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**Colloquium**  
**'The reform of the CAP'**

**20 September 2019, 16.15 – 16.30**

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**Outline of the CAP-reform**

To present in fifteen minutes an outline of the ongoing CAP-reform is a difficult task. One could take the floor for quite some time to present the complicated content of the reform project in its various aspects. But I do not want to go into details of the reform. Instead, I would like to focus on points which are of importance for understanding the overall structure of the reform proposals. Tracking that line, I choose the following three points: At first, the formal structure of the proposed CAP, at second the time frame and at third the main aspects of the reform concept.

To start with the formal structure one has to look first at the current legal structure of the CAP. After several reforms the CAP consists of four basic regulations which are legislative acts of the European Parliament and the Council:

- the direct payments regulation, containing the decoupled and the coupled direct payments, and the Greening;
- the regulation on the Common Market Organisation, containing the market interventions, the rules on producer and interbranch organisations, the provisions on the quality of certain agricultural products, the rules on geographical indications in the wine sector and the wine planting system, programs to support some specific sectors, the agricultural cartel law, and a crises mechanism;
- the regulation on the support of rural development;
- and finally the so called horizontal regulation, which covers on the one hand the financial aspects of the CAP and contains on the other hand certain common structures and principles of the CAP, inter alia Cross-Compliance and the Integrated Administration and Control System (IACS).

The reform proposals of the European Commission reduce the number of basic regulations from four to three. While the CMO-regulation would only be changed in certain parts and therefore will remain in principle in its nowadays version, the horizontal regulation will be substituted by a new horizontal act. This new horizontal regulation, nevertheless, would continue the structure and the main features of the present horizontal regulation. Hence, the main changes affect the other two existing regulations. They would be integrated into one. This new regulation is called the CAP-strategic-plans-regulation and should in addition take over some parts of the CMO-regulation.

Altogether the three proposed regulations consist of 223 recitals, 253 articles and 13 annexes, which fill 390 pages. Compared with the current scope a certain reduction in size can be observed which is however not of a substantial nature. It seems simply not possible to retain a fully-fledged CAP and reduce the scope of its basic acts to a handy format, not to mention the huge dimension of the supplementing and implementing regulations of the European Commission which double the volume of the legal texts. To know all these articles is for a single person still not feasible.

One expression of this fact is that no Article-by-Article-commentaries of the actual four basic regulations exist, not to mention the regulations of the European Commission. Mr. Moegele edited together with Mr. Erlbacher such a commentary of the former COM-regulation of 2007. The commentary filled 1.044 pages and was written by 25 authors. I took part in this pilot project and may state that it was not an easy undertaking. The commentary is still very useful for the actual COM-regulation of 2013 but no new edition was published. One reason is that the law changes simply too fast.

As a second point I would like to outline the complicated time frame for the reform. According to the Commission proposals the main parts of the reform should enter into force at the beginning of 2021. The reason for that date is that the existing seven-year-period for the multi-annual financial framework of the EU will expire at the end of 2020. But out of several reasons that timing will not work which has become obvious already quite some time ago. The main reason is that the discussion of the legal texts on the new financial period still continues and probably will keep on until the fate of the Brexit has taken place and the shape of the scope of the future CAP budget has become clear. Before that the CAP reform cannot be finally negotiated.

Another important reason was the election of the new European Parliament which took place in May of this year, and the constitution of the new European Commission in this autumn. The new elected parliamentarians and the new European Commission may change the positions of their pre-runners. We will only have a clearer picture on that aspect once the new Commission

is in place and a new agricultural Commissioner has expressed her or his intentions. A further reason can be found in the concept of the reform. The member states will need quite a while to adapt their national laws to the new regulations and to prepare the necessary administrative implementation. In addition the European Commission will have to approve the implementation of the new system by member states before its start. As minimum that overall implementation process will take one to two years.

Looking at these problems of timing there are already some voices asking if it is meaningful to start with a reformed CAP in a financial period which will have already started. But perhaps the beginning of the new financial period itself may be postponed. I would like to stop here because Mr. Moegele will take up these questions in a few moments.

My third and most challenging point is the concept of the reform itself. In my mind six features ought to be named: the role and strength of the environmental component; the introduction of the strategic approach; the question of simplification of the CAP; the allocation of the CAP budget among the different fields of funding; the issue of re-nationalization; and the crises mechanism within the CAP.

To start with the first aspect, in the public awareness of the European and national agricultural policy the environmental component is for sure the most prominent question. It seems without doubt that the existing scope of the environmental component will have to be strengthened. The European Commission wishes to merge the existing instruments of Cross-Compliance and Greening into a new instrument called conditionality. That term should send out the signal that direct payments are granted on the condition that basic environmental and food safety standards – including measures against the climate change and guaranteeing animal health protection – are respected by the farmers.

On top of that the farmers may apply for an additional financial support if they fulfill more ambitious conditions. That element is twofold and has to be established and tailored by the member states. Member states should offer on the one hand so called “eco schemes” within the first pillar of the CAP and on the other hand the already existing environmental programs in the second pillar of the CAP, that is in the field of rural area support. If the member states are even more eager to strengthen the environmental component they may transfer an additional part of the means for the first pillar to the environmental component of the second pillar. We will look deeper at this first important feature of the reform in topic 3 of this colloquium.

As a second aspect, for the overall concept of the CAP the proposed shift to a more strategic, performance-oriented and evaluation approach is of great importance. Until now the focus of

the CAP was set on the creation and the implementation of measures defined on EU level. Whether the measures have fulfilled the goals for which they were created was no subject of any meaningful systematical examination. The main actor in that field was the European Court of Auditors. In quite some cases it came to the result that the goals were not fully reached or it could not be stated if the goals were reached because no real performance evaluation took place by either the European Commission or the member states. In addition in the public opinion exists the impression that the massive funding of the CAP is not linked with measurable effects and seems therefore questionable.

In reaction to that situation the European Commission proposed that the member states must, on the basis of a so-called SWAT analysis, determine their specific needs in the agricultural area. That instrument stems from the science of planning and means to analyze the strengths, weaknesses, opportunities and threads. On the grounds of the SWAT analysis the member states have to choose their way of implementing the CAP and give that choice the form of a so called strategic plan. Subsequently the European Commission checks if the strategic plan is well founded. She can ask for changes before she approves the strategic plan. As consequence member states may only use financial means of the CAP if they implement a measure contained in their strategic plan. Of course they are allowed to change their strategic plan in regular intervals.

Evidently, the realization of that totally new approach for such parts of the CAP in which the member states have a margin of implementation – the coupled and decoupled direct payments, the support of the rural areas and the programs for certain sectors – would lead to a massive shift in the CAP. It is important to know that this shift as the conceptional heart of the reform proposals seems generally accepted by the member states and also by the former European Parliament. Therefore, the discussion focusses on the question in which way the new approach should be designed in detail to achieve the optimum. Topic 1 of this colloquium will look further into that subject. In addition, after the discussion of topic 1 Mr. Marciniuk will present a short view on the question of convergence of the direct payments from an East European point of view.

A third main aspect of the reform is simplification of the CAP. Whereas the first two aspects are in some way connected to the expectation of public opinion this third aspect is mainly of interest for the actors of the agricultural sector and the public agricultural administration. As already mentioned the corpus juris will not be significantly reduced. On the contrary, the new strategic approach adds another level to the administrative side. The answer to that given by the European Commission is that the compliance aspect will be to a great extent reduced because the European Commission will primarily look at the strategic performance of the member states. Whether that answer is convincing became subject of an intensive discussion. On

the one hand at EU level the compliance aspects – for example within the IACS – are reduced and the member states will get a broader margin to implement the control-and sanction-system fitting best to their national conditions. On the other hand, the latter approach leads to the effect that to a certain extent the rules are only shifted from the EU level to the member states' level. Also, the European Court of Auditors has already stressed that the compliance side must not be neglected.

As a fourth aspect the allocation of the CAP budget – whose overall scope is, as mentioned, depending on the next multi-annual financial framework and hence is not fixed until now – is a significant point in the discussion and has a massive influence on the shape of the CAP. The environmental lobby advocates that a significant part of the CAP budget should be spent on the environmental element of the CAP. Consequently the decoupled basic premium would have to be reduced. Also, it is demanded to increase the funding of the rural areas which touches the problem that a range of subsidies in the field of rural areas do not support directly the agricultural actors. Another point is the percentage member states are allowed to reserve for coupled aids and sector programs.

Closely connected to the first four aspects is the aspect of regionalization as a fifth point. The concept of the new strategic approach is based on the idea that the member states and their partners in the regions are best placed to decide how to improve the situation in the field of agriculture. Hence, in important parts of the CAP the EU will set up a framework only. It is then up to the member states to decide which measures within that framework fit best to their national situation. In the sense of the SWAT-analysis that result is compelling. But on the other side, the word “Common” in the CAP was in the past of utmost importance and one of the pillars of the success story of the European Union.

In my mind there are two dangers. The first one is that it may end up in the effect that every member state is provided an envelope of money to spend in the agricultural area. This would mean that the CAP is simply a mechanism to redistribute EU funds. One could argue that this situation is already in existence under the current CAP. But the more options the more tends the CAP to such a mechanism. That leads to the question to which extent the basic decisions on the shaping of the CAP should be reached on EU level and how uniform the CAP should be in the future.

The second danger encompasses that the principle of the common market is queried. Because the CAP may, to a greater extent, no more create common conditions of competition but is allowing to distort competition with help of EU funds. For example, the already existing coupled direct payments in the sugar sector clearly distort the conditions in the sugar market, as the recent report of the High Level Group on sugar indicates. The reform proposals do not

tighten up the material conditions for granting coupled direct payments. On the contrary, the current condition that the sector in question must envisage difficulties in the member states in question is replaced by the more feeble condition that the coupled direct payment must help to master problems.

However, as an important improvement it may turn out that member states have to undertake the SWAT-analysis also regarding the coupled direct payments. Thus, the European Commission will know the forecasted effects within the member state in question and may, as a consequence, better assess the effects on the internal market. As a benchmark the strategic-plans-regulation sets out that no implementing measure of a member state is allowed to distort competition and the internal market. That benchmark is of great importance. Article 39 of the TFEU contains certain goals of the CAP, inter alia “to stabilize markets”. Also, the basic principles of the internal market set out in the TFEU apply to the CAP. If these goals and principles are no more pursued the CAP is in danger to lose its legal fundament. Topic 2 of our colloquium will look deeper into these questions.

A sixth and last aspect is the problem how to react to agricultural crises situations. The last years saw quite a range of crises: two milk market crises, the second one of the deepest and longest crisis in the history of the CAP; other sectors effected by the Russian embargo, especially the fruit and vegetables sector and the meat sector; several dryness situations effecting member states in different scope. In addition, crises developing out of animal health problems and lack of consumer confidence have occurred already and may rise up again. It seems well established that the world market for agricultural products has become more volatile. The decrease of the international trade barriers of the EU has prompted that worldwide trend to influence the EU agricultural market deeply.

What is the overall concept to cope with such crises situations? In the past, after having exhausted the reduced intervention system, the main resort was to spend EU means to help the farmers in question. But it seems to exist a consensus that this way becomes more and more difficult because the CAP budget gets smaller and smaller. In addition, the Auditor side has questioned the effectiveness of such an approach.

Also, with the establishing of the instrument of producer and interbranch organisations for all sectors the idea is connected that it is primarily up to the farmers and their partners to take the necessary steps to be prepared for such crises situations. In particular, in the second pillar of the CAP some measures are related with that idea. But until now, no general line is established between that idea and the crises-connected Articles of the CMO. The proposals of the European Commission are silent about that problem, whereas the European Parliament has already placed it on the agenda. At its core is the question of the right balance between state

support and self-help. Switzerland has a long tradition to handle that balance which is even incorporated in the Swiss constitution. Due to that, I am glad, that at the end of this introductory part, Mr. Richli will share with us some thoughts of the Swiss perspective on the reform proposals. Some sort of crisis is also the brexit. Therefore, after the discussion of topic 2, Mrs. Petetin will share with us some of her thoughts on the CAP-reform from a brexit point of view.

I hope I have presented in due time an insight view on main aspects of the CAP reform. I thank you for your interest and give the floor to Mr. Moegele who will present an update of the actual status of the reform.