAP is "production oriented" The CAP, which has been totally oriented towards increasing production, facilitated by fertilisers and pesticides, has forgotten, or worse, spoilt and soiled the environment.

b. A general confidence crisis

The CAP is facing a general confidence crisis. New shortfalls have emerged. Firstly there are doubts about its effectiveness. "For thirty years the CAP could be proud of its results. The Treaty's goals were achieved overall. Shortcomings were hidden behind economic results (…). But the administration run CAP acted as an opaque filter which desensitized the agricultural world in terms of new competitors and internal disputes. Every year led to new doubts.[12]" Doubts over the effectiveness of the reforms; doubts amongst the farmers themselves, whose weight in sharing added value has continuously decreased[13]. Finally repeated sanitary crises also make things extremely awkward for the CAP's credibility.

Community disillusionment. Presented as a model of integration and a symbol of European solidarity, the CAP is the focus of rivalry and crystallises opposing ideas. A certain weariness surrounds the debate over the CAP which is still source of friction between Member States. Incidentally how far does the community solidarity, which is always publicly spoke of, really extend? During the milk crisis of 2008-2009 and, on the sidelines of official attitudes in France and Germany, farmers in both States adopted two totally different strategies: the former reduced their production to restore prices, whilst the latter increased theirs to compensate for price reductions via volume. A similar approach did not prevent two different strategies from being adopted in the field.

Reform – a mockery. The single payment scheme is curious to say the least. According to the decoupling principle, direct aid is paid independent of production and sales prices. Hence whether the farmer produces or not, whether the sales price is high and remunerative or not, payment to the farmer is the same. The Union has simply restored land rent! The French clumsily qualified this aid as "single payment entitlement"

11. *New justification is based on the fact that direct payments are coherent with WTO rules which ban aid that distorts competition between States such as export aid or production aid, now filed in the "orange box", whilst income support is allowed and filed in the "green box" because they are not supposed to lead to competition distortion.*

12. *Senate N°102 (2010-2011), op. cit., p. 21.*

13. *Twenty years ago this division was made in thee equal parts, between producers, industrialists and distributors. In 2005 the farmers' share had declined by 25% whilst the other two split what remained between themselves.*

lending credit to the idea that farmers had the right to a subsidy, calculated according to an "historic model", based on amounts received between 2000 and 2002! Michel Rocard spoke of the "hypocrisy of the DPU (droits à paiement unique)"[14]. It goes without saying that the system is both scandalous and absurd. How can a system like this be legitimated? "Quite rightly farmers demand prices, not bonuses but when prices are high they receive both. Hence are these DPU's or DPI's (droit de paiements iniques/iniquitous payment entitlements)? A local representative confessed: 'fortunately people don't know what is happening otherwise there would be a revolt.'[15].

The CAP is about to explode This is the inheritance of the reforms that have been desired and approved over the last twenty years!

2. A Loss of Support

a. Loss of faith on the part of the agricultural world

It is not the least of paradoxes to see that farmers, the beneficiaries, are the ones who are most hostile to the CAP! How can this rift be explained? The transfer from one attitude to another was sudden. In fifteen years all agricultural sectors have had to face the shock of competition. Under the influence of the world market, liberalisation led to major price instability, and this went together with a feeling of deep disarray on the part of farmers who faced what they felt was injustice and abandonment. Farmers feel that they do their work conscientiously; the single payments are subject to environmental and social conditions that are not part of any other European policy. Farmers hope to be able to earn a living with remunerative prices. However, in some years, prices barely cover costs and the single payment provides income. In some sectors European aid has even become a condition for survival. The CAP has succeeded in creating a paradox, whereby farmers are forced to defend a system that deep down they reject!

b. The ambiguous game played by the institutions

Due to its degree of communautarization the CAP is an example of a policy of which the Commission, the initiator of reforms, could be proud. But this is not the case. Even though the new Agriculture Commissioner, Dacian Ciolos, heralds a change in approach, the Commission contents itself with the management of a tool in which it no longer believes, since in general it supports liberalisation in all areas. In these conditions the crises are seen as a type of selection test, which will give rise to future European champions who are able to face international competition. So the Commission maintains aid which, in its heart of hearts, it would like to dismantle.[16].

The interests of the Member States, the main decision makers in terms of the CAP, until the Lisbon Treaty[17], are various. "Enlargements, notably the UK's accession, highlighted doubt over the pertinence and even the legitimacy of the CAP[18]". With 27 members positions on the CAP range from total support to the most vehement hostility. Some countries, which are totally oriented towards the free market in all areas, reluctantly subscribed to a regulatory CAP and have constantly wanted to change it. In the UK, aversion to the CAP seems to take the shape of cultural mortar. "In spite of several radical reforms the CAP is torn between various views of the role to be played by European agriculture (export strategy, territorial development, and societal dimension)"[19]. Many States are torn between the CAP and other policies or directions that are deemed to be more in line with their own interests[20].

c. The Rift with Public Opinion

The rift with a part of public opinion is most serious. Firstly, there is a general lack of understanding of public support of agriculture. Although, in France at least, a part of society is sympathetic towards agriculture, it cannot be denied that hostility is rising. Newspaper columns and programmes on agriculture often cause aggressive response. Farmers are the only ones whose incomes are subsidised by the community budget. Why? Are they the only ones helping to build Europe? Especially since people might sometimes wonder what the real reasons are for this public aid. Is it to guarantee Europe's food independence – is it threatened or is it an attempt to gain the favour of an influential group?[21] All of this together creates a certain amount of suspicion about the CAP[22].

14. *Michel Rocard, in the preface to Henri Nallet's book, L'Europe gardera-telle ses paysans ? Jean Jaurès Foundation, 2010*

15. *Nicolas-Jean Brehon , "Redonner du sens à une politique qui n'en a plus", Le Monde, 29th January 2010*

16. *Symbol of disaffection: the word agriculture has disappeared from the columns of the multi-annual financial framework 2007-2013. The CAP has been drowned in a mass "protection and preservation of natural resources".*

17. *Since the Lisbon Treaty, the European Parliament which for many years was left out of the decision making process now co-decides on teh CAP.*

18. *Jacques Bourrinet, réflexions sur l'avenir de la PAC, RMCUE N° 449, June2001*

19. *http://www.invivo-group.com/imprimer-dossier/19/view/all/la-pac-est-elle indispensable?*

20. *This is notably the case in Germany. « Le Mercosour est pour nous un marché potentiel. S'il faut accepter de payer un prix pour y avoir accès (en sacrifiant la PAC ?), on l'acceptera .» Senate, op. cit., p. 19.*

21. *The electoral weight of the farmers' vote in France is estimated at 15% of the electorate. Henri Mendras, Français comme vous avez changé, Tallandier 2004, p. 36. The fall in popularity of the President of the French Republic in the agricultural world – from 87% to 47% between September 2007 and February 2010 – is undoubtedly linked to a sharpening of his approach to the CAP.*

22. *The extremely ecologist position of Mr Jean-Louis Borloo on the CAP reform and the reaction of many agricultural leaders probably affected his rejection when it came to his possible appointment as prime minister.*

But above all there is a gulf between society's expectations and the agricultural world. This is particularly true in the environmental area. The damage caused by production oriented agriculture has been decried many times. "In one generation the character of the food-providing farmer has been replaced by that of the farmer-polluter, the fear of poisoning has replaced the secular fear of penury."[23]. There is a great deal of exaggeration and injustice in these accusations that are given high media coverage[24], but the agricultural world has underestimated the strength of the ecological movement and social expectations. The regulatory response, in the shape of eco-conditionality, satisfies neither the farmers nor civil society. There remains a gulf between the efforts made by the farmers and the damage caused by the images portrayed in the media. Every year new accusations are published: nitrates in the water, pesticides in food, greenhouse gas producing cows, breeding conditions etc The farmer silently takes this aggression. On the defensive, farmers have lost the media battle which, in fact, they never waged. The CAP has now lost its political legitimacy.

II. THE CAP ON THE QUEST FOR LEGITIMACY

A. The current choices

1. The reform of the CAP, a credibility test for Europe

Will the European Union succeed in reforming the CAP? The legitimacy of the reform and the upkeep of the CAP means fulfilling two conditions. The first is the ability to renew the agricultural debate, which implies looking at it from a political point of view. The second is to respond to the public's expectations.

a. Getting the CAP out of its rut

Without denying the decisive importance of the budgetary debate, it might be useful to redefine objectives before looking at the means. It is up to the Union, since for the very first time, basic debates preceded those on the budget[25]. It is vital to emerge from the financial debate. Farmers cannot defend the CAP with the simple justification that it guarantees part of their income. The argument is founded but weak. "Farmers are fighting for a decent wage and we can understand them. But by doing this they are undertaking an individual battle, whilst the issue is essentially a collective one. The demand is financial, but the solution is political. By insisting stubbornly on income farmers relinquish the support they might find if they asked the right questions[26].

The agricultural debate often encounters stumbling blocks. Thirty years on it is not rare to hear people talking of the "butter mountains" or of the devastating effects of refunds on production in Africa. It is also quite common to hear people talking of the virtues of organic production, which has been raised to stand as the only model. Whilst stocks and refunds have almost disappeared, which the new global competitors would have exported with or without European refunds, since they care little for western ecological and urban precautions. In the French tradition all debate is designed to bring farmers into opposition: small against big, organic against polluters, etc ... and yet there is room for various modes of farming, a competitive model growing arable crops with large farms present on the international markets and a local agriculture, which is just as necessary, but which inevitably implies public support.

But the French are always suspect when they defend the CAP. They willingly appeal to its grand principles – the CAP is the only community policy that has taken integration so far – but everyone knows that when France defends the CAP it is also defending its own interests[27]. All States act like this. Unfortunately France does not do it without making blunders. The old regulatory CAP is still the secret dream of many French farmers, whilst the word "regulation" has been banned by several of our partners, either out of pragmatism, or ideological choice, or because it is a reminder of a difficult past. The highest authorities in France talk of the "community preference" principle which, as it stands, has little chance of being taken up by our partners. One century after the Méline tariff, France maintains a protectionist attitude and fails to renew its ideas.

b. Overhauling the CAP

The first condition lies in the political area, in which the real challenges facing the CAP will have to be redefined. It is shocking that the Treaty,[28] which is

23. *Senate, N° 102, op cit, p. 73.*

24. *Without denying that there are some unacceptable excesses, extreme caution is a recommendation not to be underestimated when it comes to criticising farmers. It would be fair to define the risk and danger of the practices being criticised. Likewise the fashion of organic farming seems naïve sometimes given world competition and cannot be a model to apply generally to all farms.*

25. *The report by MEP Georges Lyon was adopted in July 2010. The Council still has not said what its position is, but France and Germany published a common declaration on the future of the CAP on 14th September 2010. Finally the Commission published a communication on 'the CAP towards 2020' on 18th November 2010 announcing regulation proposals for the autumn. Hence these three important initiatives were all published before the start of the grand budgetary negotiation on the next multiannual financial framework that is to cover the period 2014-2020.*

26. *Nicolas- Jean Brehon, "Manifestations paysannes et plans de champagne", Slate, 22nd October 2009*

27. *France receives around 10 billion € from the CAP yearly which makes it the first beneficiary from a budgetary point of view.*

28. *The treaty on the functioning of the European Union, the heir, since the Lisbon Treaty of the treaty establishing the European Community also called the Rome Treaty.*

the expression of legitimacy, should be eclipsed to this point. But the Treaty will not be restored without renewing the CAP's foundations. The outdated concept of food independence, should be reviewed in the light of the agricultural crises. Food security still makes sense, now possibly more than ever. Even the British, who are traditionally hostile to the CAP, have moved forward on this issue. Moreover it is easy to see the egotism in the choice of food dependence: "in the event of price rises wealthy Europe will always be able to pay for food produced elsewhere whereas the poor man will quickly be excluded from the market. Boats of wheat will always go there where the consumer pays the most."[29].

Moreover we have to have the courage to look at matters from the point of view of identity and culture. Agriculture is a factor of European identity. Whilst some States are tempted to follow simply the logic of performance and output to excess, others defend a model that takes the environment and territories into account, leaving space for man and good sense.[30] What type of agriculture will form tomorrow's market? Do we want cows in fields or in batteries? The agricultural battle is one of grass against cement. When the farmer disappears there will be nothing but concrete or desert. Is this what Europeans want? This is the challenge facing the CAP.

The narrative of identity is not counter to the economic goal of competitiveness which has to be accepted and upheld. It is the choice and requirement of several Member States. It is normal to want to create zones of excellence and competitiveness. The French have every reason to be devastated at having relinquished their position as the leading agri-food exporter to the Germans and must aim to take it back.

The second condition to restore lost legitimacy is to recreate a link with public opinion. Criticism, which is expressed regularly, has to be taken on board. This link inevitably means the inclusion of environmental aspects.

2. The Commission's Choice: public goods and greening

a. Agriculture, the supplier of public goods

Under the impetus of Anglo-Saxon universities and think-tanks[31], the idea was to overhaul the CAP based on the concept of public goods. Agriculture does not just provide agricultural output and food, it takes part in a general balance, a kind of societal eco-system, as a supplier of public goods. By public goods, we mean collective goods or services accessible to all (non-exclusion criteria) the use of which by an individual detracts nothing from its potential use by others (non-rivalry criteria). Public goods listed in agriculture are environmental goods, such as the countryside, biodiversity, water quality, the fight to counter climate change, carbon capture, participating in the fight to counter fires and floods, etc … There are also non-environmental public goods including food security, animal well-being, the vitality of the rural environment etc .

This idea, which is not very different from what economists called "positive externalities" and which the second pillar called "the multifunctionality of agriculture" has many positive aspects. It greatly increases the standing of agriculture since it associates two extremely positive words – "goods" and "public" – which mean more than "landscape gardner", which farmers consider an insult. The latter need society's acknowledgement and the idea of being of use to the public responds to this. Above all it would facilitate the justification of the greatly criticised public subsidies.

This idea does however encounter a series of problems. How do we make the transfer from the qualitative to financial assessment? What should the amount of aid based on biodiversity be? Above all, can we legitimise the CAP by basing it on such complex concepts? "A lot of explanation will be required to put such an abstract idea across (...) It is because politicians relinquished Europe's vocabulary to the experts that Europe has broken down."[32] We have to speak about the CAP simply. The reference to public goods does not seem to be the best way of achieving this.

b. The Greening of the CAP

"Greening" comprises linking community aid to environmental criteria. This idea forms the core of the Commission's Communication on the reform of the CAP[33]. The word environment is used 35 times, whilst farmer appears 20 times and food just once. The Commission puts forward a tiered support system, or as the Italians would say, "a lasagne system" with specific conditions attached to each layer. There would

29. Senate, op. cit., p.37.

30. "Les concentrations d'élevage pour augmenter les rendements jouent contre l'emploi et l'environnement". Stéphane le Foll , National Assembly, 4th November 2010. In the UK there is a farming project that plans for 8000 milk cows.

31. Notably see the Institute for European Environmental Policy (IEEP), provisions of public goods through agriculture in the European Union, a study prepared for the DG Agri of the European Commission. http://www.ieep.eu/publications/pdfs/2010/final_pg_report.pdf

32. Senate, op cit p.80.

33. European Commission, La PAC à l'horizon 2020 alimentation, ressources naturelles et territoire – relever les défis de l'avenir , communication of 18th November 2010, Com (2010) 672 final.

be basic support, the payment of which would be subject to current conditions and aid that includes an explicit environmental factor. "These could take the form of simple, generalised, non-contractual and annual environmental actions that go beyond cross-compliance and are linked to agriculture (e.g. permanent pasture, green cover, crop rotation and ecological set-aside....)". Finally there would be targeted support for poor regions or small farms. This third type of support would be facultative and coupled or linked to output.

Again this approach does not raise a uniform response. "An improved integration of environmental goals in the CAPs is necessary, unavoidable and unchallengeable. It offers only advantages. Agriculture has to be in line with society and society in line with this requirement".[34] French Agriculture Minister Bruno Le Maire often recalls that "greening will facilitate the re-creation of the CAP's legitimacy"[35] 57 billion € in subsidies undeniably comprise a lever to change practice that is deemed perfectible.

This option does however have its limits. The present system plans for eco-conditionality. Since this is about vital support to farmers should it go further than that? The problem is not about greening but "how to green and to what point? (…) In the CAP, the environment has its place but it has to find the appropriate place and not substitute the main issues."[36]. Greening must not lead to additional costs and legal insecurity. The other weakness of current greening is to set the environmental question in terms of constraints and threats. Should we not privilege a more positive approach to greening and the link between agriculture and the environment? Agriculture which recycles its waste, by the methanisation of agricultural and food waste [37] for example, would fit perfectly with the environmental goal, mixing research, industrial projects and becoming an exportable model which the current greening scheme does not offer.

Is greening the right response to the CAP crisis? The insistence on the environmental effects of agricultural activity responds to a demand, to pressure and probably to fashion. Is it enough in order to serve as a base for CAP reform?

B. The Forgotten Ideas

1. The almost total abandonment of food

a. Is the CAP a food policy?

How can the link with the citizen be created again? "The CAP will only be rescued if public opinion believes it useful - not just be profitable to farmers, but useful to citizens and to consumers. Therefore European aid has to be directed towards what interests them: food (...) In agriculture there are sectors to which citizens are sensitive and there is support which goes into the farmers' pocket. We have to choose between the two"[38]. This was the reason behind the call to transform the CAP into the CAFP (Common Agricultural and Food Policy[39]).

This recommendation was not taken up. It was scoffed at for a being a statement of the obvious[40]. Its first ministerial version was immediately stopped[41]. Even the European Court of Justice, after the European Court of Auditors, deemed that food aid to the poorest was not a matter for the CAP but was one of social policy[42]. In its Communication on 18th November 2010 the Commission employs the word "food" only once (in the title!).

Acknowledged. However the Union deprives itself of a means of support that is used widely in the world and perfectly accepted by the public, as in the American system[43]. Europe had a simple means of re-legitimising the CAP at its finger tips but it was excluded immediately. In the current system income support is granted to the farmer but what he produces is of little importance: wheat, meat, tobacco, bio-fuel etc ... The redistribution of aid between sectors and beneficiaries would undoubtedly have been too much to have been politically bearable.

But the food debate may arise again.

b. The topicality of food security

Two recent crises have provided food security with a new profile. On the one hand, even if Europe seems not to be under the threat of food riots which occurred in 2008, food security has become an issue again in the context of world food crises. In Europe risk associated with physical penury seems low, if not inexis-

34. *Jean Bizet, Senate, debate on the CAP, public session 11th January 2011.*

35. *Bruno Le Maire, Senate, 8th June 2011.*

36. *Jean Bizet, Jean Paul Emorine, France agricole, January 2011*

37. *Most methanisation in Europe is undertaken using crops devoted especially to this as in Germany for example where 650,000 hectares of corn are grown for methanisation. The mix with food waste would also be interesting, like the project Biogaz Valley in Aube.*

38. *Nicolas-Jean Brehon, « La PAC est morte, vive la PAAC », Le Monde 30th January 2010*

39. *N.-J. Brehon, « L'agriculture européenne à l'heure des choix », Foundation Robert Schuman Note October 2008.*

40. *Voir notamment Henri Nallet, l'Europe gardera-t-elle ses paysans ? Jean Jaurès Foundation, 2010*

41. *The Agriculture Ministry which became the Ministry of Food, Agriculture and Fisheries in May 2010 – we should note the word order – became the Ministry of Agriculture, Food, Fisheries, Rural Matters and Urban Development –MAAPRAT- in the Fillon government of November 2010.*

42. *Decision of the Court of Justice 13th April 2011 (aff. T576/08). The Court of Auditors adopted this position also (special report n° 6/2009).*

43. *Two thirds of American State support decided as part of the farm bills go towards food programmes. Never has the American public opinion seemed to question the legitimacy of this support.*

tent. However the social risk associated to food price rises cannot be underestimated. An increase in the share of food in household budgets would threaten an historic decreasing trend and lead to a serious risk of economic destabilisation, notably in the banking sector (since income margins available to reimburse loans would be reduced by as much). Deciding to reform the CAP simply from an environmental point of view and ignoring these two issues – agricultural supplies and prices – would not be very responsible.

On the other hand the extremely serious sanitary crisis associated with outbreak of a fatal bacterial infection in Germany in the spring of 2011 must serve as a wake-up call for Europeans. Constant vigilance of the food chain is not enough to eradicate risks set by food completely. Every now and again crises occur in Europe, whether this involves chemical (dioxin) or bacterial (E-coli) contamination. And yet questions of human health are of relative importance in the draft CAP reform. As seen in this presentation – which would have gone unnoticed if this crisis had not happened – of the CAP's objectives by the Commission, "To support farming communities that provide the European citizens with quality, value and diversity of food produced sustainably, in line with our environmental, water, animal health and welfare, plant health and public health requirements" [44]. Hence human health comes after the environment and also after that of animals and plants!

The CAP reform is clearly directed towards competitiveness and greening. These two orientations are necessary but should the first priority of a common agricultural policy not also and rather be food security which enables us to guarantee safe food supplies and effective monitoring? The CAP has to be at the service of Europeans in terms of food. This sanitary crisis recalls the fundamentals of the CAP and should encourage us to get our priorities right.

2. The demand for equity has fallen away

The CAP is felt to be an unfair policy which always benefits the same people, the "big" farms who also do not need it since they are positioned in sectors in which prices can be remunerative. The issue of fairness between States, raised by all of the new Member States, will certainly be settled, however internal equity has hardly been addressed. Only the abandonment of historic references used to calculate direct has been achieved. The Commission's two, modest proposals – the capping of support and specific aid for "active farmers" – are not really likely to be adopted.

But two vital issues are still being ignored. The first concerns the distribution of aid between sectors (cereals, stock farming, fruit and vegetables). The subject is in stalemate: any change to the distribution of aid immediately leads to protest on the part of the current beneficiaries. It will require enormous political courage to settle this issue. But States no longer have the courage, which they had twenty years ago, to enforce redistribution and to set regulations when they are necessary.

The second issue is that of the modulation of aid according to market prices. Is the payment of subsidies acceptable when prices are high? This practice is clearly questionable. Budgetary (budgetary programming) and legal arguments (compatibility with the WTO) are not enough given the CAP's political challenge in terms of equity.

According to some, greening in Europe would in some ways be both a compromise to guarantee the package of direct aid, reducing the pressure of the moment, and be a diversion to avoid sensitive issues. However any impasse over the distribution of aid between farmers and the adaptation of aid to economic circumstances will probably be fatal to the CAP. Its legitimacy will cost this much. It is the (high) price of political courage.

3.The lack of acknowledgement of farmers' concerns

In the bid to produce a policy that matches present societal expectations– ecological, citizen – we might forget that the CAP also concerns farmers.

Issue number one: managing price volatility. Agriculture is now firmly set to suffer price instability long term, which is unmanageable for producers. Europe is helpless in the face of world rates and is trying to improve market transparency and encourage producers to adapt, notably by way of insurance schemes and futures markets. Undoubtedly this is inevitable but by doing this the Union may also be taking a political

44. *European Commission Communication, The CAP towards 2020, COM (2010) 672 final, 18 11.2010, p. 2.*

risk. "Can we justify the long term upkeep of an annual grant of over 50 billion € to farmers who will devote most of their work to monitoring options and swaps in Chicago? It would be unacceptable for tax payers' money to be given to trader farmers whilst stock breeders, far from the markets, remained on the verge of bankruptcy."[45]. Behind agriculture men work the earth, they do not just sit, like elsewhere, in front of screens and figures, in virtual reality. Defending the CAP means defending common sense and a certain amount of humanity.

Issue number two: a return to adequate prices in all sectors of activity. There will only ever be two ways of recovering margins: by improving the competitiveness-price ratio or by improving the share held in the distribution of added value in the network. The first of these implies rationalising production and research methods. The second supposes either a re-balancing of relations – in other words power relations – with industrialists and the distribution network – or to escape this by positioning on remunerative market sectors or by establishing local relations with the consumer.[46] The reform of the CAP cannot ignore organisation.

Issue number three: production. Production, in spite of the drought and climate change. Without sidelining the importance of agronomic research which might facilitate the development of crops that are better adapted to water shortages, water will clearly be the battle of the future for agriculture all over the world. However, in the draft reform nothing is said about this.

CONCLUSION

These topical issues are also those of the future. We might expect the CAP reform to include a long term vision for the future. The upkeep and the amount of aid, as well as the environment have cannibalised debate over the CAP. Undoubtedly the time has come for us to see whether the best way to re-legitimise the CAP might not be by refocusing on a real agricultural policy and simultaneously identifying a real common policy for the environment.

45. *Jean Bizet, Jean Paul Emorine, Proposal for a European resolution on agricultural price volatility, Senate n 579 (2010-2011) p.13.*

46. *It is not just a question of small networks as in direct sales but privileged networks with major clients – schools or hospitals – both public and private. Apart from some isolated cases it is quite astounding that farmers and professionals in the restaurant business (hotels, restaurants, cafes) have never thought about working together!*

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Second study by Daniele Bianchi*: The CAP towards 2020

"The CAP towards 2020" is the title of the recent communication by the Commission that aims to prepare debate on the future of the Common Agricultural Policy (CAP)[1]. This policy has developed and continues to develop constantly, reform after reform, in view of achieving apparently unchanging, but continually changing objectives. After a brief summary of the Communication this paper will look into how the CAP can address the eternal challenge of justifying support to European farmers in a context of global economic crisis and stalemate in multilateral negotiations. Many factors enter play in the preparation of the CAP reform. However the fundamental policy issues under discussion will resemble those to which the Health Check had to respond. These involve the future of support to the market (notably direct payments) and rural development, the two pillars of the current CAP. After detailing the reasons for the reform of the CAP, we shall analyse the proposals put forward by the Commission in its Communication, followed by the first responses to these, before setting out a few thoughts on ideas which are now emerging on this.

I. IS IT NECESSARY TO REFORM THE CAP?

The CAP has been reformed on several occasions - 1992, 1999, 2003, 2008 - and has to undergo the same again in 2013 (the deadline for the current work session). Some believe that the CAP will inevitably be subject to constant revision. We shall see the reasons for this umpteenth reform and how it is supposed to be implemented, as seen by the Commission.

Somehow it would appear that the base of this, the oldest and most integrated of European policies, needs to be revised at intervals which means that agriculture cannot count on the most recent scheme lasting for more than five-years. It is true that since 1962, the role played by agriculture in national economies has changed significantly, and with that, the essence of agriculture and agricultural policy[2]. The farmer no longer simply provides food products, his work is now more complex. Moreover the CAP was not without its problems in its first thirty years: we simply have to recall the agricultural surplus's of the '80s and the range of instruments that were "invented" at the time: quotas, base areas, maximum quantities, ceilings[3].

It is important to note that all of these reforms were part of a the framework of objectives that have not been changed in the Treaties since 1957. These might be qualified as the "general" objectives of a "chameleon" CAP[4]. They seemed outmoded just a few years ago but recent events have proven their topicality. The CAP's principles and objectives have demonstrated their flexibility and adaptability lending themselves to a variety of interpretations[5], in various situations. They have seen 50 years of reform, 50 years of enlargement, 50 years of multilateral negotiation and 50 years of success and crisis.

Since the end of 2007 how many front pages in the press have been devoted to agriculture? Significant price rises in foodstuffs, the rivalry between fuel/foodstuffs, the use of biotechnologies, food fraud, speculation on agricultural commodities[6] and the recent milk crisis[7] are all issues which draw the spotlight onto agriculture.

In addition to this the multilateral context has always been a factor taken into consideration in the CAP's development. This is how it was possible to draw close links between the WTO rounds and the CAP reforms, notably in 1992 and with the Blair House agreement. The Doha Round is in stalemate at present. In the meantime the CAP will be challenged in bilateral negotiations and free-trade agreements in several areas in the world. But for the time being this is not a reason to reform it.

The 2008 CAP Health Check is the most recent stage in the work towards reform.[8]. But this was not built on the burning ashes of the previous CAP reform in 2003[9]. On the contrary, this overview aimed to simplify and rationalise the various elements of the 2003

*The opinions expressed here are those of the author and on no account can they be considered to be the official position of the institution by whom the author is employed.

1. European Commission Communication, "The CAP towards 2020". COM(2010) 672, 18th November 2010.

2. See D.BIANCHI, La politique agricole commune (PAC). Toute la PAC, rien d'autre que la PAC !, Bruylant, Brussels, 2006, 639 p. (2nd edition planned in 2011), Part One.

3. See C. BLUMANN Politique agricole commune, Droit communautaire agricole et agro-alimentaire, Litec, Paris, 1996; D. BIANCHI Trente ans d'un régime temporaire. Les quotas laitiers dans la PAC : 1984-2014, RMCUE Dec. 2004.

4. D. BIANCHI, La PAC "camaleontica" alla luce del Trattato di Lisbona. Le principali modifiche istituzionali della politica agricola comune all'indomani del suo cinquantesimo anniversario, Rivista di Diritto Agrario, dic. 2009.

5. Cf. Decision CJEC dated 5th October 1994, Germany v/ Council, Aff. C-280/93, Rec. 1994, p. I-4973.

6. In 2003, 8.4 bn € involved futures on agricultural and energy products and in 2008 this figure had risen to 168 bn € - the number of financial products had increased tenfold. As part of the review of the Markets in Financial Instruments Directive, (MiFID), the Commission, like the American authorities, plan to take steps that aim to regulate trade in commodities and monitor speculation as well as increase transparency of trade in foodstuffs in the wake of price rises on agricultural products.

7. See N.-J. BREHON, l'Europe et la crise du lait: quelles régulations pour le secteur laitier; Schuman Foundation, European Issue n° 144, 27th July 2009

8. See BREHON, op.cit.

9. See D. VIGNES, Réflexions sur les moissons - La politique agricole commune, une nouvelle jeunesse ?, RMCUE, n° 511, p. 481-482.

reform. However it provided Member States with an opportunity, if they so wanted, to commit to forms of support redistribution, as indeed they might have done in 2005 when the 2003 reform was implemented.

The CAP that emerged from this is a highly reformed and more effective policy. Aid is mostly decoupled from production and subject to conditions[10]. The role of intervention mechanisms has been significantly reduced but not eliminated: these are now used as safety nets. The "multifunctional" role of rural development has been strengthened by an increase in modulation (the transfer of funds from the first to the second pillar) to fund new challenges: biodiversity, water management, climate change, renewable energies, innovation and restructuring the milk industry … etc.

The three key principles of the 2003 reform: decoupling, conditionality and modulation are therefore at the heart of the Health Check and are still the fundamental principles of the reformed CAP. But the development in agricultural aid as defined in the 2003 reform is not a goal in itself. The freedom to produce, market orientation, greater responsibility on the part of farmers form the base of future developments. As part of the implementation of the Health Check all agricultural aid[11] will progressively be decoupled from production until 2012. The question remains: why reform the CAP again?

"Let's reform before we are reformed" was the leitmotiv of the "surprising" 2003 reform[12]. The imperative to make budgetary savings went together with the introduction of conditionality – the true innovation being the single payment entitlement.

The decisive element in this reform is therefore the budget[13] and the quest to justify support to agriculture, which this time round, has struggled to fit into the European 2020 Strategy[14] defined by President Barroso. In contrast the CAP was an integral part of the Agenda 2000 led by President Prodi. In 2010, the CAP does not appear to have been included as a strategic factor in the Europe of the future but features amongst the "numerous assets" that Europe has and which will have to be adapted if it is to rise to the challenge of climate change and budgetary restrictions, likewise trade policy. This seems all the more worrying since this strategy can be considered as a draft budget. These new priorities which are designed to complement the Lisbon Strategy are due to feature in the Union's multi-annual financial framework.[15] As the European Council of March 2010 discussed the strategy it adjusted its focus saying that "all common policies, including the common agricultural policy and the cohesion policy, should support the strategy. A sustainable, productive and competitive agricultural sector will make an important contribution to the new strategy ..." [16]

Naming the latest communication "The CAP towards 2020" seems then to be more than just an allusion to the Europe 2020 Strategy. This strategic agricultural "counter-document" "restores" the somewhat forgotten contribution made by the CAP to intelligent, sustainable and inclusive growth – the three "credo" of the European strategy – with "ecological growth" being thrown in, in a terminological crescendo.

II. THE APPROACH PLANNED BY THE COMMISSION

What is going to happen after 2013? Hardly had the Health Check texts been approved and its regulations implemented that many had already started to wonder about this. In 2013, we shall celebrate the 10th anniversary of the 2003 reform. The year 2013 has taken on an almost mystical importance in the agricultural world. However it is preferable to push aside forecasts and visions and try to look at vital issues and put the CAP into the context in which it will be called to function[17].

In comparison with the previous agricultural reforms in which the Commission enjoyed a certain lead on the funding issue, the present debate will take place at the same time as the negotiation of the EU's multiannual financial framework[18]. The budget is likely to be a central point, notably in terms of the redistribution of agricultural funds since it will not be a question of major reform from a strictly agricultural point of view. The principles of the 2003 reform, decoupling now being total, and notably conditionality, do not leave room for any radical challenges, except if the very idea of the common agricultural policy as a whole is brought into question.

Public debate now focuses on the upkeep of the chapter on "basic income support" in direct payments and on the shape this support should take: should the latter remain a safety net for farmers or should it be linked to

10. *See D.BIANCHI, La conditionnalité des paiements directs ou de la responsabilité de l'agriculteur bénéficiant des paiements directs dans le cadre de la Politique Agricole Commune (PAC), RMCUE, N° 475, 2004 , pp. 91-95.*

11. *Except for some small exceptions in the areas of cattle, sheep breeding and specific coupled support aid (eg art. 69) of the 2003 reform of 2003.*

12. *See D.BIANCHI, op. cit.*

13. *See the Commission's Communication, Re-examining the EU's budget, COM(2010) 700 final, Brussels, 19th October 2010. See N.-J. BREHON, Le budget européen : quelle négociation pour le prochain cadre financier de l'Union européenne ?, Schuman Foundation, European Issue n°170 et 171.*

14. *Commission Communication, Europe 2020, A strategy for intelligent, sustainable, inclusive growth. COM(2010) 2020 du 3 mars 2010.*

15. *See pt 3.2 Communication Europe 2020, already quoted.*

16. *See Conclusions of the European Council 26th March 2010, point 5 g).*

17. *See D.BIANCHI 2008: bilancio di salute di una politica agricola comune che festeggia i suoi primi 50 anni e si prepara al dopo 2013, Atti Accademia dei Georgofili, Florence, 2008.*

18. *See the Communication Le réexamen du budget de l'UE, op.cit.*

the delivery of public goods, likewise to the protection of the environment?

This seems to be confirmed in the Commission's communication on the CAP towards 2020 which is a reference document for the preparation of the CAP post 2013 (hereafter "the communication"). Although it presents three options – the status quo, re-balancing support and the elimination of the first pillar – it is quite clear in this document that the only viable option comprises the re-targeting or re-balancing of direct support within the context of the two present pillars.

The present CAP is structured at present according to two pillars: direct payments and market measures (Pillar I) and the rural development policy (Pillar II). The success of the structure in two pillars pleads in support of its upkeep. Common rules in the first pillar prevent the distortion of competition and enable the effective targeting of the agricultural sector's needs. As for the second pillar, the rural development programmes, according to the subsidiarity principle, facilitate an effective approach to problems in rural areas generally.

There are several possible options but it is clear that post-2013, direct payments, which are the core of the CAP[19], should be reviewed. How can these payments be justified? Should they be paid on the same basis as now?

Firstly, a single, common system might replace the historic, regional, hybrid, simplified system as of 2013 which is implemented according to choices made by the Member States.

Secondly, a system that maintains links with the historic types of payment, whether these are individual (bonuses received in the reference period 2000-2002) or national (a package calculated on the basis of payments made over the reference period), will be both politically and economically difficult to justify after 2013.

Thirdly, all payments have to be decoupled and be totally compatible with the criteria o authorised aid, the so-called "green box" in virtue of the World Trade Organisation rules (WTO).[20]

Fourthly the spirit of the 2003 reform has always been that the benefit of direct payments should go to working farmers. This spirit should be maintained, putting to good use the experience that has been acquired[21].

Finally the compromise on the November 2008 Health Check includes a declaration that obliges the Council and the Commission to look into possibilities of developing a direct payment system in view of the varying levels between Member States, notably between the old and new Member States. It is clear that this issue will be included in the post-2013 CAP discussions but it is uncertain how it will emerge. The Communication sets the ambitious goal of re-balancing the distribution of funds in the first (to restore a certain amount of equity between those who previously benefited from the CAP and those who receive aid now) and in the second (also between the old and new Member States) pillars. It also includes an option to cap direct aid and to transfer agri-environmental measures towards the first pillar by transforming this into annual, compulsory, additional non-contractual aid which is based on supplementary costs. Without undermining the chances of success of these options we should remember that capping aid on the biggest farms was only successful in part, as highlighted by the Health Check, which simply led to the setting of a slightly higher modulation percentage for farms that received over 300,000€. [22] But its implementation in terms of granting aid may prove difficult, except if complex, and probably ineffective, measures were to be established to prevent their circumvention: how could the subdivision of farms that might be affected by capping be prevented? This point, as well as redistribution between Member States (especially in times of economic crisis) would probably lead to vehement discussions which might end in "haggling" between the 27 Member States and the European Parliament.

The Communication provides the option of a basic payment as income support together with obligatory (former agri-environmental measures) or voluntary (to compensate for natural constraints[23] or for specific regions or sectors) top-ups. This may lead to overlapping, hence the reason for a clear line of demarcation, since the Commission intends for some measures to be co-funded. Although the measures in the first pillar should "offset" basic (as part of the conditions) and specific (crop rotation permanent pasture, some current agri-environmental measures) environmental action undertaken by farmers, the measures planned for in the second pillar are due to be even more targeted. But is the idea of greening the first pillar, by

19. *See D.BIANCHI, Y a-t-il encore quelque chose de "commun" dans la nouvelle Politique agricole commune? La mise en œuvre du soutien aux agriculteurs dans l'Union européenne élargie: entre simplification et décentralisation administrative, RTDE, July.-September.2005, p. 623.*

20. *The WTO has pooled all types of aid into « boxes » : strictly prohibited aid » in the red box, « aid that is limited or being phased out » in the orange box and « authorised » aid in the green box. Aid in the green box are supposed not to affect production or trade. See Brehon, 2008, op. cit., p.43.*

21. *Notably in virtue of Member States' use of article 28 of R 73.2009. This article which allowed Member States to limit the reception of agricultural aid already appeared to be a good compromise.*

22. *See art. 7§2 R. 73/2009.*

23. *The historic measures in the second pillar designed for poor areas.*

making the second pillar even more specific, the right way, given the difficulties experienced by some Member States in finding the budget to co-fund measures, which are supposed to offset even more complex environmental goods?

Or would it not better to look into the options offered by the flexibility package, which is under used by Member States within the context of direct payments in the 2003 reform? Could the latter not play a greater role as a buffer at Union level between the two pillars and also nationally between sectors which have experienced the CAP's opening to the market differently since 2003?

The 2007 food crisis and the situation in the milk sector have highlighted the need to maintain some of the historic market measures. The idea is to maintain a basic intervention mechanism in the shape of a safety net (i.e. private and public storage) which does not influence the normal functioning of the markets but guarantees constant food supplies in Europe. It extension to other agricultural danger zones should also be considered for the future CAP. The Commission is due to include an optional measure as part of the second pillar that should be compatible with WTO rules[24] and which aims to stabilise farmers' incomes to make up for "substantial income losses" whilst the current risk management measures are planned as part of the first pillar. In a Union of 27, it is difficult to see how a uniform assessment of risk and loss can be made without creating major budgetary costs and market distortion between States and sectors of production.

The rural development policy is due to remain a distinct, independent pillar of the CAP. Thanks to its multi-annual programming this policy provides Member States with greater flexibility regarding implementation. It also offers a better set of tools to rise to the challenge of climate change, to support restructuring and innovation, and to target public goods by means of action in support of the environment. However what now appears to be a kind of "sacrifice" of the second pillar on the budgetary altar still has to be clarified. Indeed the desire to transfer agri-environmental measures and those that target poor areas towards the first pillar seems to be in line with the idea of protecting the agricultural budget, which has already been employed in the previous reforms. Although it is true that some measures in the second pillar turned out to be "gadgets" in the hands of local representatives, the loss of the "environmental" aspect (the most agricultural) in the second pillar could weaken it even further. Greening the first pillar at the expense of the second may pave the way for the absorption of the second pillar by the structural funds[25]. There is talk at present about the development of a common strategic framework for the structural funds of which rural development could not just be a priority, but an integral part.

III. FIRST RESPONSES

Member States already exchanged views on the Communication during the Council on 17th March 2011 but they did not come to a unanimous agreement on common conclusions. Seven Member States, (Denmark, Estonia, Lithuania, Latvia, Malta, UK, Sweden) refused to approve the compromise text and the conclusions were adopted by the Hungarian Presidency of the EU with the support of 20 other States.

According to the Hungarian Agriculture Minister,[26] 90% of the text was approved and the most sensitive points of discord focused on two vital points: the distribution of direct payments and the budget. Even the final extremely watered-down compromise text was unable to rally consensus: "recognise the need for more equitable distribution of direct income support gradually reducing the link to historical references, while taking due account of the overall budgetary context and avoiding major disruptive changes."[27]

The Council had no problem in noting "significant opposition to the possibility of an upper ceiling for large individual farms".[28] The rest of the document is full of verbs such as "encourage, recall, declare, confirm, consider" which could not raise to any major issues, since these considerations were not matched with any real proposals.

We should not forget the new role played by European Parliament in the institutional arena. The CAP will have to develop in a new institutional or rather procedural context with the entry into force of the Lisbon Treaty. Co-decision has now become the ordinary legislative procedure which now also applies to the CAP[29] and replaces the consultative procedure that had been in application since 1958. But an exemption clause specific to co-decision was introduced into the treaty in

24. *It is the only reference to the WTO in the agriculture document except for when it talks of the ongoing Doha round.*

25. *Cf Article 175 TFEU (ex art. 156 C) on speaking of the funds employed for structural ends which help to achieve the cohesion policy quote the European Agricultural Guidance and Guarantee Fund, Guidance Section. However the present funding of the CAP which occurs via two funds the EAGF and FEDER, no longer makes any mention of "guidance".*

26. *See the press release, Agriculture Council March 17th 2011.*

27. *Ibid.*

28. *Ibid.*

29. *Art. 43 §2 TFEU.*

the agricultural sector[30], and raises issues about its interpretation and its range in terms of the European Parliament's new role as co-legislator.

The initial responses by the European Parliament on the future of the CAP are perhaps wiser than the Council's. As an example the Parliament "calls for the fair distribution of CAP payments and insists on the fact that this distribution must be fair for the farmers in both the new and old Member States."[31].

On the budget the Agriculture and Rural Development Committee at the European Parliament has just approved a report on the policy challenges and budgetary resources for the Union after 2013, which highlights, just as the first reform in a Union comprising 27 Members is about to take place, the need to provide the CAP with an adequate budget.

As for the rest the main agricultural acts are being "Lisbonised" at the moment, which means the competences attributed to the Commission are being re-qualified between executive and delegated acts[32]. We might also wonder at the European Parliament's enthusiasm for this procedure. Is it vital to focus resources and effort on distinguishing between executive and delegated acts[33] established by the Lisbon Treaty on the eve of a reform that is designed to revise all basic agricultural acts?

Finally although the CAP objectives remain unchanged the latter has lost its exclusive competence status in the treaty[34]. Moreover in view of future reforms there is now debate how this will affect legislation.

IV. IDEAS FOR THE FUTURE

Until the autumn of 2011 when the "final package" and legislative proposals are made public we shall have to continue being imaginative. The Commission's Communication makes it clear that it is not planning to revolutionise the CAP's tool kit. If revolution is to take place it will result from a clearly declared option – that of distributing direct payments more fairly between the various agricultural sectors within any one Member State and between the various agricultural industries of the Member States. Hopefully this will not be done to the detriment of either the CAP's second pillar, which again would emerge as the "poor man", nor of simplification. This is because a system comprising several components would be as difficult for the farmers to "tame" as it would be for the administration to control. Of course the second pillar cannot be a "universal justification" for every initiative, neither can the first pillar just be considered as a source of income disconnected from production. Is it enough to highlight the counter-balance of "public goods" to justify the payment of 40 billion € per year to some 7.9 million farmers? The Communication does not seem to provide an answer to the question of why 1.6% of farms receive 32% of the agricultural budget[35]. The suggestion of capping aid runs the risk of appearing "populist" and of being ineffectual, since the scission of target-farms is within the reach of large farms and their legal advisors. It seems reasonable to wonder whether greater homogenisation of aid per hectare might also benefit large land owners, to the detriment of tenant-farmers. Indeed it implies a loss in the value of entitlements, a closer link between uniform entitlements and an agricultural area, almost all of which would be eligible. On the one hand this would make the marketing of entitlements useless, and on the other it would bring into question the existence of entitlements, even if all of the agricultural area were linked to a uniform sum. Indeed one positive aspect of the 2003 reform lay precisely in the balance found between land owners and tenant-farmers with a system based on entitlements that were not linked to a specific area but needed to be "activated" with an eligible area in order to receive payment: in other words someone with an entitlement but without land and likewise a land owner without entitlements could not request a subsidy.

Moreover the idea of limiting support to "active farmers" only, might lead to the concentration of subsidies. In addition to this no one has defined what an "active farmer" is to date, but the Member States might do this. In view of the current definition of "agricultural activity" which simply indicates the "maintenance of the surface in good agronomic conditions" would it be fair to establish a system from which hundreds of thousands of small farmers would be excluded yet leaving the door open to large land owners? Given the design of single payment entitlements as remuneration for public goods, it might be fairer to enable local communities to establish subsidy requests instead of the small farmers, and then appoint this aid for the maintenance of these rural

30. *Art. 43 §3 TFEU.*

31. *Cf. European Parliament Lyon report, 21st June 2010 on the future of the CAP after 2013,*

32. *See Cl. BLUMANN, La PAC et le Traité de Lisbonne, http://www.europarl.europa.eu/activities/committees/studies; D.BIANCHI, Une PAC « dénaturée », « délaissée » et « malmenée » ? Plaidoyer en faveur d'une politique agricole moderne dans le projet de Constitution européenne, RTDE, March 2004, p.71.*

33. *See the Commission's Communication to the European Parliament and the Council, implementation of article 290 of the TFEU, COM (2009) 673 final of 9.12.2009.*

34. *Articles 2 and 4 TFEU. the CAP is included amongst shared competences.*

35. *1400 farms receiving more than 500,000 € per year in direct aid. Source DG AGRI*

areas in good agronomic conditions which go towards forming the European rural landscape just like the large farms do? The social, and not simply the environmental aspect of the CAP, would be enhanced.

We must not run the risk of seeing agriculture being taken over by major agri-industrial groups, who would ensure the intensive use of the best areas and of major land owners who would take care of "landscaping the countryside" in the name of environmental intervention. Since, in 2009 around 4 million farmers received less than 500 € per year and 1.5 million under 1,250€. [36]. Hence many farmers will think it too complicated to continue asking for support as part of a system that is increasingly complex and "à la carte". Especially since years of simplification have brought results: basic legislation at present focuses on four basic acts instead of the hundreds which formed basic agricultural legislation at the Council previously. [37]

By 2013 the present economic crisis may have overcome. Price volatility, speculation, negotiation power and price transmission in the food chain are now on the agenda and will certainly be there in the future. Since 2008 the "agriculture price crisis" and then the "food crisis" are terms that have often been used to describe the increase, then the decrease of prices of agricultural products. Price volatility is not of concern in itself. It has always been a permanent feature of agricultural markets because of the discontinuous nature of agricultural production, which is subject to climatic hazards and the daily demand for food products. However the extent of agricultural price rises over the last few years is of real concern. Given this development farmers receive opaque, often deformed market signals, that impede their ability to respond and dogmatic liberalism would undoubtedly be a dangerous approach in facing the crisis. Policy has to provide a response to help the agricultural sector weather crises and increasing market volatility. A set of initiatives has already been taken by the Commission: the high level group on the competitiveness of the agri-food industry has adopted 30 policy recommendations[38]. Greater clarity and a better understanding of the distribution of added value and prices would obviously be a first step in the direction of rebalancing bargaining power in the food supply chain. Empowering producers' groups would surely help to counterbalance the asymmetry of the food chain, but this has to be done without affecting competition rules[39].

From this standpoint particular attention should be given to local agriculture that matches the needs and expectations of the main target, i.e. the consumer. Initiatives are emerging in several Member States that aim to encourage direct sales of local agricultural products and to shorten the distribution chain – "local marketing" is spoken of - and agricultural markets are "sprouting" in European towns. Of course this type of solution cannot be the only answer to the future of the CAP. However if it fostered as part of the CAP it may comprise the start of a more concrete, tangible response to the conditionality of aid, to the demand for a solution to price crises, to healthy, environment-friendly food and above all food that re-establishes a link with the weather, the seasons and "natural" production methods. The Communication plans for the creation of specific support for small farmers, which without being social aid, is the critical link with territory and the local dimension of agriculture. This dimension is also echoed in the measures which plan for the creation of a quality scheme for local products and a legal base that introduces designations of origin on agricultural products[40].

This should also go hand in hand with a better food education policy beyond the sparse milk distribution programmes implemented in schools. From childhood on everyone should know how his food is produced, be able to buy products directly from the producer and even appreciate the taste and diversity of these by learning to cook them.

We should not forget the "social" and "pro-third world" chapters of the CAP and the contribution made by Europe, which should be given more value. Hence in 2010 food from intervention stocks were distributed to the poorest people in the Union to total of around 500 million €.[41] To this we have to add the "Food Facility" initiative[42] which devoted one billion € in agricultural budgetary savings to projects in support of the purchase of seeds and plant care products in developing countries or the "Everything but arms" initiative which gives custom duty or quota free access to any products on the part of the 50 least developed countries, whose first trade outlet is

36. *Source DG AGRI*

37. *Regulation (EC n° 73/2009 concerning direct payments, regulation (EC) n° 1234/2007 concerning the single COM, Regulation (EC) n° 1698/2005 concerning rural development and regulation (EC) n° 1290/2005 concerning the funding of the CAP's two pillars.*

38. *Available on http://ec.europa.eu/enterprise/sectors/food/competitiveness/high-level-group/index_en.htm.*

39. *See two recent Commission Communications on food product prices in Europe (COM (2008) 821) and on the functioning of the food chain in Europe (COM (2009) 591).*

40. *This is a "quality package" adopted in December 2010 draft regulation on the part of the European Parliament and the Council relative to quality systems applicable to agricultural products (COM 2010, 733).*

41. *Regulation (CE) n° 1111/2009 of 19th November 2009*

42. *See regulation.1337/2008.*

the Union. And we should not forget that the Union imports more agricultural products from developing countries than the USA, Japan, Canada and New Zealand together. [43]

CONCLUSION

In 2013 will the CAP, which is at a cross-roads in its development, start a new chapter in its "long quiet reform"[44] or will this be the final strait towards a new, more effective, less production-oriented, more environmentally friendly CAP, a "powerful tool that encourages innovative measures"[45] but which are apparently designed for a limited number of beneficiaries?
50 years of European agricultural history have forged a unique European agricultural industry that can be summarized by the word "multi-functionality" - its features were developed according to goals, which the Founding Fathers set this "prima donna" of European policies. Agriculture in Europe continues to fulfil several roles: it helps to provide EU citizens with safe, quality food products on a competitive market; it helps maintain the precious cultural landscapes across all of Europe thanks to sustainable land management; and it helps rural areas remain attractive and viable in a world that demands that farmers adapt to new conditions and take up new opportunities.
The CAP would have no reason for being if it did not continue to provide a response and valid tools to all European farmers.

43. *Source DG AGRI*

44. *See D.BIANCHI, "Une longue réforme tranquille. 1962-2012: cinquante ans de Politique Agricole Commune à l'horizon 2020", to be published in the European Union Review, n°549, June 2011.*

45. *See conclusions of the Presidency on 17th March 2011*

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