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EU Sustainability Policy: Perspectives for Canadian Agriculture Exports

Research Report prepared for CABI by
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Research
Report



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The Canadian Agri-Food Policy Institute's mission is to lead policy development, collaborate with partners and advance policy solutions within agriculture and food.



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Executive Summary

This report looks into the European Union (EU) Sustainability Policy and evaluates its impact on Canadian agricultural exports.

It reviews the EU targets and objectives with respect to climate change policies. It evaluates the EU Green Deal and its process of policy implementation, in particular with respect to agriculture, in combination with the implementation of the CAP 2023-2027 policy.

The report analyses in particular the EU political and regulatory decision-making processes on some important pieces of Green Deal legislation relevant for agriculture, namely the 'Nature Restoration Law', 'Pesticides Sustainable Use Regulation' and 'New Genome Techniques Regulation'. It thereby showcases the inherent tensions between the different EU institutions and their exposure to divergent stakeholder interests and external pressure.

The report examines the EU policy on reducing greenhouse gases and the present and future role of agriculture therein. It in particular reviews the European Emission Trading System (ETS) and the possibility of the introduction of an ETS for agriculture and its implications for international trade.

The report also explores the revised EU Trade Strategy and the possible effects of the Green Deal on international trade. In thereby in particular looks at the role the concept of 'European Food Security' and 'European Food Sovereignty' could play in future European trade policy.

Key Takeaways

- The framework of sustainability policies in the EU is complex, with the European Green Deal, EU sustainable food policy, biodiversity strategy, and Common Agriculture Policy and its national Strategic Plans all having potential consequences for international trade and Canadian agriculture and food exports.
- Agriculture and food policies are evolving, both in the EU and other parts of the world, with sustainability and climate considerations increasingly moving into the centre of policy making. This has resulted in a large number of ambitious policy proposals by the European Commission. Although the European Parliament and EU Member States share the objectives and strategic policy outlook, EU decision-making processes are impacted by political and practical considerations that slow down practical implementation of the Green Deal.
- The confluence of an economic down-turn linked to the Russia-Ukraine war, resulting food security reflections and sustainability and climate strategies has slowed the advance of the 'Green Deal' and created tensions between different policy stakeholders

- Complex political dynamics, and the timing of European and member state elections in 2024 will likely further influence the implementation of EU policies. The EU policy and legislative process will come to a stand-still in April 2024 and only regain traction under a new European Commission and European Parliament in 2025. The status of the EU Green Deal will then be reviewed and a new implementation cycle will start. Although it is expected that the general direction of the Green Deal will be maintained, a shift towards a more consensus-based approach is expected. This new policy cycle will coincide with the next reform of the Common Agriculture Policy (CAP) scheduled for implementation after 2027.
- The impact of EU policies on international trade, Canadian exports and Canadian agriculture and food production more broadly has the potential to be significant, creating challenges and opportunities. More strategic engagement, including through the EU-Canada Strategic Dialogue on Sustainable Agriculture, can help forming a joint policy agenda with respect to sustainable agriculture and international trade.

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Introduction

The European Union has set itself the goal to become a global leader in addressing climate change and advocating adapted policies for achieving UN targets on climate change. In 2019 the European Commission presented the 'European Green Deal' as a blueprint for its new growth strategy. The European Climate Law adopted in 2021 sets the intermediate target of reducing net greenhouse gas emissions by at least 55 % by 2030, in comparison to 1990 levels. The European economy and society aim to become climate-neutral by 2050, mainly through cutting emissions, investing in green technologies and protecting the natural environment.

Over the last three years the European Commission has presented a large number of sector-specific and issue-related strategy plans to achieve these ambitious targets. Although the adoption of the present European agricultural policy framework CAP 2022-2027 precedes the Green Deal, it is considered broadly in line with it. Several Green Deal initiatives as the 'EU Farm to Fork Strategy', the 'EU Biodiversity Strategy' and the 'EU Methane Strategy', all adopted in 2020, followed by the 'EU Organic Action Plan' and the 'EU Soil Strategy' in 2021 – impact the agriculture and food sector.

On the basis of the European Climate Law adopted in 2021 the European Commission issued under the heading 'Fit for 55' a series of regulatory proposals to implement the 'European Green Deal' with respect to specific emission targets. In this context the most relevant proposals for the agricultural and food sectors are the revisions of the 'Effort Sharing Regulation' and the 'Regulation on Land Use, Land Use Change and Forestry'. In addition, specific regulatory proposals originating from the strategy plans mentioned above, like the 'European Food Security Crisis Preparedness and Response Mechanism' (2021), the 'Regulation on the Sustainable Use of Plant Protection Products' (2022), the 'Nature Restoration Law' (2022) which aims to restore natural habitats, the 'Directive on Soil Monitoring' (2023) and the 'Regulation on New Genomic Techniques' (2023) were presented.

These various initiatives build a new and complex 'green' framework, in which the CAP needs to operate a 'Sustainable Agriculture' model in the future.

In the aftermath of Brexit, the Covid pandemic and the continuing Ukraine War, the EU is also revising its trade and industrial strategies, with increasing focus on the concept of 'Open Strategic Autonomy' ¹. The controversial concept was first put forward in the 2021 'EU Trade Policy Review' and aims to promote globally responsible and sustainable supply and value chains but also wants to reduce Europe's exposure to increasing geopolitical tensions and global economic integration.

In March 2023 the Commission presented the 'EU Net-Zero Industry Act', which must also be seen as a response to the 'US Inflation Reduction Act'. It aims to have 40% of the key technology it needs to combat

¹ 'Open', because it follows global rules, 'strategic' because it links better with the objectives of climate and digital transformation, and 'autonomous' by making its own decisions and following its own interests and rights.

climate change built within its own borders by 2030. In June 2023 the EU published a Communication on a 'European Economic Security Strategy', which aims to protect Europe with respect to key technologies. These two strategy papers will serve as a starting point to develop concrete initiatives.

Whereas both communications do not directly relate to agriculture and food, the EU Agricultural Council was quick in reacting with a call for 'European Food Security' to be included in the debate with the objective to make EU agriculture and food production less dependent on key inputs from third countries. Some policy actors demanded that the green biotechnology industry should be included as a strategic technology under the 'EU Net-Zero Industry Act'. It therefore remains to be seen what role if any agriculture and food production will play in the EU strategy on 'European Economic Security' and 'Open Strategic Autonomy'.

The Ukraine war exerted its most direct effect on the EU economy by exposing the EU's dependency on Russian gas and oil. Despite rapid efforts to diversify gas sources, the war resulted in soaring energy prices in Europe, affecting both private households and production industries including agriculture. It led to reduced consumer demand and high inflation with an increase in food prices.

In this economic turmoil politicians – in particular those facing elections - become hesitant with rolling out the 'Green Deal' at full speed as they felt under pressure by both industry and public opinion ². Since spring 2023 an increasing number of political voices argue for a 'break' in rolling out measures that are perceived as disruptive for both the economy and society. The European Commission has reacted to a less supportive political environment by postponing some remaining policy proposals of the Green Deal like a 'Framework for a Sustainable Food System', originally scheduled for 2023, to the next Commission mandate, starting in 2025.

With farmers protests gaining traction over the autumn of 2023 and leading to explosive street confrontations in several EU countries during the first weeks of 2024, European politicians both at national and EU level have pushed the STOP button with respect to further implementation of the Green Deal. The upcoming elections to the European Parliament in June 2024 and the end of the present Commission mandate at the end of 2024, means that adoption of pending legislative initiatives needs to be finalized within the next month. As of May 2024, the EU will come to a relative policy standstill for about a year and political discussions will be dominated by election campaigns for the EU Parliament and the nomination of the new European Commission. In this context the European Commission has withdrawn some Green Deal proposals – e.g. on the Pesticide Sustainable Use Regulation – as general opposition to Green Deal measures has increased both in the European Parliament and the European Council, mainly driven by fear of a surge of right-wing parties in the upcoming elections.

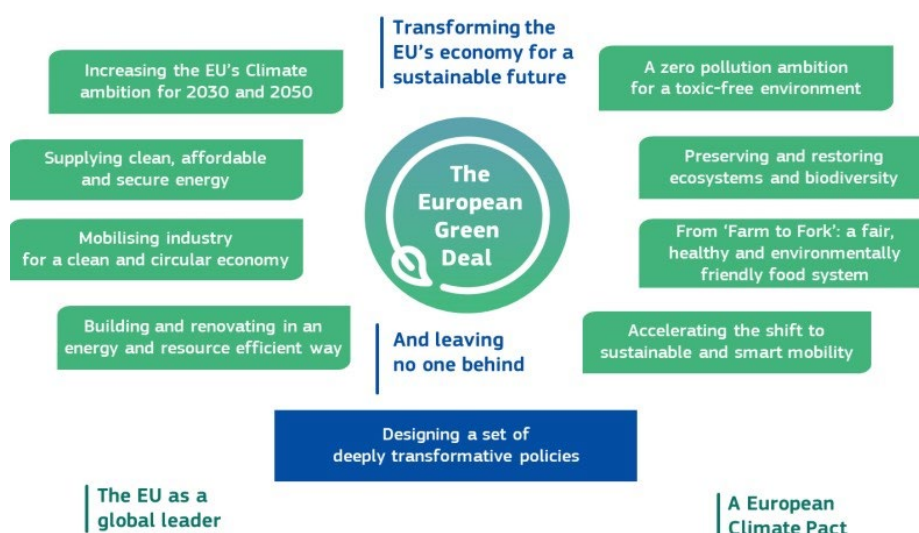
² Although opinion polls seem to indicate that the public following the extreme weather conditions in summer 2023 demands more and not less action from politicians regarding mitigation of climate change.

Any future EU sustainability and climate change policy to emerge in 2025 will build on the Green Deal but the change of European Commission and the European Parliament will result most likely in some new direction.

Chapter 1: European Green Deal

The 'European Green Deal' was presented by the European Commission in December 2019 as a strategy and action plan to transform the EU into a modern, resource-efficient and competitive economy, ensuring that economic growth is decoupled from resource use and operates with zero net emissions by 2050. The Commission quickly followed up with a series of Action Plans in 2020 and 2021, lining up in more detail the different areas of policy and regulatory initiatives.

The Covid-19 pandemic triggered an economic slowdown and standstill, with both the EU and member states providing extensive compensation packages to their industries. Quickly the need for an EU Recovery Plan was identified, which should help the European economy regain traction. The initial debate looked at the relationship between an EU Recovery Plan, member states' efforts to support their national industries and the Green Deal – and partly argued for a prioritization of EU economic recovery over investment into the Green Deal. The EU Council concluded that the European Green Deal should be used as a lifeline out of the Covid-19 pandemic. In consequence, one third of the €1.8 trillion investment from the Next-Generation-EU-Recovery-Plan adopted in 2021 and the EU's budget 2021-2027 were earmarked to finance the implementation of the Green Deal.



Infographics from the European Council on the EU Green Deal

The Green Deal is a complex web of action plans, policy initiatives and regulatory proposals with a high interdependency between different strands of policy making.

For illustration on the complexity of policy initiatives in the Green Deal framework see the Commission infographics on how the EU Soil Strategy 2030 interlinks with other policy areas:



From the Commission proposal EU Soil Strategy 2030 ³

Whereas the CAP 2023-2027 framework strengthens sustainability aspects of agricultural policy, the Green Deal integrates the CAP into the overall EU sustainability goals to which agriculture is asked to contribute. As a result, the position of the CAP as a 'stand-alone policy' has evolved to become an integrated part of an 'EU Sustainable Food Strategy', that needs to be aligned with the overall direction of the Green Deal. This change in direction is best captured by the wording from the 'EU Farm to Fork Strategy': "A CAP that focuses on the Green Deal".

Although many Green Deal initiatives impact the agricultural sector, the legislative proposals most directly linked to agriculture originate from the 'Farm to Fork Strategy', the 'Biodiversity Strategy 2030' and the 'Fit for 55 Package'.

The 'Farm to Fork Strategy', developing a sustainable EU food policy, is an important pillar of the

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021DC0699>

European Green Deal aiming to make food systems fair, healthy and environmentally sustainable. It is the first time the EU formulates a comprehensive EU food policy, that is not under the primary leadership of agricultural policy.

The 'Biodiversity Strategy 2030' is a long-term plan to protect nature and reverse the degradation of ecosystems in order to protect European society better from the impacts of climate change, forest fires, food insecurity and disease outbreaks.

The European Climate Law makes reaching the EU's climate goal of reducing EU emissions by at least 55 % by 2030 a legal obligation. The 'Fit for 55 package' is a set of proposals to revise and update EU legislation and to put in place new initiatives with the aim of ensuring that EU policies are into line with these 2030 climate goals.

In this elaborate process of 'regulatory Greening', agricultural policy makers are increasingly becoming 'rule-takers', losing out as an 'EU policy power centre'. This shift has consequences for the policy discussion at different levels of the EU decision-making process (European Commission, European Council). Whereas in the past agricultural policy was exclusively developed and managed by the Commission's Directorate-General (DG) Agriculture with some input from DG Sante (Health and Food Safety) and DG Env (Environment), the coordination role on agricultural policy increasingly shifts towards the Commission Taskforce on the Green Deal under the leadership of the respective Commission Vice President, supported by the Secretariat-General, with input from many different DGs. Commission Executive Vice President Frans Timmermans, a Dutch Socialist, strongly subjected agricultural policy to Green Deal objectives and marginalized traditional farm interests.

The European Commission clearly acts as a champion for an ambitious Green Deal program, with member states being more hesitant on taking binding legislative measures, favouring less stringent action plans and targets. The European Parliament strongly supports the European Commission in political terms but in several instances has failed to deliver on legislative Green Deal proposals, reflecting the diversity of MEPs positions and stakeholder interests. The complex relationship between the three main institutional players in EU-decision-making results in an uphill-battle for the European Commission to get the Green Deal implemented in an effective manner so it can deliver against the agreed emission reduction targets ⁴.

Agricultural organisations are still struggling to find their place and have influence in these new dynamics of policy making. At this stage there is no consensus neither within the European Farmers Organisation COPA-COGECA nor between different national agricultural organisations on how to best engage with the new policy framework. In general, two schools of thoughts have emerged: Whereas e.g.,

⁴ October 2023 predictions by the European Environmental Agency show that the EU is off track from reaching its emission reduction targets set for 2040 and become climate-neutral by 2050. Based on present climate-mitigating measures the EU will fall short by 4 times.

<https://www.eea.europa.eu/publications/trends-and-projections-in-europe-2023>

the Danish farmers organisation focuses on innovation to make agriculture more sustainable and compatible with overall climate change targets, investing in new technology and thereby trying to become a solution-provider in the climate-change context, the German farmers organisation is much more focused in defending farmers' current production interests, in particular under the strains of the Ukraine war.

The question is if defensive efforts might prove successful in the short-to-medium term, but risk becoming counter-productive in the medium-to-long-term, intensifying calls for a more radical overhaul of European agricultural policy (see chapter 6 on CAP Post-2027).

The defensive strategy has so far proved successful, with the EPP (European Conservatives) championing farmers and rural interests in view of upcoming June 2024 elections to the European Parliament and blocking some major pieces of Green Deal legislation (see points 3.1. and 3.3. on European Parliament discussions on EU Pesticides Sustainable Use Regulation and EU Nature Restoration Law). Farmers protests in many (although not all) European countries during late 2023 and early 2024 lead to attempts by both national and European politicians to 'appease' farmers by taking more temporary measures to cushion present production constraints and promise a new political consensus-building with the farming community (see point 2.5.). The EU Council of Agriculture Ministers tried to push agriculture into the broader policy debates of 'European Economic Security' and 'Open Strategic Autonomy', from which agriculture has been excluded so far. French President Emmanuel Macron is now championing strengthening national and "European Food Sovereignty" ⁵, a yet vaguely defined concept of Europe becoming less dependent on international trade and imports of agricultural inputs and products ⁶ (see debate on economic security and sovereignty of European agriculture in point 5).

In the meantime, experts are urging EU policy makers that agriculture is not contributing enough to climate change mitigation and should play a more prominent role in the European climate change policy, namely the Green Deal.

The European Scientific Advisory Board on Climate Change, whose 15 members advise the European Commission on climate change policy, in January 2024 issued a report "Towards EU Climate Neutrality: Progress, Policy Gaps and Opportunities" ⁷. Based on the assessment of more than 80 indicators, the board concluded that more efforts were needed across industry sectors to achieve the EU climate objectives from 2030 to 2050. Whilst the recommendations highlight the key role of phasing out fossil

⁵ French Prime Minister Gabriel Attal and Agricultural Minister Marc Fesneau announced in February 2024 that 'agricultural sovereignty' would be at the heart of any future French agricultural policy.

⁶ This call is supported by several national farmers organisations, although with a somewhat different understanding of 'food sovereignty'. In support the Agricultural Committee of the European Parliament has commissioned a report on the dependency of European Agriculture on external inputs. See [Research for the AGRI committee - The dependency of the EU's food system on inputs and their sources \(europa.eu\)](#).

⁷ [Towards EU climate neutrality: progress, policy gaps and opportunities \(europa.eu\)](#)

fuels, the report also points at agriculture and the bad shape of European forests. It demands better alignment of the CAP with EU climate policy objectives, which will require a shift towards lower-emitting agricultural products, promoted by adequate financial incentives for farmers. Experts also asks for the introduction of some form of emission pricing for agriculture by 2031 (see point 4.4. on a carbon tax for agriculture).

The European Environmental Agency (EEA), an EU body conducting independent research to inform policy-making, published its first European Climate Risk Assessment (EUCRA) in March 2024 ⁸. It not only urges policy makers to quickly move on the adoption and implementation of the EU Nature Restoration Plan, but to push harder in making food production sustainable. It warns that increasingly adverse climate effects on agriculture must not slow down a rapidly required policy change in agriculture, that needs to go hand-in-hand with dietary changes. It advocates that a new CAP needs to stronger incentivise more sustainable agricultural practices and switch to more drought-resilient or less water-intensive crops.

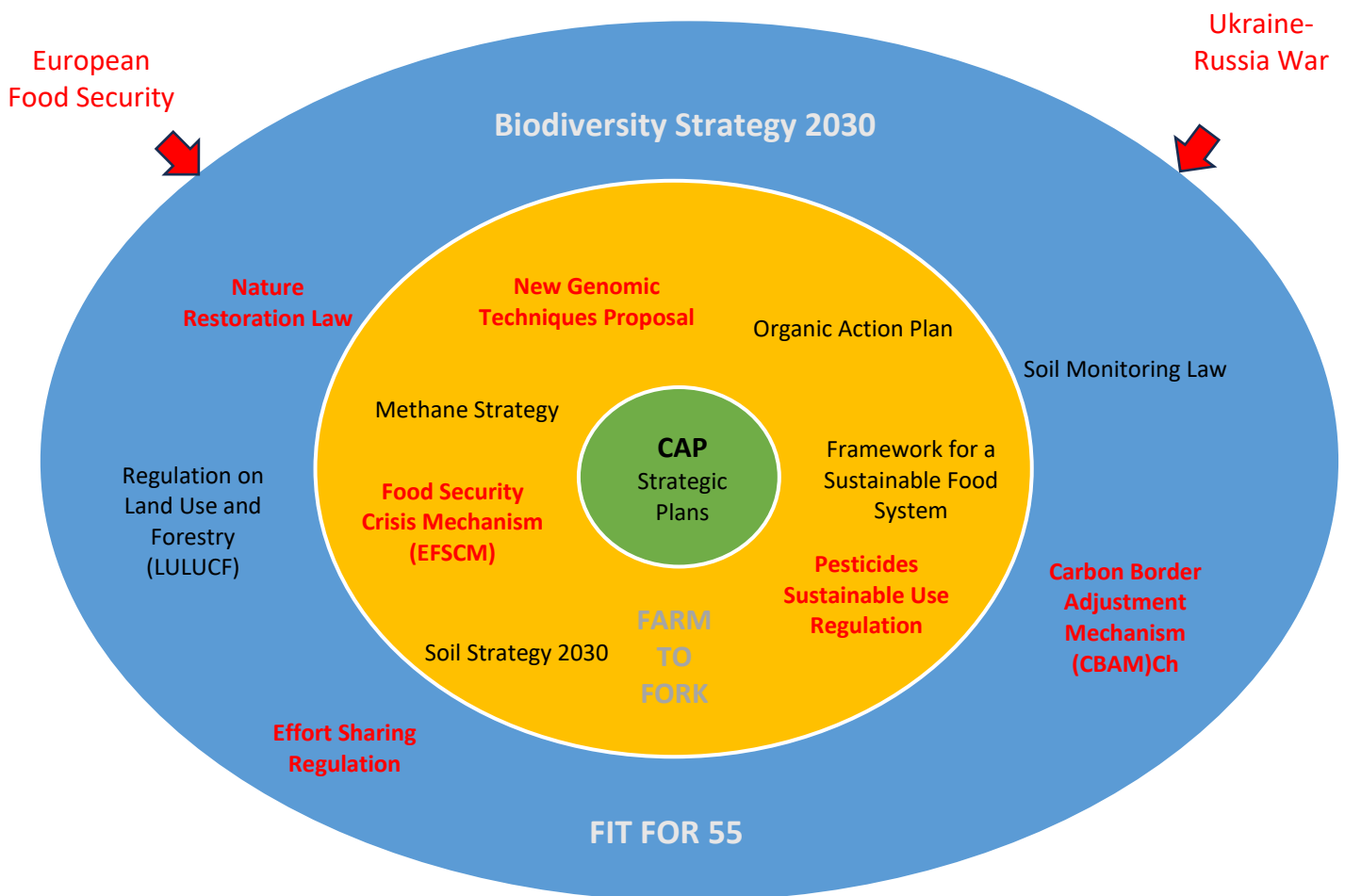
Recent farmer protests show that the agricultural community is still able to exert political pressure. The implementation of the Green Deal was originally in the hands of Vice President Timmermans, but following his departure in summer 2023 and intensification of farmers protests, President von der Leyen opted for a revival of consensus building with the agricultural community ⁹. As she is widely expected to be renominated as Commission President, it remains to be seen what direction the new European Commission of 2025-2030 will pursue with regard to full integration of agriculture into the Green Deal and beyond.

This report will take a sectorial lens on the Green Deal, taking the CAP 2023-2027 as the point of departure and develop how specific policy initiatives under the 'Farm to Fork' strategy, the 'Biodiversity 2030' strategy and 'Fit for 55' package on the implementation of the Green Deal, impact the CAP implementation and its future direction.

⁸ <https://www.eea.europa.eu/publications/european-climate-risk-assessment>

⁹ Von der Leyen launched in February 2024 the 'EU Strategic Dialogue on Agriculture' which under the chairmanship of Peter Strohshneider (former chairman of the German governments 'Commission for the Future of Agriculture'), will work on four main topics (innovation, economic growth, sustainability, value chain) and deliver a report to the Commission by June 2024.

European Green Deal EU Sustainable Food Policy



1.1. Farm to Fork Strategy

The 'EU Farm to Fork Strategy' was published in 2020 as a key element of the Green Deal. It aims to build a food chain that works for consumers, producers, the climate and the environment. Its goal is to reduce the environmental and climate footprint of the EU food system and strengthen its resilience, ensure food security in the face of climate change and biodiversity loss and lead a global transition towards competitive sustainability from farm to fork and tapping into new opportunities ¹⁰.

To ensure sustainable food production it advocates initiatives around the following pillars, most of

¹⁰ https://food.ec.europa.eu/system/files/2020-05/f2f_action-plan_2020_strategy-info_en.pdf

which were supposed to be reflected and need to be integrated in the CAP National Strategic Plans 2023-2027:

- Circular bio-based economy
- Reduction of chemical pesticides, expansion of integrated pest management (IPM) and easier approval of pesticides with biological active substances
- Reduce nutrient loss via integrated nutrient management action plans on national level
- Development and marketing of innovative feeding additives, with a view to reduce emissions from animal farming
- Reduction of antimicrobials used in animal and fish production
- Revision and upgrade of EU animal welfare legislation
- New legislation on innovative techniques in relation to plant health, seed security and diversity
- Action Plan on Organic Farming
- Agricultural Eco-schemes
- Renewable energy and biogas production
- EU Carbon Farming initiative
- Clarification of competition rules for collective initiatives that promote sustainability in supply chains

We will focus on three specific regulatory initiative that seem in particular relevant not only for the future direction of the CAP but also in relation to imports of agricultural products and commodities from third countries: (1) Pesticide Sustainable Use Regulation; (2) New Genome Techniques Regulation and (3) EU Carbon Farming Initiatives.

1.2. Biodiversity Strategy

The European Commission presented the 'Biodiversity 2030 Strategy' in 2020 ¹¹, it was supported by the European Council's conclusions the same year and endorsed by a report of the European Parliament in 2021. The Biodiversity Strategy aims to put Europe's biodiversity on the path to recovery by 2030, for the benefit of people, climate and the planet. It is based on the principle that biodiversity loss and the climate crisis are interdependent and they exacerbate each other. Restoring forests, soils and wetlands and creating green spaces in cities is considered essential to achieve the climate change mitigation needed by 2030.

¹¹ [EUR-Lex - 52020DC0380 - EN - EUR-Lex \(europa.eu\)](#)

The Biodiversity Strategy has two main objectives:

1. Establish protected areas for at least 30 % of land in Europe and 30 % of sea in Europe. With stricter protection of remaining EU primary and old growth forests the EU intends to meet legally binding nature restoration targets set in 2021.
2. Restore degraded ecosystems at land and sea across the whole of Europe by a series of initiatives:
 - Increasing organic farming and biodiversity-rich landscape features on agricultural land
 - Halting and reversing the decline of pollinators
 - Restoring at least 25 000 km of EU rivers to a free-flowing state
 - Reducing the use and risk of pesticides by 50% by 2030
 - Planting 3 billion trees by 2030

To achieve these objectives, the strategy defines 16 targets and over 100 actions have been lined up to implement it until 2030 ¹². About 50 % of envisaged actions are in an advanced stage of implementation (e.g., formal Commission proposals in legislative procedure), whereas the same number of actions remains pending.

A significant number of targets are closely linked to agricultural production like:

- (5) the reversal of the decline of pollinators;
- (6) the reduction of pesticides by 50 %;
- (7) have at least 10 % of agricultural land under high-diversity landscape features;
- (8) have at least 25 % of land under organic farming management including an increase in uptake of agri-ecological practices;
- (9) plant 3 billion additional trees in full respect of ecological principles, and
- (13) reduction of losses from nutrients from fertilizers by 50 %, resulting in an overall reduction of use of fertilizers by at least 20 %.

From the 102 actions listed in the biodiversity strategy at least 30 % directly relate to agriculture! The EU Biodiversity Strategy has therefore become one of the main references for the national CAP 2023-2027, in particular for its national CAP Strategic Plans.

The most important initiatives from the EU Biodiversity 2030 Strategy in relation to agriculture:

- Establishing a larger EU-wide network of protected areas on land and at sea by enlarging existing Natura 2000 areas, with strict protection for areas of very high biodiversity and climate value.

¹² See the European Commission's 'Actions tracker' on actions from the EU Biodiversity 2030 Strategy [EU Biodiversity Strategy Actions Tracker \(europa.eu\)](#)

- EU nature restoration plan to put in place effective restoration measures to restore degraded ecosystems, in particular those with the most potential to capture and store carbon and to prevent and reduce the impact of natural disasters.
- EU Pollinators Initiative
- EU Pesticides Sustainable Use Regulation
- Action Plan on Organic Farming
- Facilitation of seeds registration for organic farming
- Integration of biodiversity targets into CAP Strategic Plans
- EU Forest Strategy
- Guidance on biodiversity-friendly afforestation
- EU Soil Strategy
- Revision of the land use, land use change and forestry scheme (LULUCF)
- Integrated Nutrient Management Action Plan

It will be impossible to provide a comprehensive impact analysis of the EU Biodiversity 2030 Strategy on agriculture in Europe. In chapter 3 we will have a closer look at the 'Nature Restoration Act' and the 'Pesticides Sustainable Use Regulation' which impact European agriculture directly and also show best the dilemma European regulators face between environmental ambition and political reality.

1.3. European Green Deal Fit For 55

The European Climate Law makes reaching the EU's climate goal of reducing EU emissions by at least 55 % by 2030 a legal obligation. The Fit for 55 package is a set of proposals to revise and update EU legislation and to put in place new initiatives with the aim of ensuring that EU policies are into line with these 2030 climate goals.

The package consists of very diverse policy initiatives spanning a variety of sectors. Although only a few of these relate to agriculture, these are of major importance to the sector.

- Revision and extension (maritime and aviation transport) of the EU Emission Trading System (ETS)
- Creation of a new self-standing emissions trading system for buildings, road transport and fuels for additional sectors
- Creation of a Social Climate Fund to support households and small enterprises
- Introduction of a Carbon Border Adjustment Mechanism (CBAM) to gradually replace the existing EU mechanisms to address the risk of carbon leakage, in particular the free allocation of EU ETS allowances

- Update of the 'Effort Sharing Regulation' which applies to sectors not covered by the ETS scheme, like agriculture, thereby increasing the EU-level greenhouse gas emissions reduction target for 2030 from 29% to 40%, compared with 2005, in the sectors concerned
- Update of the land use, land-use change and forestry (LULUCF) regulation with increasing the EU-level target to at least 310 million tonnes of CO₂ equivalent net removals of greenhouse gases for 2030.
- Adoption of new rules regulating the CO₂ emissions from cars and vans with an introduction of progressive EU-wide emissions reduction targets for 2030 and beyond, including a 100% reduction target for 2035 for new cars and vans
- New rules to track and reduce methane emissions in the energy sector
- Increasing the uptake of greener fuels in the aviation and maritime sectors
- Adoption of a regulation on alternative fuels infrastructure (AFIR) to ensure that citizens and businesses have access to a sufficient infrastructure network for recharging or refueling road vehicles and ships with alternative fuels.
- Revision of the renewable energy directive, increasing the current EU-level target of at least 32% of renewable energy sources in the overall energy mix to at least 40% by 2030 and introducing sectorial sub-targets and measures across sectors.
- Revision of the EU energy efficiency directive to reduce final energy consumption at EU level by 11.7% in 2030, compared to projections made in 2020, mainly by increasing annual energy savings obligations and decreasing the energy consumption of public sector buildings.
- Revision of the energy performance of buildings directive to make buildings in the EU more energy efficient
- Revision of the Council directive on the taxation of energy products and electricity to better align with EU emission reduction policies

In chapter 4 we will have a closer look at EU Policy on Greenhouse emissions, in particular the Effort Sharing Regulation (ESR) and the Land Use, Land Use Change and Forestry Regulation (LULUCFR), that have the most direct impact on agriculture. To better understand the possible future dynamics of emission reductions in agriculture, we will also review the European Emission Trading System (ETS) and the Carbon Border Adjustment Mechanism (CBAM).

Chapter 2: CAP 2023-2027

The CAP has been reformed several times since its inception in 1962. The trend has been towards market orientation with prices aligned to the world market combined with direct income support for farmers. The CAP is as a central pillar in the EU construction and has led to a high degree of integration of production and markets reflecting a compromise between common and national interests.

2.1. New Orientation

The CAP 2023-2027 ¹³, which the Commission proposed in June 2018, aims to help farmers to improve their environmental and climate performance through a more results-oriented model, better use of data and analysis, improved mandatory environmental standards, new voluntary measures and an increased focus on investments into green and digital technologies and practices. The new CAP with implementation as of 1/1/2023 provides for greater responsibilities and flexibility to the Member States. The establishment of National Strategic Plans to be approved by the Commission attempts to allow the Member States to tailor the measures under the CAP according to their national situation within the overall framework of EU established environmental goals and EU financed measures. It is still too early to evaluate the result of this policy shift.

The Green Deal takes the step further in integrating the CAP in the overall sustainability goals of EU policies to which agriculture must contribute. Increasingly the CAP is directed towards protection of the environment in all its aspects and adaptation to climate change under the Framework of Pillar I and Pillar II of the CAP ¹⁴. Pillar I covers Direct payments and market measures and is 100 % EU financed by the European Agricultural Guarantee Fund (EAGF). Pillar II covers Rural Development and is co-financed between the EU budget by the European Agricultural Fund for Rural Development (EAFRD) and Member States (MS). The degree of co-financing varies with the measures and the individual MS.

The CAP adopted in December 2021 ¹⁵ introduces the notion of CAP National Strategic Plans (CSPs) where MS are charged with implementation of the new policy. There is a degree of renationalization in

¹³ <https://ec.europa.eu/commission/publications/natural-resources-and-environment>

¹⁴ DG Agri apparently no longer uses the notion of 2 Pillars-appears however to the author as a practical distinction when explaining the CAP i.e., the distinction between 100 % EU versus co-financed measures

¹⁵ REGULATION (EU) 2021/2115 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013

the new policy where the realization that “One Size Fits All” is not suitable. There has always been a degree of tailor-made solutions for countries and sectors, but the new framework takes this a step further. The idea is that MS should be given a higher degree of autonomy that suits their national situation in terms of farm structures, geography, climate, production sectors, strengths and weaknesses. The question is whether this greater autonomy will be at the cost of coherence and common approach. Only time will tell.

For the period 2023 to 2027 the total EU budget is 264 billion €. Together with the co-financing by MS the total budget of public money is 307 billion €.

2.2. Strategic Plans

Article 39 of the EU Treaty remains valid for the CAP. However, the EU has now formulated 9 specific and 1 general objective to be reflected in the CAP Strategic Plans:

Figure 1: Intervention logic of the CAP 2023-2027



Source: Project team, 2023 based on Regulation (EU) 2021/2115

The new approach also wants the CAP to be less prescriptive in favor of output results, based on appropriate indicators. Calculating values of the results indicators, all MS were obliged to set targets in their CAP Strategic Plans which express desired 'results', in the sense of the intended level of uptake of funded CAP actions. The indicators used for setting such targets are referred to as 'result indicators' and are listed in Annex I of the CAP Strategic Plan Regulation ¹⁶.

Here is an example of result indicators:

¹⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2021:435:FULL>

OBJECTIVE:

To contribute to climate change mitigation and adaption, including by reducing greenhouse gas emissions and enhancing carbon sequestration, as well as promote sustainable energy

RESULTS INDICATORS:**R.12 Adaptation to climate change:**

Share of utilized agricultural area (UAA) under supported commitments to improve adaptation to climate change

R.13 Reducing emissions in the livestock sector:

Share of livestock units (LU) under supported commitments to reduce emissions of greenhouse gases and/or ammonia, including manure management

R.14 Carbon storage in soils and biomass:

Share of utilized agricultural area (UAA) under supported commitments to reduce emissions or to maintain or enhance carbon storage (including permanent grassland, permanent crops with permanent green cover, agricultural land in wetland and peatland)

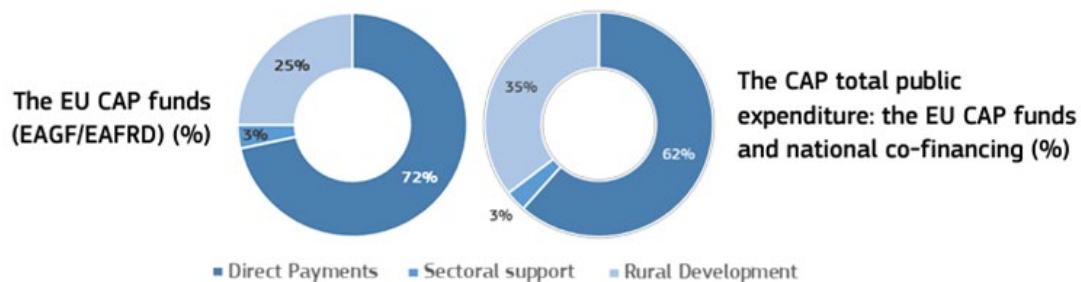
The CSPs cover all the CAP-related and CAP-funded instruments that a MS designed to implement in its territory over 2023-2027:

- a) Pillar I: Direct Payments (DPs), Interventions specific for certain market sectors and
- b) Pillar II: Support for Rural Development (RD)

The following diagram (Figure 1) shows the budgetary division between Pillar I and II.

Whilst RD takes 25 % of the EU budget-left ring, it increases to 35% when the national contribution is added i.e. the total share of public money for RD.

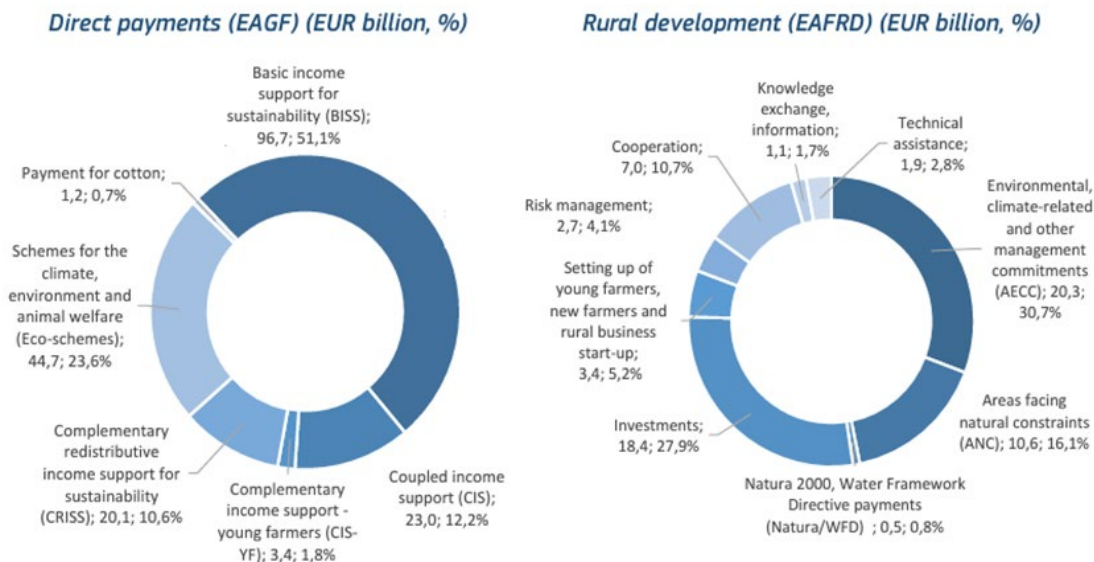
Figure 1: Distribution of the planned expenditure under the CAP, %, 2023-2027⁵ (Source: Approved CAP plans)



MS are allowed a certain flexibility between their allocations under Pillar I (EAGF) and Pillar II (EAFRD). This allows MS to increase the amounts for Pillar I measures or vice versa for Pillar II depending on their national priorities and within certain budgetary limits.

Figure 2 shows the distribution of the budget between Pillar I and Pillar II and specific measures:

Figure 2: Planned distribution of direct payments (EAGF) and EU rural development (EAFRD) funds, 2023-2027⁹ (Source: Approved CAP plans)



A CLOSER LOOK INTO CAP PLANS:

- ✓ Annually, more than EUR 19 billion is earmarked for support to farmers through basic income support for sustainability (BISS). A further EUR 9.6 billion of income support targets specific groups and needs of farmers (sectors in difficulty, small farmers, and young farmers).
- ✓ 15% of EU farms will receive support for insurance premiums, and for participating in mutual funds or in other risk management tools that help farmers deal with crises.
- ✓ Annually, EUR 3.7 billion of CAP public funds will provide extra support to farmers in areas

The new CAP policy 2023-2027 entered into force on the 1/1/2023. The establishment of National Strategic Plans (CSPs) were prepared in consultations between the individual MS and the Commission during 2022 with final approval by the Commission. Some of the CSPs had to be adapted after consultation with the Commission, in some instances because the environmental aspects of the plan were not considered adequate, the last plan to be adopted was the Dutch plan in December 2022.

The Commission issued a report on the 28 Strategic Plans ¹⁷ in November 2023 ¹⁸, which summarizes the different plans and evaluates their joint effort and common ambitions. The report is a first step in the broader process of assessing the performance of the CAP. An overview of the CSPs can be found in Commission document ‘Approved 28 CAP Strategic Plans (2023-2027)’ ¹⁹. The research department of the European Parliament has commissioned an evaluation report with the Belgian company ADE ²⁰, some NGOs like the European Environmental Bureau (EEB) have assessed the new CAP from an environmental perspective ²¹. Some national strategic plans have also been analyzed by external parties.

2.3. Greening of the CAP

The 2023-2027 CAP reform reflects agriculture’s contribution to the EU Green Deal. The CAP reform preceded the implementation of the Green Deal, with many specific Green Deal measures only proposed and adopted after the CAP reform was finalized. There are many other elements outside the CAP in the area of environmental protection like the EU Nature Directives, the Water Framework Directive, Natura 2000 as well as specific Green Deal measures like the Nature Restoration Act or the Pesticides Sustainable Use Regulation that have implications for agriculture. In many cases revision of existing legislation or introduction of new measures is still discussed within the EU regulatory decision-making process and their final content is still to some extent uncertain. Many of these measures will have to be taken into account in the annual adaptation of the national strategic plans, others impact either directly on agriculture or will be implemented by distinct action plans under separate funding outside the CAP.

It is therefore at this stage difficult to evaluate both the implications of this complex web of external regulatory factors on the CAP and agriculture as well as the final contribution of the CAP 2023-2027 reform to the EU 2030 emission targets. The fact that implementation of the National Strategic Plans has just started and therefore uptake of new measures by farmers and required finetuning of programs still at the beginning, further adds to the difficulty of impact evaluation.

¹⁷ Member States have one Strategic Plan each, except Belgium, which has two; one for Flanders and one for Wallonia.

¹⁸ https://agriculture.ec.europa.eu/document/download/6b1c933f-84ef-4b45-9171-debb88f1f757_en?filename=com-2023-707-report_en.pdf

¹⁹ <https://agriculture.ec.europa.eu/system/files/2023-06/approved-28-cap-strategic-plans-2023-27.pdf>

²⁰ <https://research4committees.blog/2023/06/16/publication-comparative-analysis-of-the-cap-strategic-plans-and-their-effective-contribution-to-the-achievement-of-the-eu-objectives/>

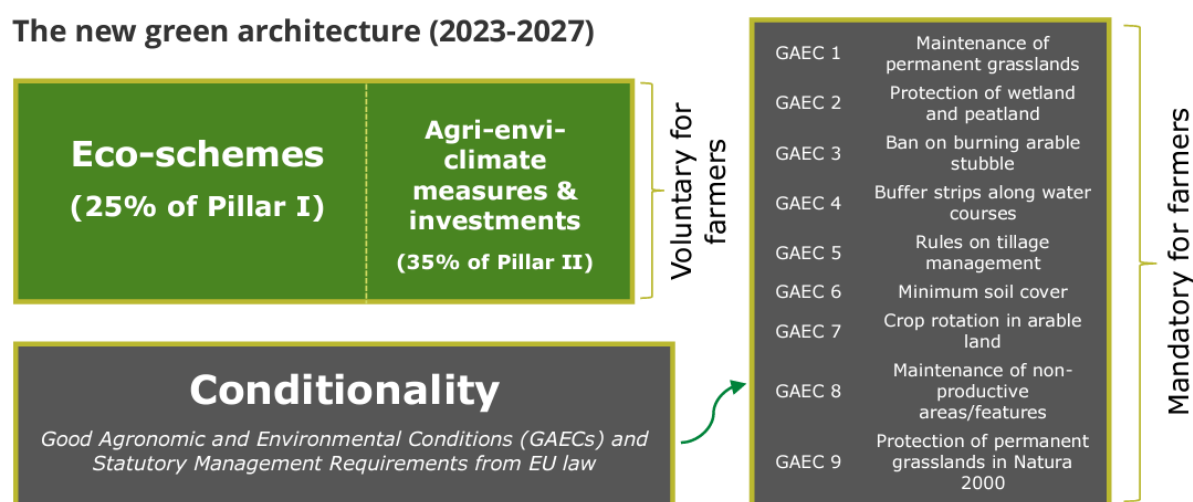
²¹ https://eeb.org/wp-content/uploads/2023/09/Policy-Brief_Role-of-the-CAP-in-promoting-carbon-farming.pdf

The CAP Strategic Plans address the following three specific objectives reflecting amongst others “the greening” of the CAP:

- to contribute to climate change mitigation and adaptation, including by enhancing greenhouse gas sequestration, as well as to promote sustainable energy;
- to foster sustainable development and efficient management of natural resources such as water, soil and air, including by reducing chemical dependency;
- to contribute to halting and reversing biodiversity loss, enhance ecosystem services and preserve habitats and landscapes.

The emphasis is thus on addressing climate change, the environment and making the CAP more sustainable.

The new green architecture (2023-2027)



From the fact sheet on Carbon Farming by the European Environmental Bureau ²²

Member States are required to spend in principle at least 25 % of their 1st Pillar (or direct payments) budget allocation on ECO-schemes and 35% of the 2nd Pillar budget for measures related to the environment and climate objectives. All in all, this should amount to around € 72bn of EU funding which Member States must allocate between 2023-2027 to interventions focused on climate and environmental objectives, including carbon farming. In comparison, the global voluntary carbon market was valued at USD 2bn in 2021.

²² https://eeb.org/wp-content/uploads/2023/09/Policy-Brief_Role-of-the-CAP-in-promoting-carbon-farming.pdf

The greening of the CAP 2023-2027 can be summarized under 3 main headings:

1. Conditionality and Good Agricultural and Environmental Conditions (GAECs)
2. ECO Schemes
3. Rural Development measures

Conditionality and Good Agricultural and Environmental Conditions (GAECs)

At EU level, 62% of total public CAP expenditure is dedicated to income support via the EAGF. This amounts to 72% when considering only the EU contribution without the national co-financing of MS for the EAFRD. The key EAGF instruments for support to income and resilience include 1) Basic income support for sustainability (BISS), 2) Complementary redistributive income support for sustainability (CRISS), 3) Coupled income support (CIS), 4) Complementary income support for young farmers (CIS-YF).

Coupled income support (CIS) is limited to a maximum of 7 % of total public CAP expenditure per MS and a maximum of 13 % of the budget for Direct payments. A permitted extra 2 % if used for supporting protein crops.

Direct payments are linked to 'conditionality' where the farmer has to respect the Good Agricultural and Environmental Conditions (GAECs) and 7 Statutory Management Requirements (SMR) in order to benefit from direct payments.

The Commission maintains that in this way, conditionality ensures all recipients follow a baseline of practices that goes considerably beyond the legal minimum, therefore contributing to environmental, climate change, plant health and animal welfare objectives. It also ensures public support and meets societal expectations of good stewardship.

While the greening practices were previously supported with 30% of the direct payments budget, compliance with GAEC requirements is now a basic condition for receiving CAP support. In other words, the new eco-schemes, requiring 25% of direct payments need to go beyond pre-2023 greening provisions.

The full set of enhanced GAEC standards of the new CAP 2023-2027 marks an overall increase in environmental ambition compared with the previous GAECs and the greening rules, applicable until 2022. MS can further increase GAEC obligations at national level through implementation choices.

GAEC 1 retained 'greening' obligations for maintenance of permanent grasslands.

GAEC 2 to protect wetlands and peatlands, which store important quantities of carbon (new GAEC).

GAEC 5 asks for tillage management to reduce soil erosion and maintain a healthy microbiological and productive soil

GAEC 6 on minimum soil cover during the sensitive period.

GAEC 4 on buffer strips along watercourses that should have a minimum width of 3 meters.

GAEC 7 on crop rotation replaced crop diversification, requiring changes of crops between years thus leveraging greater diversity in the cropping system.

GAEC 8 requires dedicating a share of arable land to non-productive areas and features thus promoting maintenance of landscape features and fallow land (stricter as the previous 'ecological focus area/EFA' obligation under greening accepted also, under certain conditions, productive areas).

GAEC 9 Protection of environmentally sensitive permanent grasslands.

ECO-Schemes

A novelty in the CAP reform is the introduction of ECO-Schemes under the budget for Direct Payments that aim to reward farmers for going further in the implementation of sustainable agricultural practices. Eco-schemes will support farmers in adopting practices that minimise the negative impact of agriculture on the environment and climate and help them evolve towards more sustainable farming models. The objective of these ECO-Schemes is to deliver direct environmental benefits for climate, water, soil, air, biodiversity, and animal welfare to contribute to the EU Green Deal objectives.

In 2021 the European Commission published a list of potential ECO-Schemes in order to provide guidance to Member States, whereby Member States have the flexibility to customise such schemes to specific national environmental and climate needs ²³. MS are required to set aside 25 % of Direct Payment budget for such ECO-Schemes.

²³ [Commission publishes list of potential eco-schemes \(europa.eu\)](https://ec.europa.eu/euro-pressroom/content/commission-publishes-list-of-potential-eco-schemes_en)

Overall, the CAP Strategic Plans devote 32% of the total public CAP funding (EUR 97.6 billion) to encourage farmers as part of an ECO-Scheme to invest or implement practices going beyond the conditionality.

The European Commission provided a broad analysis of the diversity of MS ECO-Schemes in its summary publication of June 2023 on MS Strategic Plans ²⁴. In total MS have submitted 158 ECO-Schemes whereby design approaches vary significantly. Some MS have opted for one multi-dimensional scheme other for several schemes that focus on very specific objectives, most program run on an annual basis.

The Commission summarizes common threads of the MS ECO-Schemes as follows:

“At EU level, eco-schemes targeted to soil conservation (increasing natural fertility, carbon farming) account for 30% of the overall; those addressing biodiversity and landscape features represent nearly 20% and those on grazing and grassland management account for 15%. Support to organic farming and pesticide management account for 6% each. Few plans include specific schemes targeted to peatland and wetlands (2%) and animal-related actions (5%).

(Types of Eco-Schemes offered by MS:)

- Soil management aiming at improving soil structure and increasing soils’ ability to store organic matter (carbon sequestration): long-cycle rotations, leguminous crops, crop diversification, tillage restrictions (e.g., no-till), catch crops, green cover in permanent crops, straw incorporation;
- Preserving biodiversity and landscapes: ecological management of farmland, maintenance and creation of landscape features and non - productive areas, melliferous and other crops beneficial for pollinators and fauna, extensive management of biodiversity-rich farming systems;
- Pesticide management: banning or limiting the application of plant protection products, promoting biological control, mechanical weeding, use of resistant and local species and varieties;
- Grasslands management: extensive management of grassland including ban of fertilisation and limits in stocking density, minimum grazing periods, ban on ploughing of (permanent) grasslands, mowing obligations/restrictions adapted to biodiversity, conversion of arable land to grasslands;
- Nutrient management: using precision farming, banning the use of mineral fertilisers, limiting the use of fertilisers or setting requirements on their application to the soil, promoting the use of

²⁴ [approved-28-cap-strategic-plans-2023-27.pdf \(europa.eu\)](#) - pages 63 to 66.

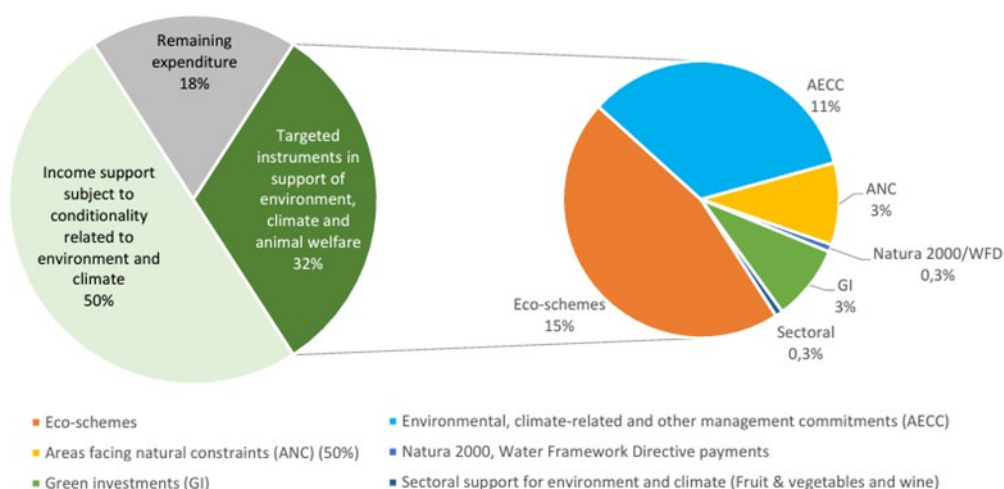
organic fertilisers such as manure, slurry or compost, carrying out fertilisation plans to improve efficiency;

- Animal welfare and anti-microbial resistance: outdoor grazing of animals for a minimum duration or providing more living space to animals.
- Nine CSP include support to organic farming (BE-FL, BG, DK, EE, EL, FR, LT, NL, PT and SE) and several CSPs support other national certifications, such as integrated production (LT, MT, PL and PT) and high environmental value farming (FR)."

In addition, the CSP's plans can also finance additional costs or income foregone from the requirements covered by specific EU legislation, namely the EU Nature Directives and the Water Framework Directive, Natura 2000 Directive and Biodiversity Directive.

Figure 3 right ring highlights the greening efforts going beyond conditionality i.e. the use of the 32 % of CAP funds spent under ECO-Schemes:

Figure 3: CAP public financing contributing to protection of environment, climate and animal welfare (EAGF/EAFRD and national funds, %, 2023-2027)¹¹ (Source: Approved CAP plans)



Rural Development

The rural development framework also includes environmental and climate management commitments, which aim to compensate farmers and other beneficiaries for voluntarily committing themselves to implement sustainable practices. The CAP proposals include that a minimum of 30% of rural

development funds should go towards CAP interventions that address specific environmental and climate-related objectives.

Compared to the 2014-2022 period, the CAP legislation increased the minimal spending requirement for rural development, bringing it up by 5 percentage points to 35% (although spending on animal welfare is now also included in the calculation), and involves a weighting factor of 50% applied to payments to areas facing natural constraints.

In their rural development programs MS support, different kinds of interventions, which between them address the needs of different nature. This includes many agriculture-related area-based interventions addressing specific environment and climate objectives in combination or in addition to other well established 'non-area' based instruments (such as investments, cooperation, knowledge exchange) of the green architecture.

Tools under rural development can e.g. support the transition towards more environmental-friendly practises. For example, funds can be used to invest in green infrastructure, in knowledge transfer and innovation or in developing access to fast broadband in rural areas.

In contrast to the instruments of 'direct payments', these are also open to beneficiaries other than farmers, they are multiannual rather than annual, and the funding made available to farmers and beneficiaries includes a national component (funded through EAFRD with national co-financing).

2.4. Assessment of the CAP 2023-2027 in terms of sustainability

Has the CAP 2023-2027 become greener or is it more 'Greenwashing'? Will the CAP be able to deliver against the Green Deal objectives and EU emission targets 2030?

Keeping in mind that the CAP 2023-2027 only is in its first year of effective implementation and that over its duration further finetuning of measures will occur, such analysis needs to remain rather theoretical, based on limited data, mainly the respective CAP Regulation formulating policy objectives for MS National Strategic Plans and those respective first-year plans.

Several studies have analysed the impact of the CAP 2023-2027 reform on future agricultural production in Europe but hardly any of them takes the broader EU Green Deal objectives and EU emissions targets 2030 into account ²⁵. With respect to National Strategic Plans and in particular its green elements,

²⁵ https://agriculture.ec.europa.eu/system/files/2022-02/factsheet-farmtofork-comparison-table_en_0.pdf

detailed analysis is just about to start (keeping in mind that the last National Strategic Plan was only adopted in December 2022). The Commission published a report in November 2023 on the Strategic Plans for 2023-2027 ²⁶. It provides a first analysis of the common themes of the national plans. It compares the national plans against the guidelines and distils them into a first benchmark of measures that most member states included into their plans and those, that have rarely been promoted. It thereby identifies those areas, where more effort for uptake needs to take place. But the report does not provide an assessment of the national plans with respect to sustainability or environmental effects. Such analysis will probably follow when the Commission has concrete data of at least two to three years of implementation of national plans.

At this moment only a handful of papers are available, all published within the last year, which mostly are still rather general in their analysis:

- European Commission DG Agri Summary of National Strategic Plans (June 2023) ²⁷
- European Parliament: Research for Agri Committee on 'Comparative Analysis of the CAP Strategic Plans and their Effective Contribution to the Achievements of the EU Objectives' – ADE study (May 2023) ²⁸
- European Environmental Bureau (EEB) on the environmental performance of the CAP 2023-2027 'New CAP Unpacked and ... Unfit' (December 2022) ²⁹
- European Environmental Bureau (EEB) ³⁰ (September 2023) and Agricultural and Rural Actors Working Together (ARC) ³¹ (April 2023) undertook separate analysis on CAP Strategic Plans with respect to carbon farming
- OECD (October 2023) reviewed the sustainability of the EU environment and climate action effect of the EU agricultural policy ³²
- Agricultural and Rural Actors Working Together (ARC) analysis on the German Strategic Plan with respect to environmental impact (March 2023) ³³
- Agricultural and Rural Actors Working Together (ARC) on the French Strategic Plan being questioned by French NGOs Collectif Nourrir and ClientEarth in an EU law Case for not respecting

²⁶ https://agriculture.ec.europa.eu/document/download/6b1c933f-84ef-4b45-9171-debb88f1f757_en?filename=com-2023-707-report_en.pdf

²⁷ [approved-28-cap-strategic-plans-2023-27.pdf \(europa.eu\)](https://agriculture.ec.europa.eu/document/download/6b1c933f-84ef-4b45-9171-debb88f1f757_en?filename=com-2023-707-report_en.pdf)

²⁸ [Research for AGRI Committee: Comparative analysis of the CAP Strategic Plans and their effective contribution to the achievement of the EU objectives \(europa.eu\)](https://agriculture.ec.europa.eu/document/download/6b1c933f-84ef-4b45-9171-debb88f1f757_en?filename=com-2023-707-report_en.pdf)

²⁹ [New CAP Unpacked-6.pdf \(eeb.org\)](https://agriculture.ec.europa.eu/document/download/6b1c933f-84ef-4b45-9171-debb88f1f757_en?filename=com-2023-707-report_en.pdf)

³⁰ https://eeb.org/wp-content/uploads/2023/09/Policy-Brief_Role-of-the-CAP-in-promoting-carbon-farming.pdf

³¹ <https://www.arc2020.eu/can-the-cap-and-carbon-farming-coexist/>

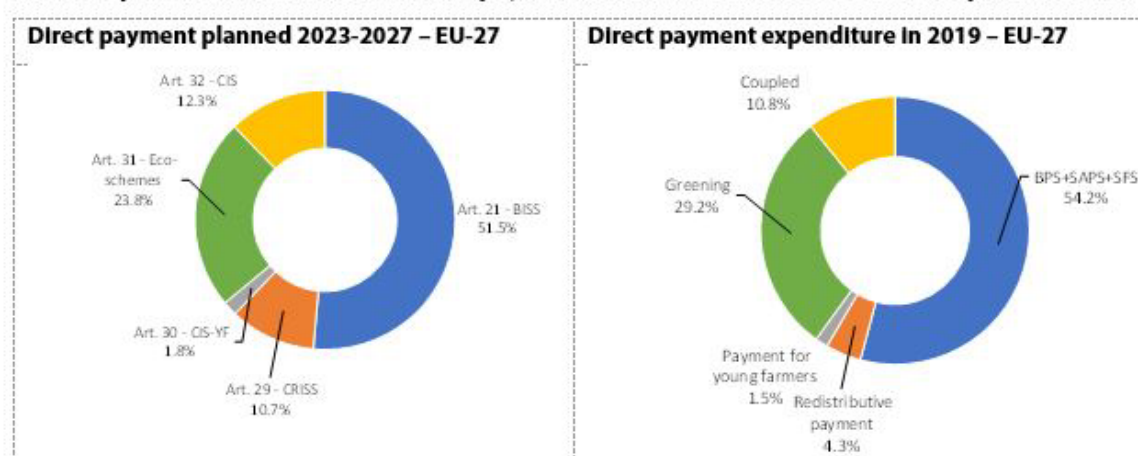
³² <https://www.oecd.org/publications/policies-for-the-future-of-farming-and-food-in-the-european-union-32810cf6-en.htm>

³³ [The German CAP Strategic Plan: The Ambition has yet to Come | Agricultural and Rural Convention \(arc2020.eu\)](https://www.arc2020.eu/can-the-cap-and-carbon-farming-coexist/)

CAP 2023-2027 principles and European Commission observations on the draft plan (September 2023) ³⁴

Some NGOs argue that more budget was used on environmental measures in the CAP 2019 than in the reformed CAP 2023-2027.

Share of planned distribution of direct payments (EAGF) in CSPs 2023-2027 compared to 2019



Source: Project team, based on SFC2021 data (January 2023)

ADE report May 2023

Such an evaluation is simplistic and misleading: Looking at the chart above it appears that the “Greening” share in the old CAP is bigger than the ECO Schemes in the new CAP. In reality the so-called greening was de facto very modest. The new CAP has not only tightened the Good Agriculture and Environmental Conditions (GAECs) for direct payments but and attempts with ECO-Schemes to improve the delivery of environmental and climate objectives. To what extent and at what speed this mix will be successful and deliver against the EU Green Deal objectives, is in our view too early to evaluate.

The different studies share some common points in their analysis and criticism:

- The analysis of the 28 CAP Strategic Plans (CSPs) shows the great diversity and heterogeneity of the approaches adopted by the Member States. The relevance of the plans is high in terms of economic needs and moderate for rural development and for environmental needs. Studies question if increased flexibility for MS will lead to a dilution of a ‘common’ agricultural policy.

³⁴ [French CAP Strategic Plan: EU Sued over Approval of the Plan | Agricultural and Rural Convention \(arc2020.eu\)](https://arc2020.eu/French-CAP-Strategic-Plan-EU-Sued-over-Approval-of-the-Plan)

- Environmental needs are targeted by the interventions of the CSPs, however, target setting is not consistently ambitious across all CSPs. In many cases the scope and nature of green measures are not well targeted and a large proportion of national budgets continues to be spent on untargeted “income-support” payments.
- Contributions to European Green Deal objectives are included throughout the CSPs, but are largely unquantified and unspecified. The eco-schemes, together with the agri-environment and climate measures including organic farming and strengthened conditionality, are likely to contribute to the objectives. The extent of contribution, however, will depend on the uptake and implementation of the eco-schemes.
- The new Performance Monitoring and Evaluation Framework (PMEF) is one of the key elements of new delivery model. However, the proposed system of indicators appears incomplete for evaluating the specific objectives, requiring additional data collection. This is the case especially for the climate and environmental result indicators.

Obviously, environmental NGOs go further in their criticism, in particular in relation to GAECs and carbon farming.

The European Environment Bureau (EEB) reviewed the GAECs and considers them ‘not fit for purpose’, indicating that further work is required to make them precise enough so they ‘survive’ implementation by MS in their strategic plans. They criticise that conditionality standards are defined and implemented very loosely and further undermined by many exemptions allowing income support payments to continue with little change against previous practise, thereby resulting in a low baseline for green subsidies. On the other hand, the OECD study was rather positive about the changes in GAECs and see them as the main element strengthening environmental effects.

With respect to carbon farming both EEB and ARC criticise that only 8 MS have included measures on carbon-farming in their national plans. They insist that carbon farming should play a key role in delivering climate mitigation in agriculture and the 2023-2027 CAP offers several tools to support its widescale uptake. Yet, the actual impacts on the ground largely depend on whether and how Member States design and implement carbon farming-related interventions. So far, Member States have remained reluctant - as a matter of political choice - to use their CAP funding to realise the potential of carbon farming. Where MS provide incentives, requirements don’t go sufficiently beyond the compliance rules of the GAECs, and very few Member States adopted a holistic approach, which would be necessary for long-term carbon sequestration that also delivers environmental co-benefits and improves overall soil quality and biodiversity.

GAEC Examples

- **Peatlands and wetlands** will not effectively be protected by **GAEC 2**, due to delays in its implementation (up to 2025 for most Member States who are not ready to implement the measure) and its weak rules, which in most cases will still allow for the maintenance and even renewal of drainage systems.
- **GAEC 8** falls short of creating adequate **space for nature** on farms because it was set at the bare minimum required by the legislation, and its actual delivery will be undermined by the inclusion of catch crops and nitrogen-fixing crops with limited value for biodiversity, the use of weighting factors inflating the real area and the extensive use of exemptions.
- The implementation of **GAEC 1** and **GAEC 9** is too weak to protect **permanent and biodiversity rich grasslands** from conversion or mismanagement. This will undermine their key role in climate change mitigation and biodiversity conservation.
- The **GAECs** on **tillage management 5**, **soil cover 6** and **crop rotation 7** are unlikely to end the continued degradation of most agricultural soils due to weak and loosely defined rules and too many derogations.; strongly limiting their protective impact on soils and carbon stocks.

EEB report December 2022

We had a more detailed look at the **German Strategic Plan** and its approach to Eco-Schemes. It merits specific mention for a series of reasons: Germany is the second biggest emitter of agricultural emissions in Europe, Germany's draft Strategic Plan got rejected by the European Commission twice and was finally only approved after the incoming German Agricultural Minister Cem Özdemir from the Green Party increased its environmental ambition, and finally because it probably reflects well the situation in other Member States.

The German plan includes environmental measures both under Pillar I and II ³⁵. Germany opted for the so-called "Austrian rule" limiting the budget for the eco-schemes to 22% (of Pillar 1 budget) of the payments rather than the 25% required by the European Commission. Under Pillar I it combines 7 Eco-Schemes for which a total of 1.02 bn has been reserved. In Pillar II Germany exceeds the minimum budget (35%) on environmental and climate objectives by far with almost 60% (11.4 billion euros). Most of this money goes to agri-environmental and climate measures, which account for 45% of the second pillar budget. So, in terms of overall expenditure for environmental measures the German Plan must be considered ambitious.

³⁵ https://www.bmel.de/SharedDocs/Downloads/DE/Broschueren/gap-2023.pdf?__blob=publicationFile&v=2

The NGO Agricultural and Rural Actors Working Together (ACR) reviewed the German Strategic Plan with respect to environmental impact and arrived at a rather mixed conclusion ³⁶.

German Strategic Plan

“Germany opted for the so-called “Austrian rule” limiting the budget for the **eco-schemes** to 22% (of Pillar 1 budget) of the payments rather than the 25% required by the European Commission. By far the largest share of the eco-scheme budget is spent on achieving the biodiversity objectives, followed by promoting sustainable development of natural resources, while only a small extend of the budget is spent on achieving the climate objectives.

The eco-schemes primarily serve to achieve other objectives like the protection of biodiversity and thus the effect on climate mitigation remains often indirect. Only the eco-scheme on agroforestry, which is being offered for the first time in Germany, aims primarily at the conservation of stored carbon in soils and biomass and thus at climate mitigation. However, the effectiveness of this measure remains low due to its unambitious targeted of only 1% of agricultural land and its low funding rate compared to other eco-schemes.

In contrast to the eco-schemes, in **Pillar II** Germany exceeds the minimum budget (35%) on environmental and climate objectives by far with almost 60% (11.4 billion euros). Most of this money goes to **agri-environmental and climate measures**, which account for 45% of the second pillar budget. A closer look confirms that there is a clear focus on measures to promote biodiversity (15% of the total Pillar II budget) and organic farming (20% of the total Pillar II budget), while only 1.3% of the Pillar II budget is spent on climate mitigation and 2% and 2.3% on water and soil protection, respectively.

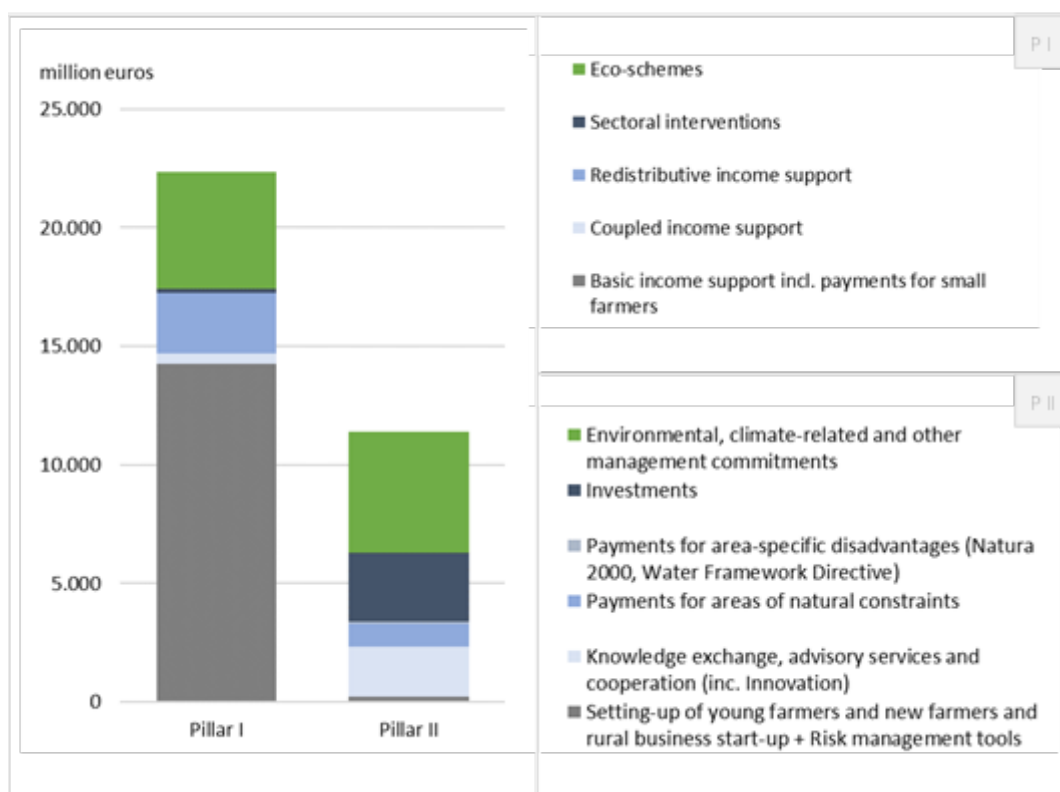
Within Pillar II, the measure directly addressing climate change mitigation offers a set of sub-measures to foster the conversion of arable land into grassland, extensive grassland management, rewetting and management of peatland, water retention in the landscape and cooperative climate protection. While important, these measures do not sufficiently address the urgent need for GHG emissions reduction from land use change, fertilizer use, and animal husbandry. Although the measures on the extensification of grassland and the conservation and rewetting of peatlands address this, the area coverage remains low. For example: Livestock-dense regions such as Lower Saxony, North Rhine-Westphalia and Hesse do not offer any extensification of grassland measure. The same holds true for peatlands. Not all peatland-rich federal states offer peatland-measures to their farmers and if they do, only a small proportion of the peatland area is covered.”

ARC March 2023

³⁶ [The German CAP Strategic Plan: The Ambition has yet to Come | Agricultural and Rural Convention \(arc2020.eu\)](https://arc2020.eu/)

The main criticism of ACR vis-à-vis the German Plan is its lack of ambition, its focus on biodiversity measures and organic farming, whilst neglecting climate mitigation. Interesting projects with positive effects on climate mitigation like extensification of grassland and the conservation and rewetting of peatlands, only cover small areas and are not at offer in regions ('Bundesländer') which would in particular benefit from such measures.

Budget Allocation under German Strategic Plan:



Explanation of the graph: Budget allocation of interventions in Pillar I (P I) and Pillar II (P II) in million Euros in Germany. Green measures are expected to contribute to the achievement of environmental and climate mitigation objectives, blue measures are partly expected to contribute, while grey measures are very unlikely to contribute to the achievement of environmental and climate mitigation objectives.

According to the German Ministry of Agriculture uptake of the German Eco-schemes has so far been moderate ³⁷: Experts had warned beforehand that payments under the Eco-schemes were not attractive enough. Overall, the earmarked 1.02 bn Euros for Eco-Schemes in 2023 will only be used for about 75 %, whereby uptake of the 7 different Eco-schemes at offer vary considerably. Eco-Scheme 1 covering measures to increase biodiversity on farmed land had in particular acceptance problems. E.g., measures on voluntary set-aside were not taken up, only 17 % of planned arable land was included in the scheme. No doubt the 2023 general exception from set-aside obligations due to food security concerns in the context of the Ukraine war played a significant role and therefore might not be representative for the future. In contrast Eco-scheme 5 on increasing biodiversity on grassland was oversubscribed by almost 100 %. Eco-Scheme 6 on pesticide reduction with permanent cultures was poorly received with an acceptance rate of just 11 %, mainly due to payments considered unattractive.

As a consequence, the German Ministry of Agriculture has recently (October 2023) announced modifications of its Eco-Schemes for 2024 ³⁸, in the main increasing payments and simplifying application criteria, hoping this will increase uptakes of the schemes significantly.

The German example demonstrates the dilemma of the CAP 2023-2027 in the context of the EU Green Deal:

- Although the CAP 2023-2027 guidelines for the Strategic Plans offer an extensive set of tools for environmental and climate mitigation measures, MS opt mostly for a 'traditional' use of Eco-schemes, with focus on support of biodiversity and expansion of organic farming. NGO refer to this as 'lack of ambition'.
- Farmers are reluctant to take up new Eco-Schemes, often because payment don't (yet) provide the right level of incentive or conditions to join are too cumbersome or don't reflect the farm reality. Many Eco-Schemes are new in design and direction, further adaptation of schemes is required to improve acceptance by farmers and uptake.
- Supporters of the CAP argue that it's direction will prove efficient but requires time for proper implementation and showing results in terms of climate mitigation. Critical voices believe that the agricultural constituency is too slow in adapting to climate change realities and only a radical overhaul of the CAP with pressure from outside the agricultural community will align agriculture and food production with EU emission targets and climate mitigation.

³⁷ <https://www.agrarheute.com/sites/agrarheute.com/files/2023-06/inanspruchnahme-oekoregelungen.pdf>

³⁸ https://www.bmel.de/SharedDocs/Downloads/DE/_Landwirtschaft/EU-Agrarpolitik-Foerderung/anpassungen-oekoregelungen-2024.pdf?__blob=publicationFile&v=4

2.5 . Protests of European Farmers and EU Response

Farmers all over Europe had voiced since long concerns not only about the implementation of the CAP 2023-2027 and in particular its administrative burden for many farmers, but the constraints on efficient farm management resulting from the EU Green Deal. Anger within the European farming community mounting in autumn 2023, also encouraged by the Conservative party (EVP) election campaign that argued that ‘the Green Deal was too much for farmers to swallow’. In response, the Commission postponed some of the outstanding ‘Farm-to-Fork’ proposals, e.g. on animal transport and welfare of laying hens and Commission President Ursula von der Leyen in her address to the European Parliament announced in September 2023 a ‘Strategic Dialogue on the Future of Agriculture’. In the following months several pieces of proposed Green Deal legislation like the ‘Nature Restoration Law’ or the ‘Pesticide Reduction Regulation’ ran into severe opposition both in the European Parliament and in Council. The support for new EU legislation that demands a higher contribution from farmers towards reduction of emissions was clearly waning with European politicians.

In several EU countries farmers were taking to the streets, protesting against different grievances, often reflecting national policies but with a common thread that the Green Deal was pushing them out of business and they required more support in economically difficult times, tied to the Russia-Ukraine war and consequent price spikes in inputs. In January 2024, The German government announced the abolition of tax advantages for farmers on petrol used in agriculture, which led to large-scale farmers protests and triggered more farmers protests in other EU countries, e.g. Poland and France. These protests culminated in Brussels in connection with the European Council on 1 February 2024.

European politicians, many facing national and European elections, were quick in demanding EU action at EU level to ‘alleviate farmers pain’. On 22 February 2024 the Commission presented a package on simplification and cutting of red tape with respect to CAP implementation. The Commission also finally launched its ‘Strategic Dialogue on the Future of Agriculture’ on 25 February 2024. Under the chairmanship of Peter Strohschneider, former chairman of the German government’s ‘Commission for the Future of Agriculture’, stakeholders will work in different groups on four main topics (innovation, economic growth, sustainability, value chain) and deliver a report to the Commission by June 2024.

But Member States asked for a quicker and more tangible reaction to farmers concerns. EU Agriculture Ministers on 26 February 2024 asked the Commission to reorient the implementation of the CAP more substantially, in particular drastically reduce requirements under the GAECs (Good Agricultural and Environmental Conditions), as a prerequisite for receiving Direct Payments, and actually make them voluntary. Pressure culminated with 22 countries, spearheaded by France and Spain, on 5 March 2024 sending a letter to the Commission, calling for immediate initiatives to alleviate the agricultural crisis. More than 300 European NGOs responded with a letter to the Commission on 6 March 2024, demanding

that the green architecture of the CAP reform not be touched.

In response, the Commission, in addition to its package of 22 February 2024, announced additional measures on 12 and 15 March 2024.

Our analysis/critique of the new CAP 2023-2027 (see points 2.1 to 2.4) has argued that through the Good Agricultural and Environmental Conditions, GAEC, i.e conditionality conditions for receiving Direct Payments have been strengthened in the CAP 2023-2027 compared to the previous CAP. The Commission package from February / March 2024 appears to be reverting either temporarily or for longer to many of the GAEC conditions in the previous CAP. At first glance, this implies a watering down of environmental constraints, although the exact impact can only be evaluated after some time of implementation.

The Commission first proposed (12/3/2024) a relaxation of **GAEC 1** regarding Permanent Grassland, providing a possibility for Member States to adjust once in the programming period 2023-2027 the 2018 reference ratio to reflect a decrease in the area of permanent grassland where such adjustment is necessary due to structural changes in the farming systems that took place after 2018 ³⁹. Permanent grassland enriches soil, traps carbon, and promotes biodiversity and the GAEC 1 requirement stipulates that the size of the surface to be preserved or restored must be based on a ratio of permanent grassland in relation to total agricultural surface in a reference area. The reference year is 2018.

In the subsequent package (15/3/2024) ⁴⁰ the Commission proposes a targeted review of certain conditionalities in the **Regulation on CAP Strategic Plans**. The review relates to the following conditionalities:

- **GAEC 8 on non-productive features:** EU farmers will have to maintain existing landscape features on their land but will no longer be obliged to dedicate a minimum part of their arable land to non-productive areas, such as fallow land. Instead, they may choose, on a voluntary basis, to keep a share of their arable land non-productive - or establish new landscape features (such as hedges or trees) - and thereby receive additional financial support via an eco-scheme that all Member States will have to offer in their CAP Strategic Plans. All EU farmers will be incentivised to maintain non-productive areas beneficial for biodiversity without fearing loss of income.
- **GAEC 7 on crop rotation:** EU farmers will be able to fulfil this requirement by choosing to either rotate or diversify their crops, depending on the conditions they are facing and if their country

³⁹ https://eur-lex.europa.eu/eli/reg_del/2022/126/oj

⁴⁰ [Commission's additional measures to support EU farmers \(europa.eu\)](#)

decides to include the option of crop diversification in their CAP Strategic Plan. Flexibility to carry out crop diversification instead of crop rotation only will enable farmers affected by regular drought or excessive rainfall to comply more easily with this requirement.

- **GAEC 6 on soil cover during sensitive periods:** Member States will have much more flexibility in setting what they define as sensitive periods, and the practices allowed to fulfil this requirement, in light of their national and regional conditions, and in the context of increasing weather variability.

In addition to these specific changes, the Commission proposes that Member States may exempt certain crops, soil types or farming systems from complying with requirements on tillage, soil cover, and crop rotation / diversification (respectively GAECs 5, 6, 7). Targeted exemptions to allow ploughing to restore permanent grassland in Natura 2000 sites in case it is damaged due to predators or invasive species could also be possible (GAEC 9). These exemptions may be set for the whole CAP period in the CAP Strategic Plans. They should be limited in terms of area and established only where they prove necessary to address specific problems. The Commission will review the necessary amendments to validate the exemptions and maintain the consistency with the overall environmental objectives of the Plans.

In extreme cases of adverse weather conditions preventing farmers to properly work and comply with the GAEC requirements, Member States may also introduce temporary derogations. These derogations should be limited in time and only apply to the beneficiaries affected.

To ensure that EU countries can adapt more frequently their CAP Strategic Plans to changing conditions, the Commission proposes to double the number of amendments allowed each year. Any successful simplification exercise must be carried out in close cooperation with national administrations.

Last but not least, the Commission proposes to exempt small farms of under 10 hectares from controls and penalties related to compliance with conditionality requirements. This will significantly reduce the administrative burden related to controls for small farmers who represent 65% of CAP beneficiaries.

In our analysis, the result of these proposals would be that many of the GAECs would no longer differ from the previous CAP whereby the “greening effect” is turning more “yellow” and close to status quo.

GAEC 1 on permanent grassland retaining the ratio to the reference year 2018. The change would allow, as France has long demanded, that permanent grassland converted into crop production due to market demand, should allow to stay in production. Obviously, this has a negative effect on biodiversity and the release of CO₂ into the atmosphere.

GAEC 5: No tillage is a step backwards, where farmers increasingly have learnt the detrimental effect of yearly ploughing. Many farmers have left this practice anyhow so the relaxation may in practice not have a major effect.

GAEC 6: Minimum soil cover is an important measure to avoid soil degradation and carbon emissions. If it is done in a sensible manner by Member States, the effect might be limited.

GAEC 7 on rotation is a clear step backwards allowing instead for the so-called “diversification” which is none other than allowing for permanent 2 or 3 types of crops on the same holding year after year. This provision originally introduced under the 2012 CAP reform is detrimental to biodiversity, exhausting the soil for nutrients and making plants more vulnerable to diseases leading to increased use of chemical plant protection / pesticides. Many farmers have understood this and have abandoned mono- or semi- monoculture. This is probably the most serious setback of the package.

GAEC 8 to retain landscape features and allow for planting of hedges or the maintenance of trees, this is a rather sensible change. It allows to accommodate different longstanding practices in Member States and is in accordance with the logic of the revision of GAEC 8 in the CAP 2023-2027. Farmers are thus entitled to receive payments by maintaining or expanding such features either without increasing production or indeed reducing the output.

It is important to note that GAEC 2 Reestablishment of wet and peatlands and GAEC 4 Border strips to waterways have not been touched by the proposal and thus remain intact.

The exemption for small farmers under 10 ha from the inspections and penalties for noncompliance with GAECs probably has limited effect in practice. Such farms represent 65 % of all farmers in the EU but only account for 9,6 % of the area receiving CAP support. In addition, these farmers still have to respect the legal requirements of the GAECs in order to be entitled to receive the payments under Pillar I within

the CSP, the Strategic Plans. In case of non-respect presumably it would be up to the national authorities to pursue such possible infringements. It needs to be said that this exemption should lead to a reduction of 50 % of the controls and administrative work for national administrations.

The importance and effects of these proposals remain to be seen. Once adopted, they are in principle designed for remaining in force until the end of this CAP cycle in 2027. It can be expected that the proposals will meet fierce opposition by environmental NGOs and some political parties, in particular in the European Parliament. They might contribute to calls for a more radical reform of the CAP, a demand also voiced by the European Scientific Advisory Board on Climate Change, whose 15 members advise the European Commission on climate change policy, in their January 2024 report “Towards EU Climate Neutrality: Progress, Policy Gaps and Opportunities”⁴¹.

⁴¹ Towards EU climate neutrality: progress, policy gaps and opportunities (europa.eu)

Chapter 3: Green Deal Legislation and Agriculture (Farm to Fork and Biodiversity)

As we have described in Chapter 1 on the EU Green Deal, a series of Green Deal legislation, in particular from the 'Farm to Fork Strategy' and the 'Biodiversity 2030 Strategy' will impact directly on European agriculture. Some of these measures will have to be taken into account by future annual National Strategic Plans under the CAP 2023-2027, others will be implemented via separate stand-alone action plans with funds outside the CAP.

In this Chapter 3 we will have a closer look at three specific measures that not only are key elements for the delivery of the Green Deal objectives with respect to EU emission targets but have direct impact on productivity and methods of agricultural production in Europe.

We want to use this section to illustrate the EU regulatory decision-making process and show how Green Deal 'aspirations' as put forward by the European Commission in form of legislative proposals are converted into political reality. We intend to showcase how these two positions can differ significantly and will have an impact in terms of the EU achieving its emission targets. We hope to provide a 'feeling' for the political dynamics in Europe around 'climate change and agriculture'.

All three measures – **Pesticides Sustainable Use Regulation, New Genome Techniques Regulation and the Nature Restoration Act** – proved highly controversial in discussions with the European Parliament and the Agricultural Council, and suffered different destinies.

The accelerated regulatory activity in the autumn of 2023 and beginning of 2024 is linked to the EU institutional cycle: The European Parliament will hold elections in June 2024 and therefore convene in Plenary session for the last time in April 2024. Following the elections, the new parliament will have its constituting session in July 2024 and then convene in full session first time in September 2024, with the autumn traditionally dedicated to hearings of the new Commission, that will take up work on 1.1.2025. From this follows that any discussions on present legislative proposals that are not concluded within the next few weeks, will have to be postponed to 2025.

With respect to Green Deal measures, the Commission has tabled all proposals of major importance and all involved institutions are committed to conclude negotiations on these until March 2024, so the respective legal acts can be voted in the last plenary session of the European Parliament in April 2024. The last proposal of importance tabled by the Commission was the one on New Genome Techniques, adopted by the Commission in July 2023.

Some Green Deal proposals relevant for agriculture are however still pending, mainly the proposal on a framework Law on Sustainable Food Systems, a key element of the EU's flagship Farm to Fork strategy which aims to accelerate and facilitate the transition to sustainable food systems. The same is the case for most planned legislation on animal welfare, with the exception of animal transport. All these proposals do not figure on the Commission work program for 2024, therefore seem to have been postponed until at least 2025.

The Commission President Ursula von der Leyen in her 'State of the Union' speech on 13 September 2023 gave ample room to the agricultural and food sector but did not refer to the Farm to Fork Strategy nor the missing proposals of that strategy ⁴². Instead, she stressed that an effective move towards a more sustainable agriculture needed "more dialogue and less polarisation" in the agri-food policy debate. She announced the launch of a "strategic dialogue" on the future of agriculture in the EU. This reference to "strategic dialogue" looked to many commentators as pause-pressing the Farm to Fork Strategy ⁴³.

3.1. Pesticides Sustainable Use Regulation

The European Union has for long had legislation on the sustainable use of pesticides, last time updated in 2019. In the context of evaluating existing legislation against the Green Deal objectives, the Commission concluded that the rules of the Sustainable Use of Pesticides Directive had proven to be too weak and had been unevenly implemented between Member States. Also, insufficient progress had been made in the use of Integrated Pest Management as well as other alternative approaches. Against the background of the Farm to Fork Strategy and to strengthen the implementation of the sustainable use objectives, the Commission adopted in June 2022 a proposal for a Regulation (SUR) ⁴⁴ replacing the old 'Sustainable Use Directive' ⁴⁵. It sets EU targets for the reduction of pesticides and provides national targets, as well as more specific requirements at users' level, including for IPM in the form of "crop-specific rules".

- Legally binding targets at EU and national level to reduce by 50% the use and the risk of chemical pesticides and the use of the more hazardous pesticides by 2030. Member States will set their own national reduction targets within defined parameters to ensure that the EU wide targets are

⁴² https://ec.europa.eu/commission/presscorner/detail/en/speech_23_4426

⁴³ The Strategic Dialogue on the Future of Agriculture was launched in February 2024, with four working groups looking at questions of economic growth, sustainability, food chain and ??, resulting in a report to be presented in June 2024.

⁴⁴ [SUR Proposal R1 - version for RSC meeting clean LW \(004\) - additional changes from table \(003\) \(europa.eu\)](#)

⁴⁵ A Directive has to be implemented into national legislation of the Member States before it is applicable. A Regulation is directly applicable in the Member States.

achieved.

- Strict new rules on environmentally friendly pest control: New measures will ensure that all farmers and other professional pesticide users practice Integrated Pest Management (IPM), in which alternative environmentally methods of pest prevention and control are considered first, before chemical pesticides may be used as a last resort measure. The measures also include mandatory record keeping for farmers and other professional users. In addition, Member States have to establish crop-specific rules identifying the alternatives to be used instead of chemical pesticides.
- A ban on all pesticides in sensitive areas. The use of all pesticides will be prohibited in places such as urban green areas, including public parks or gardens, playgrounds, schools, recreation or sports grounds, public paths and protected areas in accordance with Natura 2000 and any ecologically sensitive area to be preserved for threatened pollinators.

The proposal came with a package of measures to support farmers and other users, with the transition to more sustainable food production systems, including:

- New CAP rules to ensure that farmers are compensated for any costs related to the implementation of the new rules for a transition period of 5 years;
- Stronger action to increase the range of biological and low risk alternatives on the market;
- Research and Development under EU's Horizon programmes in support of new technologies and techniques, including precision farming and
- An Organic Action Plan, to deliver the Farm to Fork pesticide targets.

The Commission also announced its intention to ban imports of food products from third countries treated with substances that are banned in the EU. This should encourage third countries to also limit or prohibit the use of these pesticides. The first two pesticides targeted, for which the permitted residue level was consequently reduced to zero, were thiamethoxam and clothianidin, two substances known to contribute to the worldwide decline of pollinators (see in more detail chapter 7).

Following the EU process of regulatory decision taking, the Commission proposal was then discussed in parallel by Member States and the European Parliament.

The European Council had a slow start on discussing the Commission proposal until in September 2022 9 Member States started questioning the Commission approach on pesticides, calling it too ambitious, too limiting, and even a driving factor in the loss of cultivated agricultural land ⁴⁶. They requested a

⁴⁶ On 26 September 2022, farm ministers from Austria, Bulgaria, Estonia, Hungary, Malta, Poland, Romania, Slovenia and Slovakia sent a request to review the impact of the SUR regulation, arguing that the current state of the bill does not take into account the impact of the war in Ukraine on global food security and the resulting threats to the European Union.

further detailed impact assessment by the Commission before discussing the proposal in any detail. Other member states saw this as a delaying tactics but finally the Council agreed in December 2022 on a formal request to the Commission asking for an additional impact assessment. Preceding discussions showed that many member states were either at unease with a legally binding pesticides reduction target and / or considered a total ban of pesticides in sensitive areas too restrictive. Consequently, the Commission reviewed available data and a range of impact studies to conclude that its original impact assessment still stands but showed a certain opening to the issue of using pesticides in sensitive areas⁴⁷. The Commission in particular emphasized the importance of all stakeholders buying into a joint EU strategy on pesticides reduction: “An unmanaged or badly managed reduction in pesticide use may indeed lead to yield reductions, but a well-managed transition will not have such negative effects”. Council started detailed discussions on the Commission proposal only in September 2023 and a first debate seems to indicate there is limited support for binding national reduction targets. No clear timetable for concluding a Council position is available. At the beginning of November 2023, the Spanish EU Presidency circulated a first compromise text to establish common ground around the issues of legally binding targets and the ban of pesticides in sensitive areas. As the paper did not receive much support, the file was marked to be transferred to the Belgian Presidency, implying that a common position will not be reached before spring 2024 the earliest.

In the European Parliament the Environmental Committee was designated the lead Committee with prior consultation of the Agricultural Committee.

The Agricultural Committee voted on 9 October 2023 by a huge majority major changes to the Commission proposal.

- The legally binding targets at EU and national level to reduce by 50% the use of chemical pesticides and the use of the more hazardous pesticides should be postponed from 2030 to 2035.
- The proposed ban on the use of pesticides in sensitive areas should be scrapped, instead calling for restrictions or bans on the use of plant protection products in each area to be set by EU countries. In this way, member states would be able to modulate the application of pesticides according to the specific needs of the area, and this would then be communicated to the Commission in their national action plans.
- Rejection of an article which would link the CAP to the SUR. This means that CAP funding would be blocked from being used to support farmers in reducing the use of pesticides and implementing the requirements of the SUR.

In the follow-up to the vote in the Agricultural Committee, there was huge uproar by environmental NGOs

⁴⁷ [Commissions-reply-to-a-Council_Sustainable-use-of-plant-protection-products.pdf \(arc2020.eu\)](https://arc2020.eu/Commissions-reply-to-a-Council_Sustainable-use-of-plant-protection-products.pdf)

about cutting the link between pesticides reduction and funding by the CAP. It was interpreted as trying to reserve CAP funds for direct income support and disconnecting from the Green Deal. Lobbying towards the lead Environmental Committee was fierce to overrule the Agricultural Committee which in principle holds exclusive competence on issues in relation to the CAP. The farmers organizations therefore argued that the Environmental Committee was bound by the vote of the Agricultural Committee on the question of CAP funding.

On 24 October 2023 the Environmental Committee took a vote on the SUR, supported the Commission proposal in all main points, requested certain technical compromise specifications and added a few topics like a scheme for monitoring residue levels in humans and the environment and import restrictions on food stuffs treated with pesticides prohibited in the EU. The backing of the Commission proposal came mainly from the left, green and liberal political camps, whereas the Conservatives and right parties all voted against.

The Plenary vote in the European Parliament was scheduled for 22 November 2023. Heavy lobbying from both agricultural, industry and environmental lobbies were taking place to further adapt the opinion of the Environmental Committee and to this purpose a huge number of amendments to the report were tabled by all political parties for vote in Plenary. Finding a compromise with the Agricultural Committee, in particular with respect to CAP funding and postponing the date of legally binding reduction targets, proved impossible. As a consequence, the Plenary voted on 22 November 2023 against the proposal as such, thereby killing off the proposal.

This in return triggered even less appetite in Council to continue an already difficult discussion on the pesticide's dossier. On 6 February 2024 Commission President Ursula von der Leyen withdrew the SUR proposal altogether. In a speech to the Plenary of the European Parliament she reasoned: "The SUR proposal has become a symbol of polarization. It has been rejected by the European Parliament. There is no progress any more in the Council either. So we have to do something". The Commission President announced that following stakeholder consultation and more dialogue, the Commission is planning to propose a new revised framework for pesticide use and reduction. Belgian Prime Minister Alexander de Croo as the Council Presidency reacted with relief.

In conclusion, although Member States fully support the Commission with its Green Deal program to meet EU emission targets, there is a huge gap between commitment to the principle and implementation of specific measures. With respect to pesticides there is clear divergence between the Commission and environmental NGOs on the one side and Member States and agricultural organizations on the other side, with the European Parliament split between the two positions along political party lines. Achieving a compromise between the two rather opposing positions, will be challenging. At this point in time further discussion on the topic has been postponed to at least 2025. It will be interesting to see what 'new approach' the Commission intends to take under its new mandate 2025-2029.

This is an example where political ambition by the European Commission and political reality in Member States clearly do not correspond. The question arises if the Commission had not been too ambitious and top-down in its approach, resulting in a political stall-mate that will be difficult to overcome, in particular following the June 2024 elections to the European Parliament which is predicted to move to the right.

Glyphosate Renewal for 10 years

The renewal of the Glyphosate authorization paints a similar picture of disagreement between the EU institutions.

In September 2023 the European Commission proposed to renew the authorisation of the controversial herbicide glyphosate for a further 10 years beyond its current expiry date of 15 December 2023 ⁴⁸, meaning that, if member states give their go-ahead, its use in the EU will be allowed until 2033.

The proposal comes on the back of months of heated debate over the impact of Europe's most widely used herbicide on health and the environment, particularly over whether glyphosate can be considered carcinogenic. The herbicide's approval in the EU originally expired back in mid-December 2022, but was temporarily extended for one year while awaiting further information from the EU's European Food Safety Authority (EFSA). The Commission proposal follows the publication of EFSA's long-awaited conclusions on the risk posed by the herbicide back in July 2023, in which it concluded there were 'no critical areas of concern', although data gaps were identified on certain aspects.

The Commission's proposal comes with some caveats. For example, the proposal does not allow 'pre-harvest desiccation', which is when herbicides are applied to crops before harvest to kill the leaves and/or plants so that the crop dries out more quickly and evenly. It also imposes certain limitations on its use, such as the number of times glyphosate can be used in a field, the maximum dose that can be applied at a given time, and on the timing of use, as well as recommendations for limiting the impact of spray drift.

Reactions to the Commission's proposal were very polarized. To no big surprise industry and agricultural organizations welcomed the proposal, whereas environmental and consumer NGOs criticized the proposal and invoked the precautionary principle not being respected. The EFSA opinion and Commission proposal were discussed with Member States in the Standing Committee on Plants, Animals, Food and Feed on 13 July 2023 and on 22 September 2023, followed by a vote on 12 October 2023. At the vote the required quorum of a qualified majority to pass the proposal was not achieved.

⁴⁸ [Pt.-C-01.00-Glyphosate-Renewal-Regulation_Rev0_postCIS_19Sept2023_clean.docx \(live.com\)](#)

Qualified majority means in practice a combination of 55% of member states voting in favour – which translates into 15 out of 27 – plus support from EU countries representing at least 65% of the total EU population. Member states voting against were Austria, Luxembourg, and Croatia, while Bulgaria, Belgium, Germany, Malta, the Netherlands, and France abstained. With two major agricultural producer countries Germany and France not supporting the proposal, it was difficult to find the required majority. The Commission decided to submit the proposal to the appeal committee, which examined the proposal in its meeting of 16 November 2023. According to procedure the appeal committee also works with qualified majorities, meaning that the only way to block the authorisation renewal is with a qualified majority of member states actively voting against the proposal. If there is still no qualified majority either in favour or against at this stage, the Commission is tasked with deciding on its own, on the basis of the elements at its disposal.

As expected, Member States did not provide a qualified majority neither in favor nor against the proposal in the appeal committee (Member States vote exactly the same way as in the Standing Committee on 12 October 2023). Consequently, the Commission made use of its right to take a decision under its own competence, and on 28 November 2023 adopted the Implementation Regulation to renew the authorization of glyphosate for another 10 years ⁴⁹. But this eventual decision not only reflects the very split in Europe on the use of plant products but will leave agricultural producers to some extent in limbo. As the authorization and the practical use conditions of plant products remains within the competence of individual member states, we can expect that some of the countries that voted against the renewal of glyphosate, will introduce partial bans of glyphosate or very strict conditions of use. Agricultural organisations fear this might lead to distortion of competition between farmers within the EU. In addition, environmental NGOs have announced they will challenge the Commission decision in front of the European Court of Justice. On 25 January 2024 six European NGOs and five French NGOs filed two separate requests to the Commission for ‘an internal review’, the first step of a legal challenge in front of the ECJ. In addition, the French NGOs demanded the annulment of the reapproval of glyphosate. It is expected that the NGOs will introduce a legal challenge to the ECJ in September 2024, which might then take up to a year for delivering a ruling. Some member states might want to wait with the adoption of practical use conditions until an ECJ ruling, which will leave farmers in the meantime in uncertainty about its use.

3.2. New Genome Techniques Regulation

⁴⁹ https://eur-lex.europa.eu/eli/reg_impl/2023/2660/oj

The Commission proposed on the 5 July 2023 a Regulation introducing new rules for the development of certain NGTs ⁵⁰. This proposal is an important part of the European Green Deal implementation as new genome techniques have the potential of generating new plant varieties that are disease resistant and require less use of fertilizers and pesticides.

There is significant demand in the European Union and globally for NGT plants, because of their potential to contribute to addressing current challenges in the agri-food system. Climate change and biodiversity loss have put the focus on long-term resilience of the food chain and the need to transition to more sustainable agriculture and food systems. The Green Deal's Farm to Fork Strategy specifically identifies new techniques, including biotechnology, that are safe for consumers and the environment and bring benefits to society as a whole, as a possible tool to increase sustainability of agri-food systems and contribute to guaranteeing food security.

The Covid-19 pandemic and Russia's war of aggression against Ukraine have also revealed the Union's external dependencies and have contributed to the call of strengthening 'European Food Security' (see chapter 5). NGTs are applied to a far larger range of crop species than established genomic techniques and can contribute, for example, to decreasing the Union's dependence on imports of plant proteins.

The discussion on the typification of NGTs and the applicable regulatory framework have started long before the Green Deal and are worthwhile summarizing as this provides the background against which the present political debate takes place.

BACKGROUND ⁵¹

Existing EU Legislation from 2001 as initiated since 1990⁵²

The EU legislation on genetically modified organisms (GMOs) is one of the strictest in the world. It has two main objectives: protecting human and animal health and the environment in accordance with the precautionary principle, and ensuring the functioning of the internal market. Stringent procedures exist for the safety assessment, risk assessment and authorization of GMOs before they can be placed on the

⁵⁰ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on plants obtained by certain new genomic techniques and their food and feed, and amending Regulation (EU) 2017/625.

https://food.ec.europa.eu/plants/genetically-modified-organisms/new-techniques-biotechnology_en

⁵¹ The Research Service of the European Parliament released a useful and thorough report on the background of the Commission proposal including history of the discussion and positions of different EU institutions involved. [EPRS BRI\(2023\)754549_EN.pdf\(Review\) - Adobe cloud storage](#)

⁵² DIRECTIVE 2001/18/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC

market. To enable consumers as well as professionals to make informed decisions, labelling and traceability are also ensured.

While the market for genetically modified food in the EU is small, the EU makes use of a substantial amount of genetically modified feed, as it is a major importer of high protein agricultural commodities from countries where production is dominated by GMOs, such as US, Canada and Brazil.

The legal status of NGTs has raised questions in the EU as well as worldwide.

In 2018, the Court of Justice of the European Union delivered a judgment in which it held that organisms obtained by targeted mutagenesis are GMOs – since mutagenesis alters the genetic material of an organism in a way that does not occur naturally – and therefore such organisms come within the scope of EU-wide authorization, traceability and labelling rules. On the question of whether the EU GMO legislation applies to organisms obtained by NGTs, the Court considered that the risks linked to the use of these techniques are similar to those of transgenesis – the introduction of a foreign gene into an organism – since the direct modification of the genetic material of an organism through mutagenesis makes it possible to obtain the same effects.

The precautionary principle has thus been the most influential argument for placing techniques of targeted mutagenesis under the EU legislation governing GMOs. The Court's ruling also reaffirmed the EU's doctrine of regulating the process used to create GMOs rather than focusing on the characteristics of the final product(s), as is typically the case in the US, for example.

Table 1 – Top five global producers of GMO crops

Country	Commercial cultivation 2019 (million hectares)	Regulatory concept	Ratification of Cartagena Protocol
USA	71.5	Product	No
Brazil	52.8	Product	Yes
Argentina	24	Product	No
Canada	12.5	Product	Yes
India	11.9	Product	No

Source: ISAAA Brief 55, Biotechcrops, 2019.

European Council of Ministers

In 2019, the Council asked the Commission to submit a study on the status of NGTs under EU law in light of the Court's ruling.

"Considering that the 2018 ruling by the Court of Justice brought legal clarity as to the status of NGTs, but also raised practical questions both for national authorities and the plant-breeding sector, the Council requested the Commission to prepare a study."

Position of the European Parliament

During the 2014-2019 term, the European Parliament systematically objected to every authorisation of 'traditional' genetically modified food and feed, demanding the suspension of all GMO approvals until their authorisation process has been revised. In October 2021, the European Parliament adopted an own-initiative report on the EU's farm to fork strategy ⁵³, in which it also outlined its views on NGTs. While noting the potential benefits from science and innovation in terms of NGTs, Parliament underscored the precautionary principle and the need to ensure transparency and freedom of choice for farmers and consumers. Similarly, the resolution stressed the importance of risk assessments and a comprehensive overview of options for traceability and labelling to ensure proper oversight and provide consumers with relevant information, including for products from third countries.

European Commission study on NGTs

The Commission study was published in April 2021 ⁵⁴ and concluded that organisms obtained through NGTs, notably targeted mutagenesis, cisgenesis and intragenesis, are GMOs. While the study clarified that organisms obtained through NGTs are subject to the EU GMO legislation, it concluded that recent developments in biotechnology, combined with the ambiguity of definitions, still impede the interpretation of some concepts, thus leading to regulatory uncertainty. Importantly, as NGTs constitute a highly heterogeneous group, safety considerations depend on the particular technique, its use and the characteristics of the resulting product. The study also confirmed that the current regulatory system involves implementation and enforcement challenges, relating in particular to the detection of NGT products that contain no foreign genetic material. This is an issue both for enforcement authorities and for applicants. Indeed, the availability of reliable detection methods is a prerequisite for a GMO market authorisation. Complementary traceability tools do not appear to offer a solution to this particular challenge and present a number of limitations

European Council Debate on the Commission study

⁵³ [Texts adopted - Farm to Fork Strategy - Wednesday, 20 October 2021 \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021R1000)

⁵⁴ [EC study on new genomic techniques \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021R1000)

The Agriculture and Fisheries Ministers held a debate on the study in May 2021. The ministers responded positively to the study and appreciated the need to modernise the current legislation, while also recognising the particular challenges presented by such modernisation. They discussed the importance of reflecting the latest scientific developments when conducting risk assessments on NGTs, and the need to raise awareness and provide education on these issues.

At the EU Environment Council meeting in December 2021 and March 2023, Austria, supported by Cyprus and Hungary, voiced its concerns about the safety of plants derived from NGTs. The three delegations called for the application of the precautionary principle strictly taken into account in any adaptation of legislation.

European Commission Consultation of Stakeholders on the future EU legislation on NGTs

On the basis of feedback on its study from Council and Parliament the Commission decided to start work on new EU legislation with respect to plants produced with help of NGTs. To this purpose an extensive consultation strategy was set up⁵⁵ with a public as well as targeted consultation of stakeholders and internal as well as external impact assessment studies were commissioned.

The consultation activities attracted considerable interest from citizens and reflected different views (a large campaign advocated for the preservation of the current system during the inception impact assessment, while the majority of citizens' contributions in the public consultation and the non-campaign replies in the inception impact assessment favored the adaptation of legislation).

The majority of stakeholders from academia, breeders, farmers (except organic and GM-free), agri-food chain operators and public authorities called for the adaptation of the current legislation to a more enabling framework. They argued that the current risk assessment requirements are disproportionate for plants produced through targeted mutagenesis or cisgenesis.

Conversely, a majority of environmental organizations, non-governmental organizations (NGOs), and retail and consumer organizations supported maintaining the status quo.

Responses regarding traceability and information for plants produced by targeted mutagenesis and cisgenesis varied. Consumer organizations and the majority of NGOs, the organic and GM-free sectors called for physical labels on the final product, while the remaining stakeholders preferred alternative solutions such as public databases and registries.

Furthermore, the view that transparency about the technique is unnecessary for NGT plants that could have been obtained conventionally was expressed by some academic/research institutions, and the

⁵⁵ https://food.ec.europa.eu/system/files/2022-09/sc_modif-genet_consultation-strategy-ngts.pdf

majority of farmers (except those in organic agriculture and GM-free production), biotechnology/biotech industry and plant breeding/seeds sectors.

COMMISSION PROPOSAL

After extensive stakeholder consultation and varied impact assessments, the Commission proposed on 5 July 2023 a Regulation introducing new rules for the development of certain NGTs ⁵⁶.

The general objective of proposal is to maintain a high level of protection of human health, while encouraging the development of varieties that help to fight climate change and reduce use of pesticides. Expected benefits of gene-edited crops include enhanced nutrition, improved food safety, greater resistance to disease, weeds and pests, and better climate resilience, including tolerance to drought.

The Commission states in its explanatory memorandum to the proposal:

“New genomic techniques (NGTs)⁵⁷ provide new opportunities to alter the genetic material of an organism allowing the rapid development of plant varieties with specific characteristics. NGTs constitute a diverse group of techniques, each of which can be used in various ways to achieve different results. In many cases, these new techniques can lead to more targeted and precise modifications to the genome than conventional breeding or established genomic techniques⁵⁸ and these modifications could or could not be produced in nature or obtained by conventional breeding techniques. Targeted mutagenesis and cisgenesis⁵⁹ (including intragenesis) are considered NGTs. They are different from established genomic techniques because they have novel features, for example, higher precision and speed in introducing the desired genetic modifications and the insertion of genetic material **only from a crossable species. Targeted mutagenesis and cisgenesis do not introduce genetic material from**

⁵⁶ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on plants obtained by certain new genomic techniques and their food and feed, and amending Regulation (EU) 2017/625.

https://food.ec.europa.eu/plants/genetically-modified-organisms/new-techniques-biotechnology_en

⁵⁷ An umbrella term used to describe a variety of techniques that can alter the genetic material of an organism and that have emerged or have been developed since 2001, when the Union legislation on genetically modified organisms (GMOs) was adopted.

⁵⁸ An umbrella term used to describe newer techniques of mutagenesis that induce mutation(s) in selected target locations of the genome without insertion of foreign genetic material

⁵⁹ Insertion of genetic material (e.g. a gene) into a recipient organism from a donor that is sexually compatible (crossable). The exogenous genetic material can be introduced without (cisgenesis) or with modifications/rearrangements (intragenesis)

non-crossable species -transgenesis- whereas this is the case with established genomic techniques. (Our highlighting)”⁶⁰.

This is the fundamental difference to Genetically Modified Organisms, GMOs covered by the previous EU legislation from 2001. This means that there is no crossing of the species barrier i.e., these are events that could occur in nature. The most prominent gene-editing tool is based on the Clustered Regularly Interspaced Short Palindromic Repeats (CRISPR) technology.⁶¹

As for the NGT products that could occur naturally or be produced by conventional breeding, these would not be subject to GMO traceability and labelling but would be entered into a public register.

Based on the consultation the Commission proposes to deal with NGTs by way of a combination of rules for GMOs and conventional breeding. Authorization is maintained as to-day for conventional breeding as well as for GMOs. Depending on a risk assessment for the individual plants/seeds either the NGT is treated as plants/seeds conventionally developed with no specific labeling and of tracing requirements given the difficulty to distinguish from products from conventional plant breeding or following the rigorous rules with labeling and traceability as for GMOs. It is thus very much of a compromise whereby the farmers and seed growers think the proposal is quite” conservative” i.e., could have been more liberal.

Following this logic, the proposal refers to two categories of NGTs:

Category 1

NGT plants are exempted from the requirements of the GMO legislation and are subject to the provisions applicable to conventional plants. However, they remain prohibited in organic production (Art. 5). In order to control this, the Commission says that NGT seeds should be listed in a register open to scrutiny by anybody. But no separate labelling.

The Commission intends to create a principle of free movement for 'category 1 NGT plants'.

Consequently, this category is excluded from the scope of the 'safeguard clauses' that EU countries may adopt to prohibit the use of a GMO in their territories.

⁶⁰ Comment: These genetic engineering techniques allow the genetic structure of an organism to be altered by adding, deleting or altering Deoxyribonucleic acid (DNA) – the molecule inside cells that contains the genetic information responsible for the development and function of an organism – with the aim of enhancing its genetic properties. Whereas established genomic techniques generate random sequence alterations in the genome, NGTs allow changes to be directed to a selected genomic location, thus enabling more precise editing of the genome.

⁶¹ CRISPR (Clustered Regularly Interspaced Short Palindromic Repeats) is a gene-editing technology that allows to precisely modify DNA within living organisms. CRISPR technology uses a molecule called RNA to target specific DNA sequences, allowing for the addition, deletion, or replacement of genetic material.

Category 2

applies to NGT plants/seeds which do not meet the criteria to consider that they could also be obtained naturally or by conventional breeding. Category 2 NGT plants and products remain subject to traceability and labelling requirements in the EU's GMO legislation with the possibility to add a factual statement on the intended purpose of the genetic modification i.e. for what traits the NGT has been developed for.

For 'category 2 NGT plants', the notification procedure referred to in Article 6(1) of Directive 2001/18/EC would apply for any introduction into the environment other than placing on the market (our underlining). It would include an 'environmental risk assessment' concerning, among other things, potential effects on human and animal health. When placing category 2 NGT plant products intended for human consumption on the market, the applicant must go through an authorization procedure, i.e. a risk assessment of the product. EU countries are also required to adopt coexistence measures to avoid the unintended presence of such NGT plants in organic and conventional crops.

Regulatory incentives would be offered to applicants for 'category 2 NGT plants' containing traits with the potential to contribute to a sustainable agri-food system, in order to steer the development towards such traits. Such incentives would consist of an accelerated procedure for risk assessment and enhanced pre-submission advice.

The Commission is eager to underline that NGTs second category should not be described as "dangerous" or a new kind of "Frankenstein food" in the way the opponents of traditional GMO development have been doing since the GMO legislation was adopted in 2001. In fact, category 2 NGTs might be less risky than plants developed under traditional breeding.

STAKEHOLDER REACTIONS ON THE COMMISSION PROPOSAL

The European Commission invited the public and stakeholders for comments and feedback on its proposal with a deadline of 5 November. By 6 October, already 249 contributions had been received, of which 83 % were from citizens, 6 % from companies and 4 % from NGOs. The bulk of contributions came from Germany (68 %) and Austria (14 %).

There is a clear split between those in favour and those against the proposal. While industry lobbies hailed the 'game-changing proposals' for plant-breeding innovation, green interest groups adopted a critical stance, urging the Council and Parliament to reject the proposal. These reactions reflect the 'traditional' stance of stakeholders on GMOs, but results from public consultation indicates that the general public is more open to NGTs falling into category 1 than to GMOs in the past. This should translate into more political support from member states.

PERSPECTIVE ON POLITICAL DECISION

Member States' first reaction was rather positive and supportive of the Commission proposal. Two meetings have already taken place in the **Council of Ministers** under the Spanish Presidency of the EU, on 25 July and 5 September 2023. Although the majority of EU agriculture ministers are in favor of the proposal, some contentious issues like the coexistence of organic agriculture with gene-edited crops and the treatment of patents (currently excluded from the text) have emerged.

The Presidency has already circulated a revised text that features a new definition of NGT plants excluding the term 'genetically modified'. Instead, an NGT plant is defined as 'obtained by targeted mutagenesis or cisgenesis, or a combination thereof, on the condition that it does not contain any genetic material originating from outside the breeders' gene pool that temporarily may have been inserted during the development of the NGT plant'. The verification procedure allowing an NGT plant to be granted Category 1 status has also been modified. Any EU country and the Commission would have the possibility to file reasoned objections instead of simply making comments to the verification report. The objections should be forwarded to all the other EU countries and the Commission should duly take them into account.

Still, there are member states – lead by Germany and Austria - that are highly critical of the Commission proposal and will likely vote against it. Austria is the most ardent opponent of the Commission proposal, having declared Austria previously 'GMO-free' and fearing about its large organic sector. Austria has made clear that it will not only vote against the proposal but refer it to the European Court of Justice (ECJ) to rule if it violates the precautionary principle, which EU legislation must respect. Germany is having similar concerns as no GMO-derived plants have been planted in Germany since 2012. But the German government is internally split on the approach to take: The Green Minister of Agriculture opposes the proposal and the Green party in the German Parliament has asked its Legal Service for an evaluation on the question of precautionary principle. On the other hand, the liberal coalition partner FDP supports innovation and research into new genome technologies. It is therefore rather likely that Germany will abstain in a vote on any final Council compromise.

The Spanish Presidency had hoped to arrive at an agreement in the last Council meeting in December 2023 under their presidency. They failed since ministers were still divided on several controversial points of the legislation, such as the coexistence of NGTs with organic farming and the possibility of patenting new plant varieties.

In particular countries with a long tradition of organic farming, like Germany (Green Minister of Agriculture Cem Özdemir) and Austria, welcomed the proposed ban on the use of NGT plants in organic farming, but they lamented the fact that the Commission's proposal makes it difficult for

such farmers to prove that their production is gene-editing free.

The Commission had not included in the proposal the aspect of patenting referring to the legislation under Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions⁶².

Within the **European Parliament** the proposal has been referred to the Environmental. In general, the Commission proposal was welcomed by the majority of MEPs with the green and some left MEPs expectedly raising their voices against.

The European Parliament's Environment Committee (ENVI) issued on 24 January 2024 its opinion on the new rules for new genomic techniques (NGTs), but doubts remain on whether a law can be approved before the EU elections in June 2024.

With 47 votes in favour to 31 against and 4 abstentions, a right-leaning majority agreed to set two categories of NGTs: gene-edited plants that are "indistinguishable" from those obtained through conventional breeding (NGT 1) – which would be exempted from the requirements of the GMO legislation – and those with more "complex modifications" (NGT 2) – which would follow stricter rules.

MEPs agreed that NGT seeds must be labelled accordingly but that there would be no mandatory labelling at consumer level for the NGT 1 products.

On 7 February 2024 the text from the Environment Committee was approved by the Plenary of the EP with 307 votes in favour to 263 against and 41 abstentions, with a cross-party majority supporting the proposal to set a new framework for NGTs. MEPs from the centre-right European People's Party (EPP) and the liberal Renew group overwhelmingly backed the text, while the Greens and the Left almost unanimously rejected it.

As to the issue of patents and NGT's where the Commission left [the question of patents unanswered](#), MEPs agreed to introduce a full ban on patents for NGTs "to avoid legal uncertainties, increased costs and new dependencies for farmers and breeders".

In reaction to the agreement in the EP, Greenpeace campaigner Eva Corral said there was "no credible proof that [NGTs] can withstand the impacts of climate change". The NGO Friends of Earth Europe acknowledged "the Parliament's attempt to limit patents" on NGTs but stated that farmers and breeders would still be exposed "to infringement lawsuits" by agribusiness corporations.

⁶² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31998L0044>

Following the approval of the text in the EP, the Belgian presidency attempted to reach agreement amongst Member States within the Council of Ministers but failed to do so. Also here, member states are divided over the question of patentability. At this stage it remains unclear if such a provision is legally even possible and what implications it would have on the development and marketing of NGTs.

In the mean time France's national health and food safety agency published a report on the 6 of March 2024 recommending that gene-edited plants be assessed "on a case-by-case basis", calling into question the legal text currently being negotiated in the EU institutions. The French National Agency for Food, Environmental and Occupational Health Safety's (Anses) study recommended "a global monitoring system" on plants modified with new genomic techniques (NGTs), and "identified several major issues" with the EU's proposal to relax rules on gene-edited plants.

At this stage it is thus unclear if there will be enough time before the EP elections on 9 June 2024 to reach a trilogue agreement between the Council and the EP. As the EP basically stops working in April 2024 this is rather unlikely. It will then be for the new European Parliament and Hungarian Presidency to move the matter forward.

Further uncertainty comes in light of the view of the French National Agency and the possibility of recourse to the European Court of Justice (ECJ) by a minority number of Member States like Austria and Green NGO's based on not respecting the precautionary principle.

This could eventually considerably delay the application of more liberal rules for NGTs. Should it come to a court case, it is however expected that the ECJ eventually will side with the majority given the Court's tendency to favor free circulation and in light of the advantages to reach the goals in "Fit for 55" and the benefits for farmers and the environment.

3.3. Nature Restoration Law

European Commission's proposal for a Nature Restoration Law, adopted in June 2022, is the first continent-wide, comprehensive law of its kind. It is a key element of the EU Biodiversity Strategy, which calls for binding targets to restore degraded ecosystems, in particular those with the most potential to capture and store carbon and to prevent and reduce the impact of natural disasters.

Europe's natural ecosystems are in bad shape and need to be restored urgently. Only 15% of European habitats are in "good" conditions, with peatlands, dunes and coastal habitats in a particularly worrying shape.

With a set of ambitious targets, the Commission proposal aims to fill gaps and synergise the efforts

when it comes to (re-)establishing healthy, resilient and productive ecosystems in Europe. Covering terrestrial, coastal and freshwater ecosystems, the law aims to protect and restore habitats and species in the EU by setting out binding targets.

If implemented, the law will likely be a game changer for the protection and rehabilitation of Europe's nature. At least 20% of the EU's land and maritime areas by 2030, and all ecosystems in poor to bad quality by 2050 will need to be restored and protected. In order to achieve this, the proposed law entails a number of concrete targets. While biodiversity loss should be stopped by extending natural habitats on a large scale and bringing back species, the law also emphasises the need to reverse the decline of pollinator populations or reviving river-flows. Furthermore, there are also concrete targets for forest, marine, urban and agricultural ecosystems.

When it comes to forests, the law would require Member States to increase the biodiversity within forests and increase the trend for forest connectivity, the abundance of common forest birds, the share of forests with uneven age-structure and the stock of organic carbon as well as standing and lying deadwood.

Finally, the law lays out specific targets for agricultural areas. These include, on the one side, goals to increase the population of grassland butterflies, farmland birds or the stock of organic carbon in cropland mineral soils. On the other side, the law also envisages increasing the share of agricultural land with high-diversity landscape features and restoring drained peatlands for agricultural use.

The proposal aims to set a binding target at EU level, which would require member states to put in place effective restoration measures to cover at least 20% of the EU's land and sea areas by 2030. With respect to land considered 'degraded' at least 30 % of the surface should be put under restoration measures and 30% of drained peatlands under agricultural use should be restored by 2030. In addition, high-diversity landscape features on agricultural land (such as hedgerows, flower strips, fallow land, ponds and fruit trees) should be increased. To implement these goals, member states will be obliged to formulate their own national plans, entailing concrete measures to ensure the protection and restoration of their natural ecosystems in line with the law's goals for 2030 and 2050.

The proposal came immediately under fire from agricultural organisations, whilst environmental NGOs reacted with big applause. COPA / COGECA called for a "rejection of unrealistic nature legislation that endangers farmers and fishers' livelihoods and food production in the EU", accusing the Commission of ignoring the actual impact on the primary producers in Europe, and instead solely focusing on the benefits for society. Niels Peter Nørring, Chairman of the Working Party on Environment for Copa-Cogeca, urged: "A good Nature Restoration Law cannot be designed without the clear commitment of farmers and fishermen. So, instead of threats and backdoor deals, the European Commission should go

back to the drawing board. EU authorities must respect and acknowledge that those who will be implementing this law do not see it as feasible, workable, nor implementable.”

The European Council of Environmental Ministers in December 2022 reacted positive on the principles in the Commission proposal, but EU ministers flagged concerns about available financing and potential barriers to implementation and requested more flexibility for member states to take appropriate measures.

During spring 2023 both European Parliament and European Council discussed the proposal in great detail so each institution could form its position before the summer break 2023.

The European Council reached a joint position on the Commission proposal on 20 June 2023, keeping ambitious goals for nature restoration but providing much flexibility for member states in the implementation of the regulation. The Council softened the targets for rewetting of peatlands, to take account of the fact that some member states are disproportionately impacted by these obligations. The Council set to restore 30% of drained peatlands under agricultural use by 2030 and 50% by 2050, with the possibility for member states that are heavily affected to apply a lower percentage. For high-diversity landscape features in agricultural ecosystems, like hedges, tree rows, patches, ditches, ponds or fruit trees, the Council added the possibility to focus measures on those that are necessary for the preservation of biodiversity.

In the European Parliament both the Agricultural Committee on 23 May 2023 and the Fisheries Committee on 24 May 2023, both lead by the Conservatives EPP, the liberal Renew and far-right groups rejected the Commission proposal in its entirety, which rarely happens in the legislative procedure. There was expectation that the Environmental Committee with a vote scheduled for 15 June 2023, would endorse the Commission proposal, although proposing a series of amendments. The Envi Committee first voted on amendments to the Commission’s proposal on 15 June and continued on 27 June, but finally rejected the proposed EU nature restoration law as amended. The final vote was 44 votes in favour, 44 against and 0 abstentions, falling short of a majority in favour.

It was at this stage that the European People’s Party (EPP) ‘declared war’ on the Commission and withdrew its support not only for the Nature Restoration Law but also for other Commission proposals under the Green Deal. The chief EPP negotiator, Christine Schneider, labelled the law as “**an attack on European agriculture, forestry and fisheries**” as many farmers were opposed to the laws’ targets and their possible impact on the agricultural sector and food security. “Farmers had suffered enough from the Green Deal. We have to take our farmers, foresters, fishermen and all citizens on board.”

EPP chairman Manfred Weber stated: “The proposal was bad in the first place and our concerns remain

unanswered". Weber continued: "The nature restoration law in its current form will lead to less food production in Europe, pushing food prices even higher, risks undermining food security in Africa even more and blocking infrastructure projects that are crucial for our climate transition. This is simply not acceptable for us. We cannot continue as if nothing has happened to our economy since the start of the war and the excessive pressure it puts on our rural communities and our farmers. The EPP Group is in favour of nature protection and restoration, but this law is simply not good enough."

The EPP had clearly decided to wage a war against the EU's Green Deal in the name of food security in a bid to court the EU's rural vote ahead of the European elections in 2024. This rebellion of the EPP group, the largest political party in the European Parliament, against the Commission, led by Ursula von der Leyen from the same EPP, marked a significant turning point in the implementation of the Green Deal.

The EPP threatened to vote down the Commission proposal in the European Plenary vote of 12 July 2023. A joint effort by Liberals and moderate Conservatives 'saved' the Commission proposal from that destiny by rallying the EPP around a compromise position that sacrificed much of the original proposal.

On 9 November 2023 the European Council and European Parliament reached a compromise in trilogue negotiations. The compromise follows the Commission's objectives to restore at least 20% of Europe's land and sea areas by 2030 and all ecosystems in need of restoration by 2050. The national plans for meeting these goals will be pushed back by two years to 2032 and 2052. There are now several exemptions to the principle of restoration of land with more emphasis of non-deterioration, making non-deterioration a priority so that restoration itself becomes less necessary. Both principles were weakened from the original text, with negotiators making it efforts-based rather than outcome-based, meaning EU countries will not have to compensate with additional measures if the goal is not achieved. Measures for agricultural ecosystems were the most controversial in Parliament. In the end, the measures with respect to agriculture were significantly altered. Changes include removing the requirement to renature 10% of farmland and adding an emergency brake to freeze farmland targets in case they impact food security or production. Concessions were also made around rewetting peatlands. The text sets targets to restore 30% of drained peatlands under agricultural use by 2030, 40% by 2040 and 50% by 2050, but heavily impacted countries can apply a lower percentage and there will be no direct obligation for farmers.

EPP negotiator Christine Schneider (CDU, Germany) welcomed the deal and "the fact that the final text on this law has little to do with the original proposal from the Commission".

Formal approval by Parliament and Council is expected in early 2024. But even in its revised version the Nature Restoration Law continues to be controversial. With a surge of farmers protests, a coalition of centre-right, far-right and national conservative MEPs launched another attempt to tumble the proposal.

The European Parliament endorsed the compromise proposal in Plenary on 27 February 2024 with a relative narrow margin of 329 lawmakers voted in favour, with 275 votes against. The compromise now needs to be endorsed by Council, who will vote on it on 12 April 2024. With both Germany and the Netherlands having already declared their intention to vote against the proposal, final adoption still remains uncertain.

Based on the political reaction to its proposal on the Nature Restoration Law, the nomination of a new Commissioner for Climate Change Wopke Hoekstra (EPP) - following the departure of Frans Timmermans (Socialist) in August 2023 as he returned to national Dutch politics - and the fact that the EU regulatory cycle is coming to an end, the Commission decided to slow down its ambitions on implementation of the Green Deal. Commission President Ursula von der Leyen in her Union speech in September 2023 reached out to farmers for a new strategic dialogue with agriculture. Furthermore, some important remaining Commission proposals from the 'Farm to Fork Strategy,' like the proposal on a 'Framework for a Sustainable Food System', originally scheduled for 2023, as well as proposals to improve the animal welfare situation of farm animals, are now missing from the Commission work program for 2024.

Following a surge of farmers protests in late autumn 2023 and early 2024, Commission President Ursula von der Leyen, who has been formally endorsed by the EPP in March 2024 to remain in her position for the Commission mandate 2025-2029, clearly tries in the wake of the overall European election campaign to accommodate conservative and farmers concerns with respect to the Green Deal. The Commission e.g. proposed on 12 and 15 March 2024 to soften the implementation of the environmental conditions of the CAP 2022-2027 (see point on CAP). It remains to be seen if this has to be judged as an effort of pre-election appeasement to be followed by 'business-as-usual' under the new Commission mandate 2025-2029, or is the first step of a more substantial revision of the Commission approach to implementation of Green Deal objectives.

Chapter 4: EU Policy on Green House Gas (GHG) Emissions

One of the central objectives of the European Green Deal is to shift Europe's economy and society to climate neutrality by 2050, which requires an unprecedented level of climate action across all economic sectors – including agriculture. While agriculture is a major contributor to the environmental crises and accounts for about 11% of EU-27 total greenhouse gas (GHG) emissions, agricultural emissions have remained roughly stable since 2005. According to the European Environment Agency (EEA), projections based on existing policies and measures across the EU indicate that there will be **nearly no emission reductions in agriculture by 2030**.

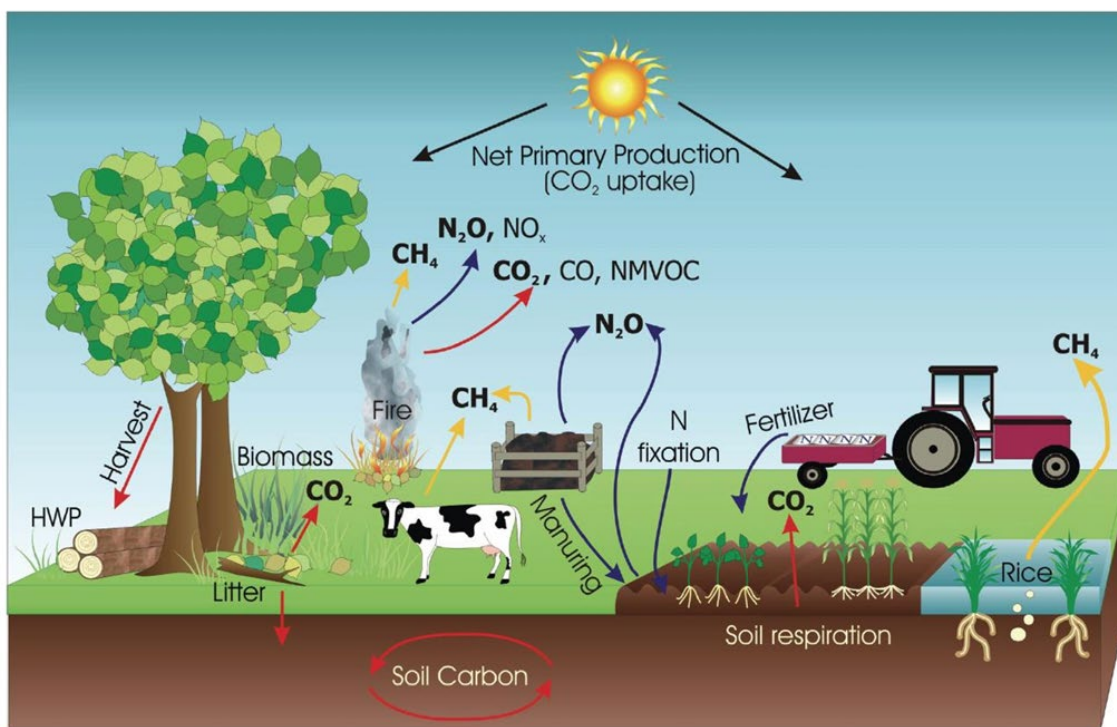


Figure: The main greenhouse gas emission sources/removals and processes in managed farmland, Source: IPCC, 2006

While emissions related to livestock, fertilisers and land management are adding greenhouse gases to the atmosphere, intensive agriculture and land use changes limit the land's capacity for absorbing and storing atmospheric carbon.

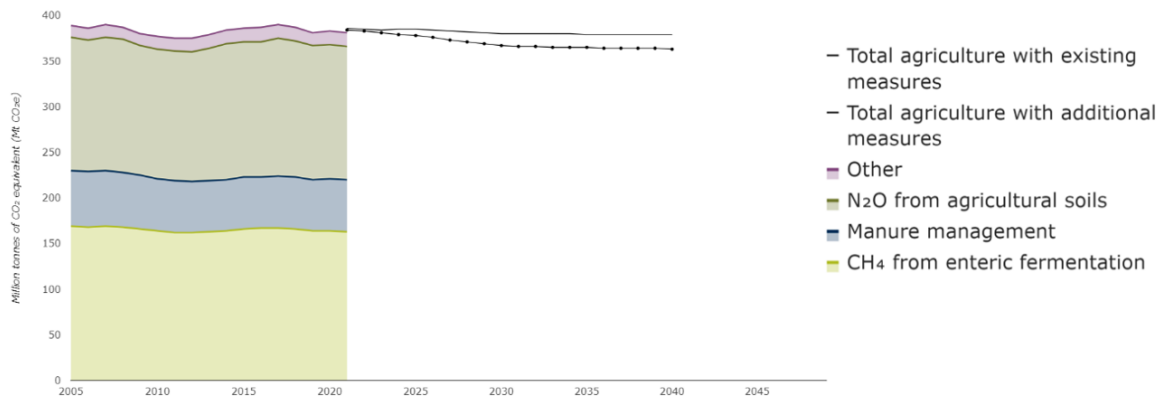


Figure 1: EU agricultural emissions by source and projected emissions
(Source: EEA 2022)

The path in the emission reductions has been neither linear nor homogenous across Member States (MS). In addition to agriculture and agricultural production, the manufacturing, processing, retailing, packaging and transportation of food make a major contribution to air, soil and water pollution and GHG emissions, and has a profound impact on biodiversity.

Each Member State has to establish national plans in order to reach the national overall emission reduction target. Cutting emissions is not the only way to achieve climate neutrality. Removing CO₂ from the atmosphere by capturing it in soil and forests also contributes to reducing the EU's total greenhouse gas emissions.

There are two instruments under EU Policy which directly seek to limit and reduce GHG in agriculture in the EU. These are (1) The Effort Sharing Regulation (ESR) and (2) Land Use, Land Use change and Forestry Regulation (LULUCF) which we will examine in more detail. Together the ESR and the LULUCF target emission reductions.

Objectives and targets of both instruments feed into the national CAP Strategic Plans (CSP). Member States (MS) have incorporated these objectives in their national CSP plans based on guidance from the Commission and as a condition for approval of the plan. As both LULUCF and ESR targets got revised in 2023, MS need to align their CAP Strategic Plans with the new targets to provide clear incentives for farmers to prioritize carbon farming and wider farm practices that will reduce emissions and increase carbon sequestration in soils, trees (i.e., through agroforestry), hedges, and wetlands. This

will require - as with all 'underlying' legislation impacting the CAP – modification of the national CSP plan for 2024 and beyond if relevant.

In the national CAP plans these emission reduction targets are reflected in two ways:

- The obligatory conditionality provisions with minimum requirements in the form of Good Agricultural and Environmental Conditions GAEC (and Specific Management Requirements, SMRs) have to be respected by farmers in order to benefit from the different direct payment.
- The voluntary Eco schemes under Pillar I and Agri-environmental schemes (AES) measures under the Pillar II provide the basis for achieving the climate goals in terms of FIT for 55 and GHG emission reductions (Reduction of GHG emissions by 55% in 2030 compared to 1990).

4.1. Effort Sharing Regulation

The Effort Sharing Regulation (ESR) in its updated version of 2023 ⁶³ sets legally binding GHG emissions targets for 2030 for emissions from sectors not included in the EU Emissions Trading System (ETS), including transport, buildings, small industry outside the ETS, waste and agriculture sectors.

For the agricultural sector, the ESR governs non-CO2 emissions linked to agricultural activities (methane, CH4 and nitrous oxide, N2O), which account for about 98% of the sector's emissions.

The revised ESR sets a more ambitious EU-level greenhouse gas emission reduction target of 40% by 2030 (previously 29 % by 2030), compared to 2005, for the sectors that it covers. With the 2023 ESR revision its scope is maintained (road and domestic maritime transport, buildings, agriculture, waste and small industries), while under the revised directive of the EU Emissions Trading System (EU ETS), emissions trading will now also apply to international maritime transport as well as buildings, road transport and additional industrial sectors.

Under the ESR, Member States report on their annual emissions, projected progress towards meeting their emission limits, and information on planned additional national policies and measures to meet commitments. Member States not meeting their annual targets (after flexibilities are included) face an automatic penalty and must submit a corrective action plan.

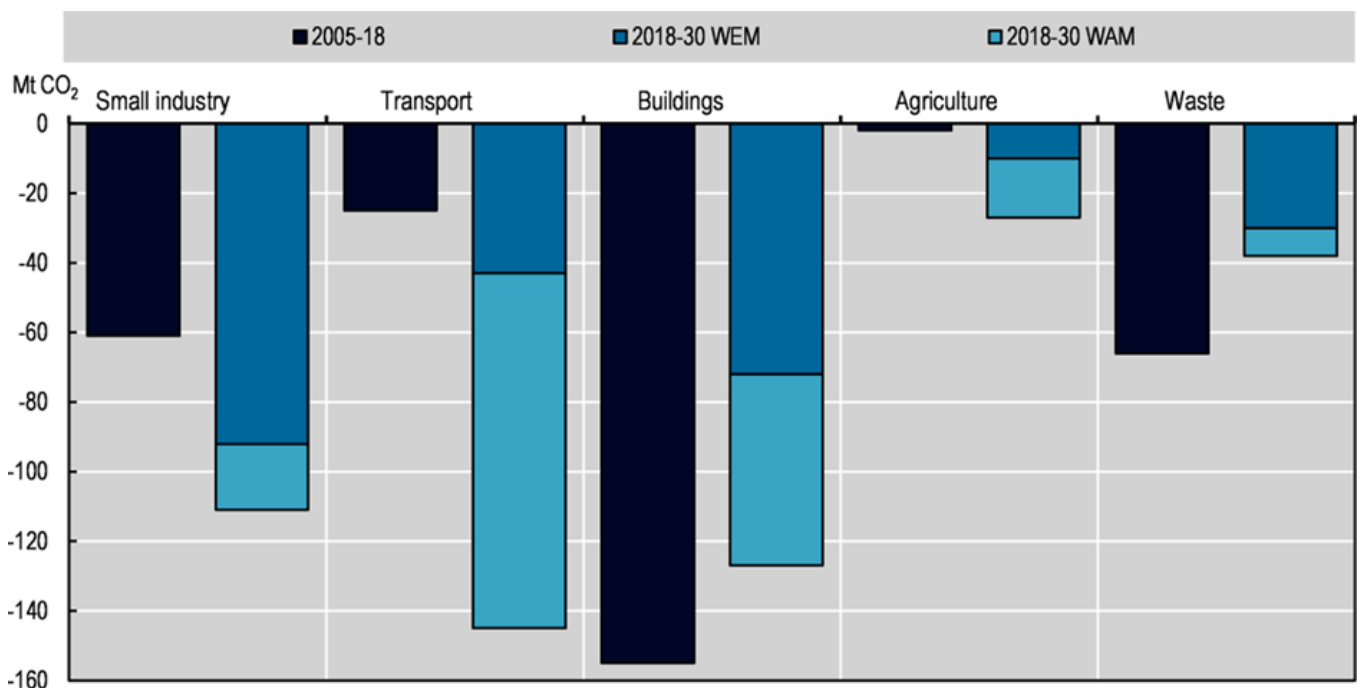
⁶³ Regulation (EU) 2023/857 of the European Parliament and of the Council of 19 April 2023 amending Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement, and Regulation (EU) 2018/1999 (Text with EEA relevance)

https://climate.ec.europa.eu/eu-action/effort-sharing-member-states-emission-targets/effort-sharing-2021-2030-targets-and-flexibilities_en

Flexibilities allowed under the ESR were designed to allow targets to be more cost-effective and include banking, borrowing and transferring emissions allocations and the use of ETS allowances and LULUCF credits to cover ESR obligations (under certain conditions). The revised ESR regulation assigns each member state an increased national target and adjusts the way member states can use existing flexibilities to meet their targets.

Member States choose where and how to achieve their ESR reductions and may focus on specific sectors. This results in differences between the sectors covered under the ESR: Overall emissions governed under the ESR declined by 11% between 2005 and 2018. However, agriculture (the third largest source of emissions in ESR sectors) contributed only 1% of the emissions reduction effort, despite contributing more than 17% of ESR sectors' GHG emissions. Furthermore, EU Member State governments are not projecting significant emissions reductions in the agricultural sector by 2030, choosing instead to focus on other ESR sectors.

Emission reductions in CO₂ t/Equivalent under ESR for individual sectors:



Notes: MT CO₂: million tonnes carbon dioxide. EU28. The bars represent changes in emissions between 2005 and 2018 and 2018 and 2030 based on -inventories, approximated estimates for 2018 (proxy) and projections "with existing measures" (WEM) and "with additional measures" (WAM). Source: EEA (2021)

The flexibility in the ESR de facto means that other sectors under the ESR are being asked to reduce their emissions more in order for agriculture to carry on its GHG emissions in spite of the overall reductions commitments. There is an overall understanding that this cannot continue. Nevertheless, there is growing pressure on behalf of politicians on the conservative and right spectrum of politics, to postpone commitments for agriculture. This is driven both by fears expressed in the context of European Food Security (see chapter 5) and concerns about the upcoming European Parliament elections in June 2024. Commission President Ursula von der Leyen announced in her Union State speech in September 2023 a Strategic Agriculture Dialogue with the objective to build consensus with the agricultural and rural communities on the Green Deal and required measures to implement it. We can expect the topic of reinforced efforts of agriculture to reduce GHG emissions to figure on the agenda.

4.2. Land Use, Land Use Change and Forestry Regulation

The European Union's LULUCF Regulation ⁶⁴ - in its updated form of 2023 - establishes a legislative framework for accounting emissions and removals from the land-use sectors between 2021 and 2030. Member States must ensure that accounted CO₂-eq emissions from the LULUCF sector are entirely compensated by an equivalent removal of CO₂-eq from the atmosphere through action in the LULUCF sector. This is calculated as the sum of total emissions and total removals in all of the land accounting categories defined in the LULUCF Regulation.

The Regulation sets a "no-debit" rule, requiring Member States to ensure that accounted emissions (debits) from all land-use categories within the LULUCF sector are less than accounted removals (credits) in the period of 2021 - 2030. There are several flexibilities integrated into the legislation to help Member States comply with the no-debit rule; including banking credits for later periods, transferring credits between different land use categories and Member States as well as a compensation mechanism in the managed forest land category that is only available under certain conditions.

The LULUCF regulation includes six categories of land in its accounting:

- afforested land;
- deforested land;
- managed cropland;

⁶⁴ Regulation (EU) 2023/839 of the European Parliament and of the Council of 19 April 2023 amending Regulation (EU) 2018/841 as regards the scope, simplifying the reporting and compliance rules, and setting out the targets of the Member States for 2030, and Regulation (EU) 2018/1999 as regards improvement in monitoring, reporting, tracking of progress and review (Text with EEA relevance)

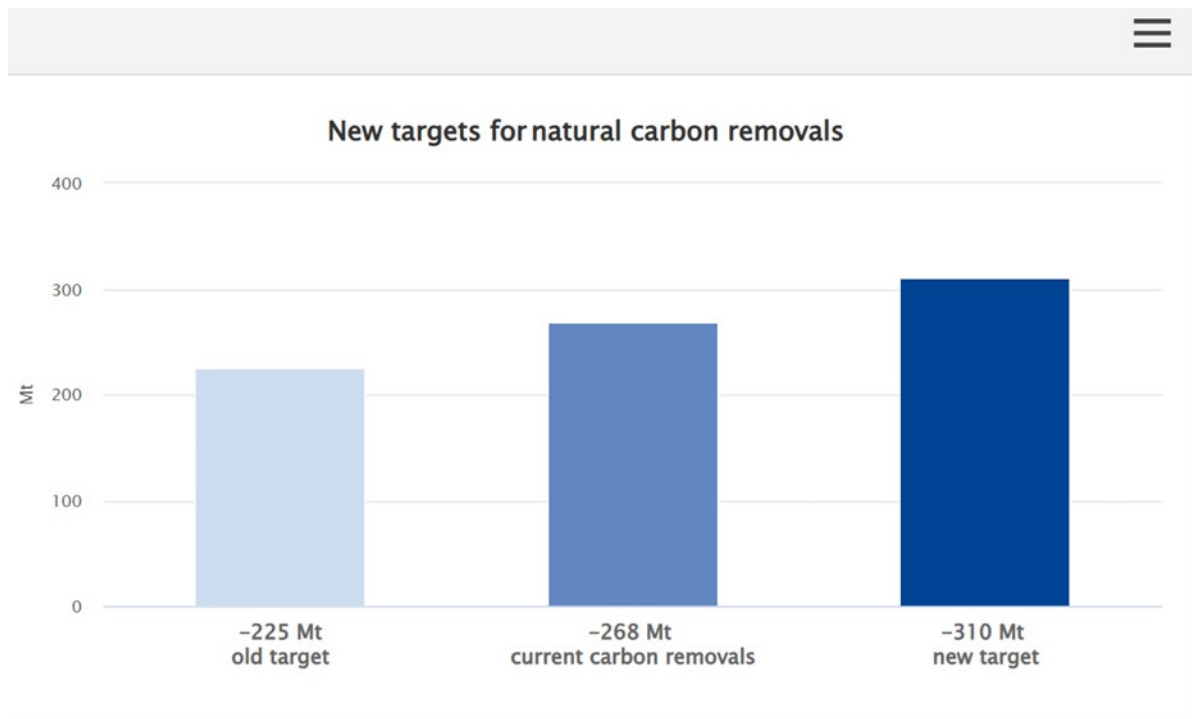
<https://eur-lex.europa.eu/eli/reg/2023/839/oj>

- managed grassland;
- managed forest land; and
- managed wetland.

However, it does not include non-CO₂ emissions (Methane and Nitrous oxide) from the agricultural sector in its accounting as they are covered under the ESR. The main source of GHG emissions in the LULUCF sector is cropland, of which approximately 50% are caused by organic soils.

There is potential for the agricultural sector to play an important role in meeting the 2030 sink target. While increasing carbon stocks in forests provide the largest absolute potential for strengthening the European Union's carbon sink, there are promising options in agroforestry, restoring wetlands and the conservation of organic soils, as well as for maintaining and enhancing carbon in mineral soils. Carbon sinks in the LULUCF sector will play an important role in meeting climate neutrality objectives. The LULUCF Regulation includes flexibilities to help Member States account for uncertainties, natural disturbances and reduce the risk of non-compliance. This includes the ability to exchange units between Member States and for individual Member States to exchange remaining units of LULUCF credits to the ESR. The flexibility is capped at 280 Mt CO₂-eq for all Member States and national maximum amounts.

The European Parliament and Council have decided in 2023 to establish a net carbon sink target for the LULUCF sector of 310 Mt CO₂-eq by 2030.



Other changes to the LULUCF Regulation relate to merging the LULUCF sector with non-CO₂ emissions from agriculture within the regulation's accounting system by 2031, which will become the agriculture, forestry and other land-use (AFOLU) sector. This parallels the UN Intergovernmental Panel on Climate Change (IPCC) special report on *Climate Change and Land*, which merges agriculture, forestry and other land use together.

Further, the European Commission proposes a GHG neutrality target for the combined AFOLU sector by 2035. While the EU-level target of climate neutrality for the land sector by 2035 is non-binding, derived Member State targets will be binding and enforceable. From 2036 onwards, the combined sector will need to generate further carbon removals to balance remaining emissions in other sectors based on a robust carbon removal certification system.

The current “no-debit” rule will continue to apply until 2025. The agreement maintains flexibilities for Member States encountering difficulties in achieving their targets caused by natural disturbances up to a fixed limit.

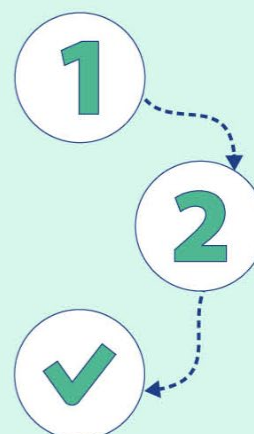
The revised LULUCF thereby establishes a two-phase approach to net emission removals as specified by national binding targets:

Two-phase approach

- **Phase 1 until 2025:** the current system remains largely in place, with the obligation for each member state to balance emissions and removals.
- **Phase 2 from 2026-2030:** a new EU-level target for net removals of 310 Mt, with member states' targets for net removals contributing to the increased ambition.

In addition to national targets, each member state should commit to further net greenhouse gas emissions and removals under ‘the budget 2026-2029.

Member states can continue to be able to use certain **flexibilities** to help comply with their targets, while respecting environmental integrity.



Source: European Council Infographics on LULUCF

4.3. The EU Emission Trading System (ETS) and the Cross Border Adjustment Mechanism (CBAM)

There is potential for the agricultural sector to play an important role in meeting the 2030 sink target. In the context of the EU Green Deal a number of EU measures relate to Greenhouse Gas Emissions (GHG). Having looked at the Effort Sharing Regulation (ESR) and the Land Use, Land Use Change and Forest Regulation (LULUCF), there are other instruments, that have less direct effect on agriculture but are still relevant for the sector.

There are two instruments – both adopted by the European Council and the European Parliament in 2023 - which complement each other in seeking to strengthen the EU's goal of "Fit for 55" (=emissions reduced by 55% by 2030 compared to emissions 1990) within the context of the Paris Agreement to limit the rise in global temperature to max 1,5°, namely:

- 1) The Cross Border Adjustment Mechanism, CBAM
- 2) The Emission Trading System, ETS

These two instruments do not cover agriculture but there is a link to the ETS in terms of flexibility in reaching the reduction commitments under Effort Sharing and the LULUCF regulation. The ETS and CBAM instruments are important climate action instruments reflecting the EU's determination to reach a sustainable EU net zero GHG economy by 2050. Whether agriculture will be covered in the future is an open question. There are presently no concrete plans to do so, but the discussion on such instrument has started (see chapter 4.4 on carbon farming). In any case there will be a problem of implementation given the number of actors with around 9 million farmers in the EU. But the debate might result in alternative instruments being developed for agriculture – like a separate distinctive carbon tax – to achieve similar results. It is therefore important to understand how CBAM and ETS work to review potential impact on agriculture in the future.

CROSS BORDER ADJUSTMENT MECHANISM (CBAM) ⁶⁵

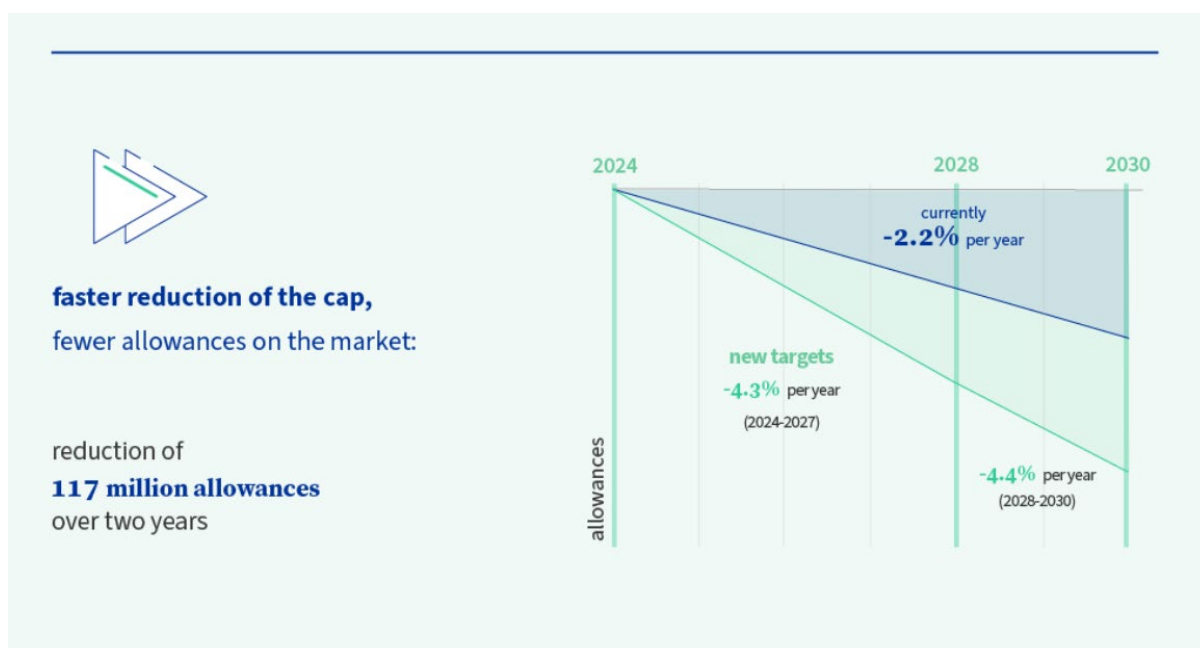
The EU already levies an internal tax on carbon i.e. ETS - see below. Under the ETS power stations and large industrial installations pay for each ton of carbon dioxide they emit. With emissions permits or

⁶⁵ https://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=uriserv:OJ.L_.2023.130.01.0052.01.ENG&toc=OJ:L:2023:130:TOC
REGULATION (EU) 2023/956 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 10 May 2023 establishing a carbon border adjustment mechanism.

“allowances” now costing around €90 (\$95) per ton, the ETS is already starting to create a powerful incentive for firms to emit less within the EU’s borders.

But the ETS does not stop Europeans from buying their carbon-intensive products from other countries – in particular, those that lack domestic carbon taxes. Such substitutions – known as “carbon leakage” – mean that the ETS alone is not sufficiently-equipped to bring about a significant reduction in global CO₂ emissions. The CBAM is supposed to fix that, by requiring importers to pay – at ETS-allowance rates, adjusted to reflect carbon taxes paid in the country of origin – for the emissions embodied in the goods being imported.

Beyond neutralizing carbon leakage, the CBAM is supposed to protect EU industry. So far, EU industry has received most of its allowances for free; this explains why the ETS has yet to make much of a dent in European industrial emissions. To strengthen the system’s impact, the EU is now planning to phase out the free allowances over several years, starting in 2026.



The CBAM is scheduled to come into effect over the same period. It is part and parcel of EU's ambitious Fit for 55 Agenda. It will equalise the price of carbon between domestic products and imports. This will ensure that the EU's climate policies are not undermined (carbon leakage) by production relocating to countries with less ambitious green requirements or by imports of products by countries with less ambitious green requirements.

In the present first phase CBAM will only cover a few industrial sectors and not agriculture:

CBAM Sectors

□ In the **first phase**:



CEMENT



**IRON &
STEEL**



ALUMINIUM



FERTILISER



ELECTRICITY



HYDROGEN

□ **Selected on the basis of 3 criteria :**

- ✓ *High risk of carbon leakage (High carbon emissions; High level of trade)*
- ✓ *Covering more than >45% of CO2 emissions of ETS sectors*
- ✓ *Practical feasibility*



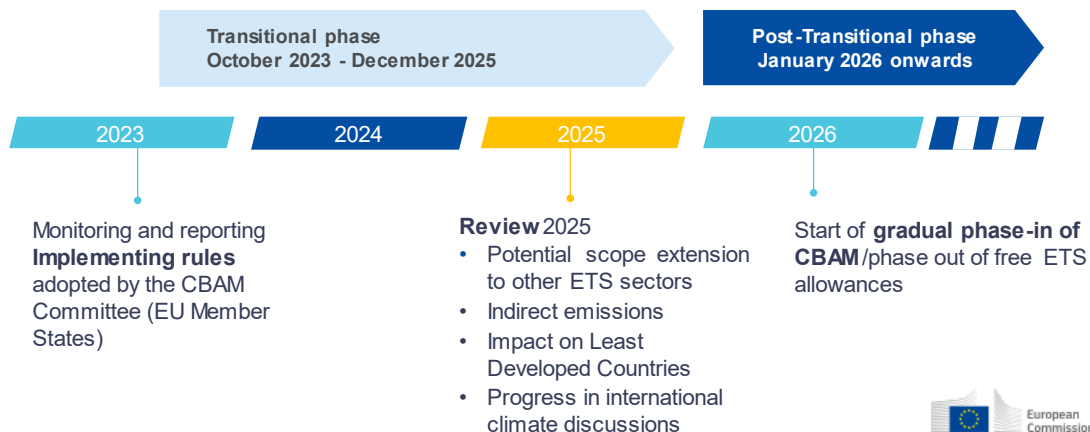
This means that imports of Food and Agricultural products will not immediately be affected although certain inputs like fertilizers will be affected.

The CBAM regulation has entered into force on the 1 October 2023. However, there will be a gradual implementation of the new instrument in order to allow EU importers and third country exports to adjust to the system and the reporting requirements. EU importers of affected goods will have to report on the volume of their imports and the greenhouse gas (GHG) emissions embedded during their production, but without paying any financial adjustment at this stage. While importers are asked to collect data for the fourth quarter of 2023, their first report will only have to be submitted by 31 January 2024. Furthermore, a number of flexibilities have been built into the CBAM's structure for the first year of application, such as the use of default values for the reporting of embedded emissions and the possibility to use the monitoring, reporting and verification rules of the country of production. This transitional phase will serve as a learning period for all stakeholders (importers, producers and authorities). It will allow the European Commission to collect useful information on embedded emissions in order to refine the methodology for the definitive period, which starts in 2026. As of that date, importers will need to buy and surrender the number of "CBAM certificates" corresponding to the GHGs embedded in imported CBAM goods.

Initially, CBAM will cover the most emission-intensive sectors: iron and steel, cement, fertilisers, aluminium, electricity. The last update of the legislation from December 2022, however, also feature hydrogen, certain precursors and other downstream products such as screws and bolts as imports under CBAM. In addition, the EU Commission will assess the inclusion of other products that might be at risk of carbon leakages such as organic chemicals and polymers into CBAM from 2030 onwards. Indirect emissions at the production facility might also have to be part of the emissions to be reported and consequently paid for by importing companies.

CBAM must therefore be viewed as an evolving instrument, whose coverage will be extended both on scope and with regard to products over time. Therefore, it is at this stage difficult to estimate where CBAM 'will end'.

Gradual implementation of CBAM



The Commission maintains that CBAM is a WTO-compatible measure. It hopes that this will encourages global industry and trading partners to embrace greener and more sustainable technologies. Of course, those partners can also use this time to challenge the CBAM at the World Trade Organization. But once the EU ends free allowances, it seems that the tax will be WTO-compatible ⁶⁶.

By 2025, the Commission shall assess the risk of carbon leakage for goods produced in the EU intended for export to non-EU countries and, if needed, present a WTO-compliant legislative proposal to address

⁶⁶ [The EU in search of a WTO-compatible Carbon Border Adjustment Mechanism | CEPR](#)

this risk. In addition, an estimated 47.5 million allowances will be used to raise new and additional financing to address any risk of export-related carbon leakage.

THE EU EMISSION TRADING SYSTEM (ETS) ⁶⁷

Currently, the existing EU ETS covers roughly 40% of the EU's emissions. It extends to about 10 000 companies in Europe, in the sectors of electricity and heat generation, energy-intensive industry sectors (like i.e., oil refineries, steel plants, cement, glass and paper production), and commercial aviation within the European Economic Area.

The EU ETS works on the 'cap and trade' principle. A **cap** is a limit set on the total amount of greenhouse gases that can be emitted by the installations and aircraft operators covered by the system. The cap is reduced annually in line with the EU's climate target, ensuring that emissions decrease overtime. Since 2005, the EU ETS has helped bring down emissions from power and industry plants by 37%.

The cap is expressed in emission allowances, where one allowance gives the right to emit one tonne of CO₂eq (carbon dioxide equivalent). For each year, companies must **surrender enough allowances to fully account for their emissions**, otherwise heavy fines are imposed. Within the cap, companies primarily **buy allowances** on the EU carbon market, but they also **receive some allowances for free**. Companies can also trade allowances with each other as needed. If an installation or operator reduce their emissions, they can either keep the spare allowances to use in the future or sell them. The declining cap offers companies certainty about the scarcity of allowances long term and ensures that allowances have market value. Allowance price serves as an incentive for companies to reduce emissions how and where it costs least to do so. It also determines the revenues that the EU ETS generates from the sale of allowances.

With the 2023 reform of the EU ETS framework the EU has extended its coverage to also include maritime transport. The overall ambition of emission reductions until 2030 compared to 2005 under the EU ETS was increased to 62%. The revised ETS should lead to about 23 million tons less CO₂-emissions compared to the EU Commission's proposal from 2021 and is much more aggressive than the minus 43% that has been the previous reduction target.

⁶⁷ https://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=uriserv:OJ.L_.2023.130.01.0052.01.ENG&toc=OJ:L:2023:130:TOC
REGULATION (EU) 2023/956 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 10 May 2023 establishing a carbon border adjustment mechanism.

However, the biggest change will be the phase-out of free allocations for industrial players as such. From 2026 onwards, the number of free allowances handed over to industries will be reduced gradually until 2034 when industries have to procure all of their needed allowances through the auctioning mechanism or on the market.

Since 2013, the EU ETS has generated over EUR 152 billion in revenues. The revenues from the EU ETS feed mostly into national budgets. Member States use these revenues to support investments in renewable energy, energy efficiency improvements and low-carbon technologies that help reduce emissions further. The sale of allowances also supplies the EU ETS funds for low-carbon innovation and energy transition, the Innovation Fund and the Modernisation Fund.

An ETS II for buildings and transport

A separate new ETS II for fuel for road transport and buildings that will put a price on emissions from these sectors will be established by 2027. This is one year later than proposed by the Commission. As requested by Parliament, fuel for other sectors such as manufacturing will also be covered. In addition, ETS II could be postponed until 2028 to protect citizens, if energy prices are exceptionally high.

Furthermore, a new price stability mechanism will be set-up to ensure that if the price of an allowance in ETS II rises above 45 EUR, 20 million additional allowances will be released.

The EU ETS II will only become operational from 2028. Not all details have been worked out yet, especially as member states are allowed to exempt fuel suppliers from the EU ETS II in case a national carbon price scheme with a price level equivalent or higher than the EU system exists. Effectively, the EU ETS II in its currently discussed shape and form will be closer to a carbon tax with a maximum price level of 45 EUR/ton at least until 2030. From then onwards no price cap is foreseen as of now.

In summary:

- Emissions in the ETS sectors must be cut by 62% by 2030
- Free allowances to industries will be phased out from 2026 whilst CBAM is phased in and disappear by 2034
- An ETS II for fuel emissions from the building and road transport sectors as of 2028

With all these higher ambitions and new pricing schemes, one very important question of course remains: where will the money from EU ETS I, CBAM and EU ETS II in the future go to and what will it be used for?

4.4. Carbon Farming – A Carbon Tax on Agriculture?

In the previous subchapters we covered the EU legislation on GHG emissions and their relation to agriculture. We will now examine the different agricultural activities to ensure GHG reduction i.e. carbon farming. We also want to have a look at the question of a carbon tax in agriculture.

Farming and forestry can play a key role in the fight against climate change by absorbing carbon from the atmosphere. Carbon farming was listed in the 'Farm to Fork Strategy' as a key initiative in the framework of a sustainable food system. In April 2022, the Council adopted conclusions on carbon farming, aiming to encourage agricultural practices that help to capture carbon from the atmosphere and store it in soil or biomass in a sustainable way.

What is carbon farming? The following definition is from a study commissioned by the European Parliament in 2021 ⁶⁸:

“Carbon farming focuses on the “management of carbon pools, flows and greenhouse gas (GHG) fluxes at farm level, with the purpose of mitigating climate change. This involves the management of both land and livestock, all pools of carbon in soils, materials and vegetation, plus fluxes of carbon dioxide (CO₂) and methane (CH₄), as well as nitrous oxide (N₂O)” (COWI, Ecologic Institute and IEEP, 2021a).

For the land managers, this definition means that carbon farming covers farming practices and land use changes that deliver one or more of the following outcomes:

- carbon removal (sequestration) and subsequent storage in biomass above/below ground and in agricultural soils;
- the avoidance of future CO₂ and other GHG emissions; and/or
- the reduction of existing CO₂ and other GHG emissions.

The European Commission has elaborated a document that goes into great detail of the different activities in relation to carbon farming ⁶⁹, that should be incorporated into National Strategic CAP Plans, both in relation to GAEC requirements and Eco-schemes:

⁶⁸ “Carbon farming - Making agriculture fit for 2030-study for European Parliament”, McDonald et Al.

[https://www.europarl.europa.eu/RegData/etudes/STUD/2021/695482/IPOL_STU\(2021\)695482_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/695482/IPOL_STU(2021)695482_EN.pdf)

⁶⁹ <https://op.europa.eu/en/publication-detail/-/publication/10acfd66-a740-11eb-9585-01aa75ed71a1/language-en>

Peatland restoration and rewetting

Peatlands have a key function in the carbon cycle due to their role as a permanent carbon stock and ongoing sink. However, years of unsustainable land management practices have resulted in the degradation of peatlands in the EU, making them a net GHG emitter. Currently, degraded peatlands emit 2 Gt CO₂ per year, and are responsible for almost 5% of global total of the 4 anthropogenic GHG emissions. Peatland restoration and rewetting can provide an important contribution to climate mitigation, by stopping emissions from oxidation of organic carbon and protecting the remaining carbon.

Agro-Forestry

Agroforestry is the practice of combining woody vegetation (trees or shrubs) with crop and/or animal production systems on the same plot of land. Long-established agroforestry systems, found mainly in the Mediterranean, are already providing both climate mitigation and adaptation benefits but many are under threat, and not all are eligible for CAP Pillar 1 direct payments.

Recent research estimates that introducing agroforestry on selected EU arable land and grassland where there are already multiple environmental pressures could lead to sequestration of between 7.78 and 234.85 MtCO₂eq per year.

The maintenance and enhancement of soil organic carbon in mineral soils

The maintenance and sequestration of soil organic carbon (SOC) on mineral soils is an important mitigation option with significant co-benefits for productivity and ecosystem health. Farmers can apply a range of management practices to improve SOC levels, including cover cropping, improved crop rotations, agroforestry, and converting from cropland to grassland. The sequestration potential of soil organic carbon on mineral soils in the EU has been estimated to be between 9 and 58 MtCO₂eq per year. The estimated EU annual emissions from mineral soils under cropland are 27 MtCO₂eq.

Managing soil organic carbon on grasslands

Grasslands cover more than a third of the total agricultural area in Europe, and can play an important role in climate mitigation, besides delivering considerable co-benefits, including biodiversity conservation and improved soil productivity and pasture yields.

According to the 2016 data reported to the UNFCCC for the EU, 41 MtCO₂eq are sequestered on mineral soils under grasslands. Preventing the loss of grassland can therefore contribute significantly to the EU climate targets.

Livestock farm carbon audits

The European livestock sector is responsible for 81% of Europe's agricultural emissions. On farm climate actions that can cost-effectively reduce livestock GHG emissions include herd management and feeding, animal waste management, crop management, and reduced use of fertilisers and energy, among other actions. Research and pilot projects suggest that European livestock farms applying these actions could potentially reduce their emissions by at least 12-30% by 2030.

The national CARBON AGRI scheme, which covers French dairy and beef farms, already uses a farm carbon audit tool as the basis of a result-based carbon farming scheme, funded by emission reduction certificates sold to private and institutional buyers looking to offset their own emissions.

Crop rotation

A change of the crops grown on each parcel aims to preserve soil potential and thus avoiding monoculture. Such crop rotation can deliver a wide range of benefits: improving the soil physical structure, soil biodiversity and soil fertility, which in turn benefits productivity and enhances soil carbon sequestration. It can also reduce water pollution by breaking the biological cycle of pests/diseases and reducing the need for pesticides.

To assess the specific objectives of the CAP related to soil health and carbon sequestration (Article 6 (d) and (e) of Regulation 2021/2115), two result indicators provide supporting data. R14 (carbon storage in soils and biomass) and R19 (improving and protecting soils) are both assessing the share of agricultural land that is under supported commitment, through eco-schemes or other tools. They indicate how much funds are being used for each specific goal, but do not provide information on the quality of the commitment supported.

INCENTIVES FOR CARBON FARMING

Farm-level payments for carbon farming can be action-based or result-based.

Action-based schemes reward land managers for putting in place climate-friendly agricultural practices.

In result-based schemes the payment to land managers is directly linked to measurable indicators of the climate benefits they provide. The advantage of this approach is that the use of public or private funds is more directly linked to the intended climate objective. In addition, farmers enjoy a greater degree of

flexibility, as they are free to choose their management strategies to achieve the desired results, rather than following a set of rules.

Result-based carbon farming in peatlands is a promising option because of the high level of potential climate benefits per hectare. It is also the type of land use where result-based carbon farming is more advanced at the moment. There have been exploratory projects in Finland and the UK and there is at least one scheme (Moor Futures) that has been in place in the EU since 2010, gaining considerable operational experience.

Hybrid schemes combine elements of action- and result-based schemes, typically offering a payment to carry out a set of management actions, which is 'topped up' if farmers can demonstrate that they have delivered additional climate benefits.

CARBON TAX AND CARBON CERTIFICATION

Peatland restoration and rewetting can be financed through carbon credits that may be exchanged in the markets, or bought directly from project developers (land managers, NGOs, trust funds or public bodies) or from intermediaries. The choice among these options will depend on the specific characteristics of the peatland, including the institutional setting. The possibility of linking credits and payments to the process of sequestration of carbon in peatlands, rather than only to avoided emissions, should also be explored.

The European Environmental Bureau (EEB) has studied the issue of carbon farming and how to manage it in a study from September 2023:

Promoting carbon farming through the CAP

"A Carbon Removals Certification Framework (CRC-F) is being discussed by EU lawmakers and would establish a common governance system and methodologies for carbon farming schemes. This may help boost carbon farming, but how the certified "carbon removals" will be funded and used is paramount. Financing carbon farming through the sale of carbon credits (or "offsets") on voluntary carbon markets presents many pitfalls and should therefore not be promoted by the CRC-F. Instead, this new framework should seek to boost the use of public funding under the CAP to support the scale-up and roll out of carbon farming measures through a mix of practice- and result based (or hybrid) funding. Only so can it ultimately reward farmers for "real" climate action.

The CAP could make a significant contribution to upscaling carbon farming across the EU by tightening conditionality rules to prevent further degradation of soils and carbon stocks as well as increasing the number, ambition, targets, and budget of voluntary support measures for carbon farming measures. Such measures should include the establishment and the maintenance of agroforestry systems and landscape features such as hedges, the rewetting and restoration of drained peatlands, including support for pluviculture (farming on wet peatlands), the extensification and high nature value management of grasslands, and agroecological soil management."

The question is whether a system of certificates and offsets in relation to carbon farming is de facto putting agriculture into the ETS through the backdoor and with that also into CBAM. This could have major implications for exports and trade in agricultural products.

This is also the case if a carbon tax / carbon certificates were to be introduced in a general manner across the EU. Discussion of a carbon tax at the EU level has hitherto been absent. However, the EU Commission has just recently published a report from Trinomics that it has commissioned ⁷⁰. This shows that the Commission is preparing for such a discussion!

⁷⁰ https://climate.ec.europa.eu/document/996c24d8-9004-4c4e-b637-60b384ae4814_en

TRINOMICS STUDY

Trinomics suggests that the “polluter pay principle” should apply to GHG emissions. This leads them to analyse 5 different options which de facto would introduce a European Emissions Trading Scheme for Agriculture (probably an **Ag ETS** different from the existing European Emissions Trading System (ETS)). In developing the 5 options Trinomics has applied several considerations: “In selecting potential polluter pays policy options, key criteria were considered for a comprehensive set of policy options. This included: whether it should be a quantity-based or a price-based or a hybrid policy; whether the price should be applied directly to GHGs, agricultural inputs or outputs, or specific agricultural activities; the scope of pollution; and who are the obligated ‘polluters.’ Other criteria for selection included: the feasibility of applying the policy option at the EU-level; data availability on GHG emissions for a particular instrument; whether carbon leakage could be addressed; and whether there were existing empirical examples to better understand potential impacts”.

The five analysed ETS options are:

1. **An on-farm ETS for all GHG emissions:** this option includes all greenhouse gas emissions from agriculture in its scope, including net LULUCF emissions from croplands and grasslands (emissions from sources minus removals from sinks). The point of obligation would be all types of farms (arable, livestock, and mixed).
2. **An on-farm ETS for livestock emissions only:** this option focuses on emissions from livestock production, specifically from enteric fermentation and manure management. However, the option excludes land use emissions from arable crops grown for feed purposes. The point of obligation would be for livestock and mixed farms.
3. **An on-farm ETS for peatlands only:** this option applies to emissions from drained peatlands utilised for agricultural production. The point of obligation would be farms on such lands.

4. **An upstream ETS:** this option focuses on emissions from enteric fermentation (feed production and importation), nitrous oxide emissions from soils (use of fertilisers), and urea application (use of fertilisers). The point of obligation would be for fertiliser producers and feed producers and importers
5. **A downstream ETS:** this option focuses on emissions from enteric fermentation and manure management. The point of obligation would be for meat and dairy processors

The study does not make any recommendations in regard to the different models but applies different criteria to judge the pros and cons of each option:

Table 21 Assessment structure, criteria, and indicators

Criteria	Type of Impact	Impact	Indicator
Effectiveness	Environmental	Climate change	Incentivise actors along the value chain to mitigate agricultural emissions
		Biodiversity	Biodiversity risks and co-benefits
	Social	Consumers	Impacts on consumer budgets and welfare
		Distributional	Distributional impacts on Member States
			Distributional issues between small and large farms
	Expeditiousness	Speed of implementation	Speed/ease of implementation
	Political and legal	Feasibility	Stakeholder acceptance
Efficiency	Economic	Sectoral competitiveness and trade balance	Impacts on sectoral competitiveness and trade balance
	Environmental	Carbon leakage	Risks of carbon leakage
	Administrative	Costs	Administrative burden and costs
Relevance	Policy relevance	Polluter pays principle	Incentivise polluters to change practices and innovate
Coherence	Policy coherence	External	Coherence with other EU policies
Added Value	Benefits	Benefits beyond Member States	EU added value

Table 22 Comparison on five policy options based on assessment criteria

Criteria	Indicator	On-farm ETS (all-GHG)	On-farm ETS (livestock)	On-farm ETS (peatlands)	Upstream ETS	Downstream ETS
Effectiveness	Incentivise actors along the value chain to mitigate agricultural emissions					
	Biodiversity risks and co-benefits					
	Impacts on consumer budgets and welfare					
	Distributional impacts on Member States					
	Distributional issues between small and large farms					
	Speed/ease of implementation					
	Stakeholder acceptance					
Efficiency	Impacts on sectoral competitiveness and trade balance					
	Risk of carbon leakage					
	Administrative burden and costs					
Relevance	Incentivise polluters to change practices and innovate					
Coherence	Coherence with other EU policies					
Added value	EU added value					

Colours explained: In summarising the assessment of the five options, we have colour-coded the options against the assessment criteria – green signifies that the option will potentially have mostly positive impacts for that particular indicator, while red indicates mostly negative impacts, and yellow indicates both positive and negative impacts.

The authors summarize their evaluation of the different options in the following table:

Table 23 Summary of the assessment for the five policy options

	Mostly positive impacts	Both positive and negative impacts	Mostly negative impacts
All-GHG ETS	4 indicators	7 indicators	2 indicators
Livestock ETS	4 indicators	8 indicators	1 indicators
Peatlands ETS	9 indicators	2 indicators	2 indicators
Upstream ETS	7 indicators	6 indicators	0 indicators
Downstream ETS	8 indicators	5 indicators	0 indicators

Amongst a number of observations by the authors we find the following especially interesting:

“While the upstream and peatlands options have the lowest risk of impacts on competitiveness and trade, and all of the options (with the exception of the peatlands option) have risks of carbon leakage, there are policy measures, such as transitional free allocation, use of ETS auction revenues for transition support, a CBAM or multilateral trade agreements which could mitigate such risks. Additionally, negative impacts on competitiveness and trade for arable farms are expected to be low in comparison with livestock farms”.

This points to the crux of the matter: how much will a carbon tax

- **put pressure on reducing animal production (meat, dairy etc),**
- **weaken competitiveness and**
- **risk of carbon leakage?**

But as the authors of an Ag ETS states, introduction of a carbon tax is not in itself enough to reach the climate targets of net zero in 2050 but needs to be underpinned by removals (sequestration):

“In addition to reducing their GHG emissions, the agriculture, forestry and land-use sector can also contribute to climate change mitigation by increasing the carbon removed from the atmosphere. While drastically reducing emissions will be essential to achieve climate neutrality, carbon removals will also be needed to compensate for the remaining hard-to-abate emissions. To meet the 2030 LULUCF targets of 310 Mt CO₂-eq net removals per year, to achieve the EU Climate Law target of climate neutrality by 2050 and net negative emissions thereafter, carbon removals must increase”.

The study also refers to the Commission proposal for a **carbon removal certificate** as an instrument that could be relevant to underpin an Ag ETS: ⁷¹

The idea is to encourage Member States to set up certification schemes at national level that can eventually be approved at EU level and contribute to the objective of removal of GHG emissions. As stated in the explanatory Memorandum:

“The EU carbon removal certification framework will contribute to improving the GHG quantification of supported practices and GHGs inventories of national land sector. Through voluntary markets development it can ensure longer-term protection of carbon stocks and actions in land not supported by the CAP.

⁷¹ https://climate.ec.europa.eu/eu-action/sustainable-c-removal-certification_en

Public certification schemes, developed by Member States, could apply for EU recognition under this proposal in order to implement the EU carbon removal certification framework, including the certification methodologies laid down in this proposal. Furthermore, this proposal will allow disclosing non-CO2 emission reductions as co-benefits of carbon removals.”

This is reflected in the proposed Article 1:

Article 1

1. Subject matter and scope. The objective of this Regulation is to facilitate the deployment of carbon removals by operators or groups of operators. To that end, this Regulation establishes a voluntary Union framework for the certification of carbon removals by laying down:

- (a) quality criteria for carbon removal activities that take place in the Union;
- (b) rules for the verification and certification of carbon removals;
- (c) rules for the functioning and recognition by the Commission of certification schemes.

The practical setting up such a certification scheme poses significant challenges, in particular with respect to defining the exact criteria for certification which need to include quantification of carbon removals, the delivery of additional climate benefits, the strive to store carbon for a long time, the prevention of carbon leaks, and the contribution to sustainability. Solid and clear requirements for third party verification and certification of carbon removals need to be developed in order to harmonise the certification process, ensure environmental integrity and build public trust. The objective must be to provide assurance about the quality of the carbon removals and make the certification process reliable and trustworthy to combat greenwashing.

THE CASE OF DENMARK: PLANS FOR A CARBON TAX ON AGRICULTURE?

In Denmark the national farming organisation “Landbrug og Foedeverer”, L&F (Danish Agriculture and Food Council) has decided to implement a plan for the reduction of GHG emissions, approved by the Danish Parliament ⁷². The plan was elaborated by the research institute under L&F – called “SEGES Innovation”.

Total GHG emissions attributed to Danish agriculture is set at around 15,5 mio tons of CO2 eq. The SEGES Innovation study suggests that emissions can be reduced between 6,3-9,3 mio. ton CO2eq or by

⁷² <https://www.wri.org/research/pathway-carbon-neutral-agriculture-denmark>

55-65% in 2030 compared to 1990. The target for Denmark in the national plan at the time of the study was set at 7,4 mio tons.

The target foresees a combination of measures like regeneration of peat and waterlands, afforestation, nitrous dioxine reduction via reduced use of fertiliser, optimal use of natural fertiliser (animal waste) in the field, better handling and processing of animal waste, biomass recovery and improved use, reduction in methane emissions (by up to 40 %) via feed additive (Bova) to ruminants, organic farming and more.

In addition to the nationally approved GHG reduction plan, the Danish coalition government with a majority in the Danish Parliament is committed to introducing a **carbon tax** for agriculture.

This is an extremely controversial issue. The farming organization, L&F maintains, that Danish agriculture would go broke if such a tax were to be introduced. This of course depends on where and how high a tax is imposed. If the carbon tax is levied at the stage of consumption, it would provide a revenue but provide no incentive for farmers to reduce GHG emissions. With a carbon tax at the level of 90/tons CO₂ equivalent the cost to the farmer would be considerable. The Independent Office of economic advisers (De Oekonomiske Vismaend) have suggested that a carbon tax in the order of 150 €/t CO₂ eq would be necessary to take into account the cost of externalities as result of agricultural activity i.e. costs that do not show up in the farmer's cost of production. A tax of 100 €/t is more in line with the present level ETS price. That would still be considered so high that many farmers would leave animal production.

Expert Committee on a carbon tax

An expert committee, led by economics professor Mikael Svarer, has been given the task to investigate the consequences not only for the farming sector but also in relation to employment and exports as Denmark traditionally is a big net exporter of animal products. The report has been released on the 17 February 2024 ⁷³.

The Government Climate Plan had estimated that a reduction of 5.4 mio tons CO₂eq from agriculture was necessary in order to reach the 70% reduction in comparison to carbon neutrality 2050. The expert group however revises this reduction figure due to new measures but primarily since they believe that the emissions from peat and wetlands are probably overestimated given that most of the carbon released from these lands has already take place. Consequently, the necessary reduction goes down from 5.4 mio tons to 2.5 mio tons to be reached by 2030.

⁷³ <https://skm.dk/aktuelt/publikationer/rapporter/groen-skattereform-endelig-afrapportering>

Such revision of the estimate of GHG emissions from peat and wetlands is something that might be the case more generally in the EU and other places, where recovery of peat and wetlands has taken place many years ago.

The expert group has suggested 3 models for the introduction of a carbon tax in Denmark:

- Model 1 a tax of around 100 €/ton CO₂ eq collected at the level of farmers
- Model 2 a tax of around 50 €/ton CO₂ eq collected at the level of farmers
- Model 3 a tax of around 17 €/ton CO₂ eq collected at the level of farmers

Model 1 is the most efficient in terms of reducing the emissions but will have a significant effect on farmers income and production. A tax of 100€/ton corresponds more or less to the prevailing price under the EU's Emission Trading System, ETS. The expert group has chosen this model as a way of having the same incentive (neutral effect/incentive) across different economic sectors.

Model 2 can also reach the reduction target combined with new technology and less reduction in incomes and production. The expert group in this connection puts quite an emphasis on the technology of pyrolysis i.e the conversion of plant material into Biocarbon for heating or electricity production. This idea is explained in detail (in Danish) in the report under section 7.5.

Model 3 is the one with least effect on incomes and production but will be the most expensive for the state budget in order to finance measures to mitigate emissions.

The expert group believes that a carbon tax levied wholly or partially at the level of consumers is not recommended, since the effect on emission reductions is by far much lower than under the suggested 3 models. In any case, each of the 3 models will result in an increase in consumer prices depending on the degree of substitution of supply by imports from other EU countries as well as third countries.

The result of the work of the expert group is now being discussed in a so-called tripartite group with representatives from the government, Danish agricultural organizations as well representatives from green NGO's, industry and labor unions. The conclusion of the tripartite discussions is expected to materialize in summer 2024 at which stage the political negotiations will take over.

The Danish farmers' organizations argue that they are not against a carbon tax as such but insist such a tax to be introduced on an EU wide basis in order to avoid distortion of competition and carbon leakage to other farmers inside and outside the EU.

PERSPECTIVE FOR AN EU CARBON TAX ON AGRICULTURE

It can be expected that an introduction of a carbon tax in Denmark, together with the Trinomics study, will trigger an EU wide discussion with Green NGOs taking the lead. NGOs have long argued for a carbon tax in order to stay within the climate ambitions in the Paris Agreement to limit the global temperature increase to max 2° or better 1,5°. Recently, also the European Scientific Advisory Board on Climate Change, whose 15 members advise the European Commission on climate change policy, in January 2024 issued a report in which they argue for the introduction of some form of emission pricing for agriculture by 2031 ⁷⁴. The new Trinomics study will together with the Commission push the debate forward. The Trinomics study definitely provides a good basis for a serious discussion.

A possible compromise in the Danish discussion, which is within the modalities of the different options in the Trinomics study, might be to fix the tax at a lower level but still provide an incentive to reduce GHG emissions combined with an extended phasing-in period as suggested in the model 2 of the Danish expert group. This would amount to an Ag ETS as mentioned in the Trinomics study.

Another idea would be to collect the carbon tax both at the level of the farmer as well as at the level of the consumer. In the same way that the farmer is not paying for the externalities in relation to the environment and GHG emissions, the consumer is not paying the real price of cost of production including the externalities. The revenue could/should be channelled back to the farming community in the form of remuneration for real 'greening deliveries' of a sustainable agriculture.

This immediately raises the question of whether a carbon tax on agriculture should be handled in the same way as the ETS and CBAM. This would have implications as well for imports from third countries.

An Ag carbon tax under the ETS?

With around 10.000 full time farmers in Denmark this might be feasible in spite of the administrative burden. But there are at least the same number of part-time farmers who have to be dealt with as well. So even in the case of a small Member State, the administrative burden would be high if an Ag ETS model is followed. As mentioned by the European Environmental Bureau (EEB) ⁷⁵ as well as by the

⁷⁴ [Towards EU climate neutrality: progress, policy gaps and opportunities \(europa.eu\)](https://european-council.europa.eu/media/en/press-room/pages/press-room-detail.aspx?ip=123456789)

⁷⁵ <https://eeb.org/library/promoting-carbon-farming-through-the-cap/>

Trinomics study, the issue of certificates is key, hence the Commission proposal on a carbon removal certificate.

It appears that New Zealand is at present the only other country in the world which is considering a carbon tax.⁷⁶ The level of the tax is however minuscule (50 times lower!) in comparison to the figures being discussed in Denmark like the value of emission rights under the ETS of 90 €/t CO₂ eq. None the less even such a low level of tax is controversial in New Zealand. In New Zealand the number of farmers would also pose a significant administrative burden. The entry into force has already been postponed till 2025.

We conclude that the EU discussion on a carbon tax is now launched - at the same time a very technical as well as a very political issue.

Chapter 5: European Food Security

Historically, the CAP was set up after World War II following famine and food shortages with the objective to secure food production and supply in the future in Europe. It is from this historical context that the original CAP includes food security as a main goal. The EU quickly became an efficient agricultural producer and exporter of agricultural goods. It is therefore with little surprise that the objective of food security never resulted in specific regulatory initiative to safeguard Europe's food security.

European Food Security only became an issue of political debate in the context of the Ukraine war. The surge of global commodity prices, accelerated by Russia's invasion of Ukraine and consequent problems of Ukraine to export its grain, not only lead to a debate about global food security but also highlighted the need for EU agriculture and food supply chains to become more resilient against external dependencies. Obviously, the EU, as a net food exporter and top agri-food producer, contributes to global food security, particularly in North Africa and the Middle East, which largely rely on imports of cereals, as well as in Asia and sub-Saharan Africa. It was therefore logic for the EU to take measures in the context of the Ukraine war to contribute to the supply of commodities to these countries.

⁷⁶ To encourage more climate-friendly agriculture, the Government (NZ) is proposing:

- a farm-level, split-gas levy for pricing agricultural emissions
- two options for pricing synthetic nitrogen fertiliser emissions
- an interim processor-level levy as a transitional step if the farm-level levy cannot be implemented by 2025
- recognition for some types of sequestration in an adjacent contractual system from 2025, with a long-term goal of integration of new vegetation categories into the NZ ETS.

<https://consult.environment.govt.nz/climate/agriculture-emissions-and-pricing/>

Food availability has never been at stake in the EU, since the continent is largely self-sufficient for many agricultural products. However, the European agricultural sector is a net importer of specific products, for example feed protein. This vulnerability, together with high input costs, such as fertilisers and fossil energy, where Europe is / has been dependent on Russian gas, is causing production challenges for farmers and has been driving up food prices by almost 30 % ⁷⁷. This has resulted in the notion of food affordability for low-income persons being at risk. In addition, it changed consumer purchase behaviour.

In March 2022 the Commission adopted a Communication 'Safeguarding Food Security and Reinforcing the Resilience of Food Systems' ⁷⁸, which addresses both global and European food security. In the context of the 'Ukraine food crisis' it presented a crisis package not only to contribute to global food security but also to support farmers and consumers in the EU in light of rising food prices and input costs, such as energy and fertilisers. Member States got permission to reduce VAT rates for food and encourage economic operations to contain food prices. The Fund for European Aid to the Most Deprived was mobilized to provide Member States with funds for food and basic supplies to the most vulnerable. With respect to farmers a Euros 500 million support package was agreed, levels of advances on direct payments were increased, market safety-net measures for pig meat were taken, import requirements for fertilizers were eased and most important certain environmental obligations - like production restrictions on fallow land - were temporarily suspended. The Commission made also clear to Member States that national measures including export restrictions were jeopardizing the EU Internal Market and running counter-productive towards food security.

In November 2022 the Commission published a Communication on 'Ensuring availability and affordability of fertilizers' ⁷⁹, advocating measures to safeguard European fertilizer production, diversify imports of fertilizers and reduce and replace its use in European agricultural production. It also emphasised Member States had an obligation under the National Strategic Plans of the CAP 2023-2027 to create programs to optimize the use of pesticides and fertilizers and replace mineral fertilizers by organic fertilizers. Horizon Europe would invest in research and innovation to substitute the use of synthetic fertilisers. Greater efficiency in nitrogen use, transition to green ammonia for fertilisers, and biomass valorisation are also among the proposals presented by the Commission. The Commission concluded that Green Deal measures would broadly help reducing the EU dependency from fertilizer imports from Russia and Belarus.

Based on DG Agri's sectorial balance sheets, the EU is highly dependent on feed imports. The Protein

⁷⁷ According to EuroStat food prices increased by 28 % between January 2021 and January 2023. They have stabilized since but are not falling.

⁷⁸ [safeguarding-food-security-reinforcing-resilience-food-systems_0.pdf \(europa.eu\)](#)

⁷⁹ [resource.html \(europa.eu\)](#)

Balance Sheet ⁸⁰ shows that Europe is producing about 60% of the total feed protein it needs, but at the same time has a higher deficit in protein-rich feed. Indeed, around 70% of the high-quality protein provided by oilseed meals is imported – either directly as meal, in particular soybean meal, or in the form of oilseeds, in particular soybeans. Imports come mainly from Argentina, Brazil and the US. EU Heads of States called in their Versailles declaration in March 2022 for increasing the EU production of plant-based proteins as a means to improve the EU's food security and reduce food prices. On that basis the European Commission has promised to review its Protein Strategy in spring 2024, which has triggered intense lobbying efforts from different interested stakeholders. In October 2023 the European Parliament adopted an own initiative report on the European Protein Strategy ⁸¹. It underscores the importance of amplifying the production of protein sources within the EU's agricultural sector. One of the proposed measures to increase production was by maintaining the cultivation of set-aside land next year, when the derogation granted because of the war in Ukraine is due to expire in 2024. At the same time, the report dismissed resolutely an amendment that called for a reduction in meat production and consumption. In this context MEPs pointed out that that feeding farm animals with locally produced proteins promotes short supply chains and thus helps to combat climate change. They also called for the creation of a “scientific and voluntary label” to compare the environmental footprint of food and feed, which could then also be used to compare with imports. This could also help with the urgent need to end the massive import of soy from South America, which contributes to “groundwater contamination by pesticides, soil erosion, water scarcity and deforestation”. Independent experts doubt that an increase of protein feed crops production in Europe is the right way forward, as it must come to the detriment of wheat and maize production with presently better yields. Some experts emphasize new opportunities to be pursued with use of biotechnology in animal nutrition and feed utilization. The Commission report on the EU Protein Strategy in spring 2024 will obviously have to address these questions.

All these events resulted in a more in-depth discussion about food security in Europe: Enhancing resilience of European food production, by reducing the dependency of European agriculture on energy, energy intensive imports and feed imports was suddenly considered a real necessity and political priority. The European Summit advocating the need for an increase of plant-based protein production is the result of such ‘sudden’ prioritization.

‘European Food Security’ and ‘Resilience’ have since become the new buzzwords, under which different stakeholder advocate different concepts and strategies.

The European Commission reinforced its call for building more sustainable food systems as advocated in the ‘Farm-to-Fork Strategy’. Fair, healthy and environmentally friendly food systems would also be more resilient towards external pressures and dependencies.

Farmers’ organisations took up the notion of Food Security to argue that the European Union should

⁸⁰ https://agriculture.ec.europa.eu/data-and-analysis/markets/overviews/balance-sheets-sector/oilseeds-and-protein-crops_en

⁸¹ https://www.europarl.europa.eu/doceo/document/TA-9-2023-0375_EN.html

slow down or even abandon initiatives proposed under the umbrella of the European Green Deal. European Food Security suddenly became a ‘catch-all’ for defending European farming interests. French President Emmanuel Macron in the wake of the agricultural crisis at the beginning of 2024 is championing strengthening national and “European Food Sovereignty”⁸², a yet vaguely redefined concept of European food Security, with Europe becoming less dependent on international trade and imports of agricultural inputs and products. This approach is supported by an EP report on the dependency of European Agriculture on external inputs.

Commissioned by the Agricultural Committee of the European Parliament⁸³.

The food security discourse clearly masks fears that the sustainability agenda will adversely affect the competitiveness of European farming, with negative implications for jobs and livelihoods in the sector and particularly in rural areas. This is exactly what the EU Agricultural Ministers discussed in their informal session on 5 September 2023 in Cordoba⁸⁴: *‘Food Security in both global and EU context, impact of climate change on farmers and how to secure rural livelihood in the future’*.

The discussion between Council and Commission on the **‘Pesticides Sustainable Use Regulation’** (SUR) – see chapter 3.1 – can serve as an example on such fears: On 26 September 2022, farm ministers from Austria, Bulgaria, Estonia, Hungary, Malta, Poland, Romania, Slovenia and Slovakia sent a request to review the impact of the SUR regulation, arguing that the current state of the bill does not take into account the impact of the war in Ukraine on global food security and the resulting threats to the European Union. The Council decided in December 2023 to request an additional impact assessment by the Commission. In its reply from July 2023 the Commission elaborated on the relationship between pesticides reduction targets and food security⁸⁵:

“The pesticide reduction goals envisaged in the SUR proposal would not threaten food security. On the contrary, they would safeguard food security in the longer term. Analysis shows that the crops with yields most directly affected by pesticide reductions have limited relevance for food security. Member States have great flexibility to determine how to approach pesticide reduction in ways that do not impact on food security. The restoration of nature and the protection of pollinators, partly through pesticide reduction, will help guarantee the EU’s long-term food and feed security.”

In March 2023 the Commission presented the ‘EU Net-Zero Industry Act’⁸⁶, which aims to have 40% of the key technology it needs to combat climate change built within its own borders by 2030. In June 2023 the EU

⁸² French Prime Minister Gabriel Attal and Agricultural Minister Marc Fesneau announced in February 2024 that ‘agricultural sovereignty’ would be at the heart of any future French agricultural policy.

⁸³ See [Research for the AGRI committee - The dependency of the EU’s food system on inputs and their sources \(europa.eu\)](https://research-for-the-agri-committee.europa.eu/en/news/informal-ministerial-meeting-agriculture-cordoba-5-september/).

⁸⁴ <https://spanish-presidency.consilium.europa.eu/en/news/informal-ministerial-meeting-agriculture-cordoba-5-september/>

⁸⁵ [Commissions-reply-to-a-Council_Sustainable-use-of-plant-protection-products.pdf \(arc2020.eu\)](https://commissions-reply-to-a-Council_Sustainable-use-of-plant-protection-products.pdf)

⁸⁶ https://single-market-economy.ec.europa.eu/publications/net-zero-industry-act_en

published a Communication on a 'European Economic Security Strategy'⁸⁷, which aims to protect Europe with respect to key technologies.

Whereas both communications do not directly relate to agriculture and food, the EU Agricultural Council was quick in reacting with a call for 'European Food Security' to be included in the debate as EU agriculture and food production needs to become less dependent on key inputs from third countries. Some stakeholders demanded that the green biotechnology industry should be included as a strategic technology under the 'EU Net-Zero Industry Act'. It remains to be seen what role if any agriculture and food production will play in the EU strategy on 'European Economic Security' and 'Open Strategic Autonomy'. But these efforts show the overall push of agricultural stakeholders seeking for protection from the challenge of adaptation driven by climate change. French President Macron's initiative on a "European Food Sovereignty" might present the start of a political response to such concerns.

The **European Food Security Crisis preparedness and response Mechanism (EFSCM)**⁸⁸ predates the discussion on European Food Security triggered by the Ukraine war. It was the result of a Commission 'Contingency Plan for Ensuring Food Supply and Food Security in times of Crisis' published in November 2021 in response to the Covid-19 crisis. The EFSCM was established to improve cooperation between the public and private sectors and evaluate risks when crisis arise. It includes an expert group with several sub-groups that elaborate on various aspects of crisis preparedness and food security⁸⁹. The expert group that includes Member states, European third countries and stakeholders from the entire food chain, meets very regularly since March 2022 and has set up specific subgroups on (1) Dashboard for the monitoring of food supply and food security; (2) Improving the diversity of sources of supply, (3) Crisis communication on food supply and food security and most recently (4) Mitigating risks and vulnerabilities in the food supply chains.

EFSCM meetings as well as those from the different subgroups are chaired by DG Agri and serve as a stakeholder consultation and cooperation forum, with the objective to build consensus on the notion of 'European Food Security' and tools that can be used at EU level for mitigation. In this context the Commission has / is preparing various studies on security of the EU food chain. Discussion between stakeholders is built around these studies with the objective to deliver recommendations on further action by the end of 2024.

From our perspective a discussion and development to watch as it has clear potential to impact international trade!

⁸⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023JC0020>

⁸⁸ https://agriculture.ec.europa.eu/common-agricultural-policy/agri-food-supply-chain/ensuring-global-food-supply-and-food-security_en

⁸⁹ [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021D1115\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021D1115(01))

Chapter 6: CAP Post-2027

The new CAP 2023-2027 only entered into force on the 1 January 2023, based on the CAP Strategic Plans (CSP) as adopted for individual Member States. But discussion has already started on CAP post 2027.

Has the CAP really become “greener” as was the intention? Does the new CAP in practice contribute sufficiently to the ambitious EU Green Deal? Based on the analysis from several institutions, NGOs and experts the answer is disappointing. It appears that the EU has missed an opportunity to change the CAP and farming in a more sustainable manner.

The OECD ⁹⁰, The Institute for European Environmental Policy (IEEP) ⁹¹, The European Environmental Bureau (EEB) ⁹² together with Birdlife International, The NGO ARC 2020 ⁹³, ADE research ⁹⁴ (for the European Parliament), Professor Alan Matthews ⁹⁵ all view the CSPs and the reform of the CAP critically (see also in more detail regarding environmental aspects chapter 2).

All studies emphasize that it was less the design of the CAP 2023-2027 than the hesitance of Member States (MS) to make bold use of its green features, that led to its under-performance with respect to transformation to a sustainable model of European agriculture. The Commission had provided MS with detailed guidelines to structure national plans to guide farming in a more sustainable direction. A particular document provided also help in drawing up plans for carbon farming ⁹⁶. But MS opted mostly for a more conservative approach to CAP spending.

Did the CAP 2023-2027 provide sufficient budget to allow for a transformation towards a more sustainable model of agriculture?

In order to ensure the direction of travel, the new CAP Regulation laid down an obligation to use a minimum 25 % of the budget under Pillar I (100% EU financed) for ECO schemes. In Pillar II (co-financed) the minimum budget was increased from 30 to 35 % for specific environmental and climate action

⁹⁰ [Policies for the Future of Farming and Food in the European Union | OECD iLibrary \(oecd-ilibrary.org\)](https://oecd-ilibrary.org/policies-for-the-future-of-farming-and-food-in-the-european-union/)

⁹¹ [Transforming EU land use and the CAP: a post-2024 vision \(ieep.eu\)](https://ieep.eu/transforming-eu-land-use-and-the-cap-a-post-2024-vision/)

⁹² https://eeb.org/wp-content/uploads/2022/12/New_CAP_Unpacked-6.pdf https://eeb.org/wp-content/uploads/2023/09/Policy-Brief_Role-of-the-CAP-in-promoting-carbon-farming.pdf

⁹³ <https://www.arc2020.eu/can-the-cap-and-carbon-farming-coexist/>

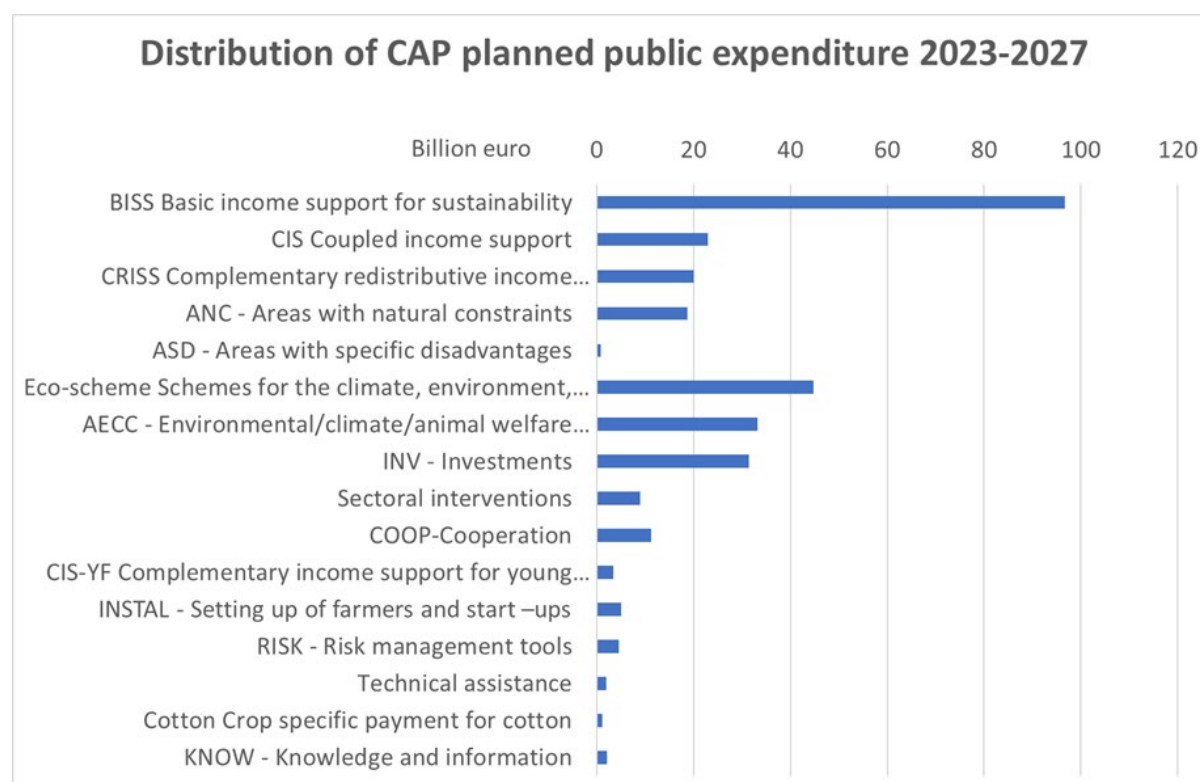
⁹⁴ <https://research4committees.blog/2023/06/16/publication-comparative-analysis-of-the-cap-strategic-plans-and-their-effective-contribution-to-the-achievement-of-the-eu-objectives/>

⁹⁵ <http://capreform.eu/how-to-advance-the-green-transition-in-the-next-cap-post-2027/>

⁹⁶ <https://op.europa.eu/en/publication-detail/-/publication/10acfd66-a740-11eb-9585-01aa75ed71a1/language-en>

projects. Total planned public expenditure under the CSPs is made up of €264 billion of CAP funds and €43 billion of national co-financing for a total of €307 billion in public financing over the five-year period 2023-2027.

Breakdown of CAP public spending is shown in the following table:



Direct Payments and coupled support, represent around 73 % of EU funding for Pillar I with the rest going to the ECO schemes. In relation to the “greening objectives” environment and climate, nothing prevents MS from going further than the minimum 25 % to ECO schemes under Pillar I and the minimum 35 % for Agri environment measures under the Pillar II subject to co-financing. However, the ministries of agriculture have preferred to concentrate on supporting income to farmers. In the main it is therefore the choice of MS that limits the implementation of green objectives, less the availability of EU funds.

Does the CAP require a new governance for transforming to a more sustainable model of agriculture?

There definitely is an issue of **governance** which has been persistent since the inception of the CAP. In the Council of Ministers, it is the Ministers of Agriculture who represent the governments. Ministers of Finance have never succeeded in reigning in their colleagues in the Agriculture Council. In the European

Parliament the lead Committee is the Agriculture Committee dominated by Members of Parliament with close links to the farming community and several are farmers themselves. The Environment Committee is consulted but in plenum the Agricultural Committee has always succeeded in having the upper hand. Strong farming lobbies and a certain emotional attachment to farming and the rural way of life has managed to protect the vested interests of farmers avoiding a serious challenge to the focus on farmers income under the CAP. This still holds true today, as we have demonstrated in chapter 3 with political decision-making on the 'Pesticides Sustainable Use Regulation' and the 'Nature Restoration Act'. The way how MS have opted to implement emission reduction targets under the 'Effort Sharing Regulation' with limited impact on agriculture, is also testimony to this persisting governance structure.

Global warming, loss of biodiversity and focus on the environment has increased the pressure on farmers and the CAP substantially. The Green Deal and the 'Farm to Fork Strategy' have integrated the CAP much stronger into an overarching European business model, with significantly increased expectations on delivery towards climate change targets. It is for all these reasons almost certain that the next reform post 2027 will be more radical. This might also involve changes in governance structure.

Can CAP 2023-2027 still deliver more on sustainable agriculture?

The CAP 2023-2027 is only at its beginning with ample space to further develop MS CSPs over its full period of implementation. The recent Commission proposals from March 2024 to soften certain Good Agricultural and Environmental Conditions (GAECs) as a condition for Direct Payments, have the potential to reduce the positive environmental effects of CAP 2023-2027. Most Eco-Schemes have been launched on the basis of annual planning, so can be adapted as experience and environmental necessities require. So, there is still potential to be harvested.

Pressure on agriculture is bound to increase within the framework of the existing CAP and the CSPs. MS shall change their CAP CSP if the underlying legislation is amended and, in any case, a yearly review is foreseen. The revised goals under the reinforced LULULCF and Efforts Sharing Regulation will already be an invitation to revise the plans. All this should lead to an increase in the level of ambition with respect to sustainability as the main criteria of measures and payments.

Perhaps one should therefore be a bit careful in drawing too strong conclusions too early that the reform is a failure as the green NGOs suggest. After all, on paper the reform allows for a considerable reorientation of farming in a greener direction. It remains to be seen how much the CAP 2023-2027 can deliver in practice.

When will the next CAP reform take place?

Traditionally, once a CAP reform has been decided and implementation gets under way, calls start for the next reform. This is no different this time round. Some member states like Germany have already initiated reflections on the next reform and try to build alliances ⁹⁷. Many believe that a new European Parliament to be elected in June 2024 and a new Commission starting its mandate in 2025 could lead to serious discussion about the future CAP starting in 2025. This corresponds with the demand of the European Scientific Advisory Board on Climate Change, whose 15 members advise the European Commission on climate change policy. In its January 2024 report they argue for a more radical reform of the CAP which will require higher funding to provide farmers with real incentives to move to more sustainable agricultural practices ⁹⁸. The ‘Strategic Dialogue on Agriculture’, initiated by the Commission President in February 2024 might prepare the ground for such discussion.

The Commission is reluctant to embark on a detailed discussion on future CAP reform too early. A formal schedule for CAP reform is laid down in the Regulation on Strategic Plans ⁹⁹, providing a time line.

⁹⁷ https://www.euractiv.de/section/gap-reform/news/deutschland-will-eu-agrargelder-grundlegend-aendern/?_ga=2.125880267.796639549.1695824497-578905066.1688134098
<https://www.bauernverband.de/topartikel/gap-nach-2027-wie-geht-es-weiter-mit-den-direktzahlungen>
<https://www.euractiv.de/section/gap-reform/news/bundeslaender-pochen-auf-neuausrichtung-der-eu-agrarpolitik/>

⁹⁸ [Towards EU climate neutrality: progress, policy gaps and opportunities \(europa.eu\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2021.435.01.0001.01.ENG)

⁹⁹ https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2021.435.01.0001.01.ENG

“By **31 December 2025**, the Commission shall submit a report to the European Parliament and the Council in order to assess the operation of the new delivery model by the Member States and consistency and combined contribution of the interventions in Member States’ CAP Strategic Plans to achieving environmental and climate-related commitments of the Union. When necessary, the Commission shall issue recommendations to the Member States to facilitate the achievement of those commitments.”

“The Commission shall carry out an interim evaluation to examine the effectiveness, efficiency, relevance, coherence and Union added value of the EAGF and the EAFRD by **31 December 2026**, taking into account the indicators set out in Annex I (the regulation on CSPs). The Commission shall carry out an ex-post evaluation to examine the effectiveness, efficiency, relevance, coherence and Union added value of the EAGF and the EAFRD.

Based on evidence provided in evaluations on the CAP, including evaluations on CAP Strategic Plans, as well as other relevant information sources, the Commission shall present a report on the interim evaluation, including first results on the performance of the CAP, to the European Parliament and the Council by **31 December 2027**.

A second report including an assessment of the performance of the CAP shall be presented by **31 December 2031**.

Based on evidence in these evaluations as well as on other information sources, the Commission should present a report on its interim evaluation, including first results on the performance of the CAP.

It is impossible to deduct from this timeline when a Commission proposal on CAP reform can be expected. However past experience tells us that a reform of the CAP often is linked to the negotiation on the Multiannual Financial Framework (MFF). In principle a new MFF has to be decided in good time before 2027. A Commission proposal for reform may thus be linked to the MFF. We can expect the new Commission as of 2025 to focus on a next MFF, and further CAP reform will at that time also probably be raised in context of a further revision of the EU GHG emission reduction targets.

Given the timeline, an extension of the present CAP policy framework seems probably necessary as was the case with the former CAP. A negotiation will easily take several years before the Council and the European Parliament reaches an agreement and provides time for the implementation.

CAP reform ideas

At this stage there is only a limited number of concrete and detailed papers on a future CAP being discussed. They all point to a much more radical orientation towards environmental objectives and payments to farmers getting exclusively linked to the delivery of public goods.

We would like to focus on a paper issued by the Institute for European Environmental Policy (IEEP) together with Professor Alan Matthews in September 2023¹⁰⁰, which we believe could exert some influence on the future debate. The paper presents some ideas for a radical reform of the CAP and in particular its governance which we will detail below.

- In terms of governance the paper argues to basically take the competence away from the bodies in charge of agriculture except for crisis management and investments under rural development. Instead, the competence should be transferred predominately to the authorities in charge of the climate and environment.
- The authors advocate to move progressively to a system of public support for land management that provides environmental services and public goods, so meeting environmental and other societal goals. This should constitute the predominant element of EU funding for rural land management in the long run; rewarding the delivery of services that go beyond mandatory requirements (such as for nutrient management, animal welfare or working conditions), reflecting the polluter pays and provider gets principles.
- The paper wants payments to focus on key environmental objectives such as climate mitigation and climate adaptation, protection and enhancement of biodiversity, and protection of natural resources going beyond legal baselines and where it is not in the self-interest of land managers to do so without support. To arrive at this long-term objective, the direct payments should be phased out over a certain period (for example 7 years) except for payments to small farmers and in disadvantaged areas who cannot survive otherwise.
- The authors want money from direct payments instead be transferred to a new “Sustainable Land Management and Fair Transition Fund for Public Goods” to be used for farmers who deliver environmental and climate action services based on clear delivery and implementation. They argue such a new sustainable land management and transition fund should be directed at

¹⁰⁰ [Transforming EU land use and the CAP: a post-2024 vision – IEEP AISBL](#)

investments, training and advice for transition, along with payments for environmental services and leveraging of additional private finance.

- On the operative side the authors suggest 4 categories of action:
 - 1) A new sustainable land management and transition fund,
 - 2) ongoing public financing for environmental services and public goods,
 - 3) funding for advice, training and engagement,
 - 4) funding for innovation and research geared to this transition.
- Given these needs for action, the authors recognize that the budget available for the transition from the phasing out of direct payments will in all likelihood not be enough “to ensure the transition where in particular to begin with a lot of farmers will be hesitating and risk suffering economic losses.”

Most important, the authors recognize that the transition will not be easy and state that “the use of several policy tools, including regulation, knowledge exchange, innovation, and investment in research. However, there is also a clear need to provide incentives for farmers and land managers, to support them in implementing sustainable practices and systems and to compensate vulnerable groups from negative shocks as part of a just transition.”

The criticism expressed in the paper against the present CAP is basically justified and the ideas for a new policy are commendable but one can doubt that they are politically realistic.

We can see two major issues with respect to budget and governance of such reform plans:

Ever since the inception of the CAP there has been a fight about the **budget**. To begin with the CAP took around 70 % of the EU budget which was quite normal since the CAP was the only true common policy at the time. Ever since ministers of finance have been trying to scale back this share. Today the share is still about 1/3 of the EU budget. By many political analysts and politicians this is still considered as far too high given the shrinking size of number of farmers and agriculture’s small share of GDP, in particular given the EU’s changing political priorities and new EU common policies. Ministers of agriculture have almost always managed to get away with maintaining such high budget. The pressure is however increasing.

It has in particular been a constant fight for the “friends of the CAP” to keep a sizeable budget when negotiating the EU Budget 7-year Multiannual Financial Framework (MFF). Especially the net payers i.e., those MS who get less out of the budget than they pay have tried to reduce the overall budget. With the help of the European Parliament this has been avoided so far. In reality, the negotiations on the MFF are always a major ‘give and take’ exercise with many national interests, going in different and often

opposing directions. At the end of the day, a compromise including the funding of the CAP has always been reached.

We at Trade-Up agree that a higher budget for the transition towards a sustainable agriculture based on the principle of “Public money for Public Goods” is justified. Such an approach is also advocated by the European Scientific Advisory Board on Climate Change, whose 15 members advise the European Commission on climate change policy ¹⁰¹. It will however be extremely difficult to convince the “Frugal MS” like the Netherlands, Denmark, Sweden, Finland, the Czech Republic, Austria of the need for more money. The position of Germany as a key player in this debate, is unclear: The group of frugals might also include Germany although Germany has always tried to reach an understanding with France on this subject. At the same time Germany (FDP finance minister Christian Lindner) is increasingly insisting on focusing on the need to respect the Stability and Growth Pact (SGP) requiring that public debt for individual Member States does not exceed 60% of GDP. A further complication presents the latest decision by the German Constitutional Court which has ruled that the 60 billion € climate spending decided by the coalition government is not in conformity with the German Constitution. The Constitution limits the government deficit spending to 0.35% of the GDP - the so-called “debt brake”. This decision not only creates a problem for the German government but likely for the EU as well when discussing the need to finance new and ongoing measures. The decision will also complicate the ongoing discussion on revision of the Stability and Growth Pact (SGP) which already is difficult enough. In any case the issue of the budget for the CAP will need to be addressed in any case if and when Ukraine was to join in some distant future.

With respect to **governance**, the stakeholders forming the “farm friendly group”, (Ministers of Agriculture, Members of the Agriculture Committee in the EP, the European Peoples Party (EEP) together with a well-organized professional farm lobby at national and EU level (Copa-Cogeca)) have so far managed well to keep much of the competence on the CAP and defend it against ‘environmental interference’. Recent ‘success stories’ in the context of the implementation of Green Deal legislation like the ‘Pesticide Sustainable Use Regulation’ and the ‘Nature Restoration Act’ as well as the recent march 2024 Commission proposals to soften the implementation of certain Good Agricultural and Environmental Practices (GAECs) as a condition for Direct Payments show that this governance model still works. At the same time, the ‘friends of the environment’ and health officials have clearly increased their competence and influence over the last years.

¹⁰¹ In its January 2024 report the Council argues that more money is required to create real incentives for European farmers to move to more sustainable agricultural practices. See report [Towards EU climate neutrality: progress, policy gaps and opportunities \(europa.eu\)](#)

If a reform as radical as the one suggested in the IEEP report - although in many ways justified – would be proposed by the Commission, farmers will put up a fierce resistance and governments will hesitate given the fear of voters. We therefore doubt that in a future CAP reform the present governance model will be toppled, but there might be a realistic chance to get a better balance on the governance of the CAP. What should be possible is to go in the direction of a better balance between conflicting interests, where environment, health and agriculture share the competence.

The key issue is how to solve the income problem for farmers whilst ensuring delivery of public goods, where the market does not pay the farmer for the externalities in that process. More public money will be required if any such reform is to succeed. In the end it might be in farmers' own interest to switch CAP payments from the notion of income support to focus on payments for delivery of public goods like climate, environmental, biodiversity services and so forth. Services that society is asking for.

Chapter 7: EU Trade Policy and Sustainability

7.1. EU Trade Policy Strategy

The European Commission regularly reviews its trade policy performance and adapts its trade strategy accordingly. Building on the concept of ‘strategic autonomy’ the last Trade Policy Review in February 2021 ¹⁰² argued for an ‘open, sustainable and assertive’ trade policy that will be better able to shape global change and reflect EU strategic interests and values, in compliance with WTO rules. Combatting climate change and environmental degradation being among top priorities for the EU clearly needs to be better reflected in its trade policy. The document prioritizes reform of the World Trade Organization (WTO) in particular and aims to bolster the implementation and enforcement of EU trade agreements.

What does “Strategic Autonomy” mean for the EU Trade Strategy?

- ✓ Prioritise reforming the WTO and supporting multilateralism for sustainable development, the green and digital transformations and global solutions;
- ✓ Rebuild the transatlantic partnership and engage with a range of partners to promote dialogue and cooperation and address common challenges together;
- ✓ Make use of all policies and measures to bring real benefits to EU companies and workers, implement and enforce trade agreements, and level the playing field;
- ✓ Propose and adopt an anti-coercion instrument to respond to coercive practices by non-EU countries.

Commission Communication May 2020

The 2021 trade policy review is a reaction to the Covid-19 crisis, which exposed vulnerabilities in the international supply chains and exposure of European companies’ supply chains to imports. In general, the COVID-19 crisis was used by many countries in the world as an ‘excuse’ for protectionist trade measures, often arguing that temporary protection of domestic industries was required. The Russian attack on Ukraine confirmed that exposure of European industry in particular in the area of energy and

¹⁰² <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52021DC0066>

fertilizers. The European Trade Strategy must be seen as a reaction to this global phenomenon of globally interdependent and complex supply chains and tries to remedy such dependence by becoming more 'assertive' that is pursuing its own economic and industrial interests more proactively. The EU maintains that this changes nothing in its position in support of an 'open international trading system under strong WTO guidance' but in political reality Europe has shifted focus – as many other countries – towards pursuing its own strategic interests and building its 'sphere of global influence' via bilateral trade agreements.

The new strategy aims to strengthen the capacity of trade to support the digital and climate transitions. First, by contributing to achieving the European Green Deal objectives. Second, by removing unjustified trade barriers in the digital economy to reap the benefits of digital technologies in trade. Third, by reinforcing its alliances, such as the transatlantic partnership, together with a stronger focus on neighbouring countries and Africa.

Since 2021 the EU focus has clearly been with the 'assertiveness' part of trade policy. In a geopolitically more tense environment where trade dependencies are leveraged for political purposes, assertiveness seemed more urgent than further opening up.

The other reason was timing, with the French government having blocked any major trade deal ahead of the French presidential and parliamentary elections in 2022.

That is why member state trade ministers focused in 2022 on toughening up EU trade policy. They made access to public procurement in the EU dependent on mutual access, agreed on a regime to restrict the distorting influence of foreign subsidies, and in June 2023 adopted legislation for an anti-coercion tool.

The EU also moved on to the sustainability pillar of its trade strategy. In June 2022, the Commission presented a proposal to strengthen the role of trade and sustainable development chapters in free trade agreements with a focus on implementation and enforcement.

On the front of bilateral trade agreements, there has been significant movement in the last two years:

- A free trade deal with Chile was adopted in December 2022, which modernized the previous Agreement.
- In June 2022 the EU and India restarted after 8 years of suspension negotiations over a free trade agreement to be concluded by 2024.
- In June 2023 the EU finalized negotiations on Economic Partnership Agreement with Kenya.
- In July 2023 the Commission launched negotiations with Singapore on a Digital Trade Agreement.
- In July 2023 the new EU Trade Agreement with New Zealand was signed.

- In September 2023 the Commission sent the Bilateral Economic Partnership Agreement with South Korea to Council for signature.

But there have also been significant backlashes on the bilateral front, namely the failure of trade negotiations with Australia in October 2023 and the stalled negotiations with Mercosur. In both cases the main obstacle to concluding an agreement is access for agricultural products to the EU market, whereby in the case of Mercosur the EU insistence on a strong sustainability chapter in the bilateral agreement also blocks negotiations.

7.2. EU Green Deal and Trade

Today there is a broad global consensus on the need for a transition to sustainable and resilient food systems. The EU, with its ambitious Green Deal and as a global player on the agri-food markets, plays an important role in steering that global transition.

The 2021 UN Food Systems Summit played an important role in consolidating action and bringing together various multilateral discussions about food. In line with the identified needs, the EU supports improving the science-policy interface role of the Committee on World Food Security. The EU is also committed to engaging with the proposed 'Food Systems Coordination Hub'. The 'Hub', hosted by the FAO, will play a coordinating function to bring together and link food systems knowledge and expertise to support progress on the United Nation's Sustainable Development Goals (SDGs) at national levels, with a global stock-taking meeting to review progress every two years. Finally, the EU is engaged in several Coalitions/Initiatives for Action ¹⁰³ resulting from the UN Food Systems Summit. In parallel, the EU has published in May 2023 its 'EU Pathway Towards Sustainable Food Systems Transformation' ¹⁰⁴, which positions the 'Farm to Fork Strategy' into the general international debate and make EU actions more visible.

The European Green Deal states that 'imported food that does not comply with relevant EU environmental standards is not allowed on EU markets' ¹⁰⁵.

¹⁰³ The EU is engaged in the following coalitions/initiatives for action: Food is Never Waste; Healthy Diets from Sustainable Food Systems for Children and All; School Meals Coalition; Aquatic and Blue Foods; Agroecology; Zero Hunger; Fighting Food Crises along the Humanitarian, Development and Peace Nexus; and Sustainable Productivity Growth.

¹⁰⁴ https://www.unfoodsystemshub.org/docs/unfoodsystemslibraries/national-pathways/european-union/european-union-pathway.pdf?sfvrsn=48850b55_1

¹⁰⁵ We do not comment if such statement is WTO conform!

Already in the past the EU has in some cases taken autonomous measures relating to environmental or ethical aspects of the process or production methods of imported products. Such measures reflect demands of European consumers who have a tradition of focusing on environmental, health, social and ethical aspects of food production and want to be empowered to choose sustainably produced food. Given the size of the EU market and the volumes of imports into the EU of certain commodities, some EU requirements for producers abroad to shift towards more sustainable production methods may lead to a considerable impact globally.

There are two specific cases where the EU in context of the Green Deal has taken action with respect to import conditions of products in the food and agricultural area, which shows that the Commission is ready to apply in principle Green Deal legislation to imports:

In June 2023 the **Regulation on deforestation-free products**¹⁰⁶ came into force, which is based on a system of mandatory due diligence rules. The regulation aims to prevent deforestation and forest degradation associated with products and commodities placed on the EU market, such as soy, cattle, palm oil, cocoa, coffee and wood. As a major economy and consumer of these commodities linked to deforestation and forest degradation, the EU is partly responsible for this problem and it wants to lead the way to solving it. The objective is to minimise consumption of products coming from supply chains associated with deforestation or forest degradation – and to increase EU demand for and trade in legal and ‘deforestation-free’ commodities and products. The regulation addresses both legal and illegal deforestation and forest degradation caused by the production of these commodities. Any operator or trader who places these commodities on the EU market, or exports from it, must be able to prove that the products do not originate from recently deforested land or have contributed to forest degradation. Operators and authorities will be able to check whether products or commodities are deforestation-free by using geolocation coordinates and remote monitoring via satellite images.

The ‘Farm to Fork Strategy’ announced that ‘environmental aspects will be taken into account when assessing applications for import tolerances for pesticides that are no longer allowed in the EU, while respecting WTO standards and obligations.

The use of **pesticides of the category of neonicotinoids** - substances known to contribute to the worldwide decline of pollinators - has been banned for all outdoor-use in the EU in 2018. At the beginning of 2023 the European Court of Justice (ECJ) ruled that remaining derogations for member states regarding emergency authorizations of seeds treated with neonicotinoids were illegal. Consequently, the category of neonicotinoids is now definitely banned in Europe.

¹⁰⁶ [Regulation \(EU\) 2023/ of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation \(EU\) No 995/2010 \(europa.eu\)](#)

After examination of the implications of the court ruling, the Commission announced its intention to ban in future imports of food products from third countries treated with substances that are banned in the EU. This should encourage third countries to also limit or prohibit the use of these pesticides. In direct link to the ECJ ruling, the first two pesticides targeted, for which the permitted residue level was reduced to zero in February 2023, were thiamethoxam and clothianidin. Controls of residue-levels in imported products have since demonstrated that these pesticides are still extensively used in some third countries and the Commission is at present reviewing options about supporting developing countries with replacing the pesticides in question.

At the same time the EU at present does not ban the export of pesticides that are no longer authorized for use in the EU because they are considered dangerous to either human health or the environment. The export of such pesticides might even have increased in the framework of certain Bilateral EU trade Agreements – in the case of the EU-Mercosur Agreement an increase of such exports is expected. Lobbying by environmental NGOs has increased during 2023 on banning EU exports of such products and the Environmental Committee in the European Parliament has called for such a ban in the context of its opinion on the ‘Pesticides Sustainable Use Regulation’ in October 2023. We therefore expect that the Commission will come forward with a proposal of such a ban in the near future.

Finally, we would like to draw attention to a proposal under the ‘Farm to Fork Strategy’ of the Green Deal, on which the Commission was scheduled to present a proposal in late 2023 but which was postponed without a clear time reference. The sustainability labelling framework will be part of the sustainable food system framework legislation. The sustainability labelling framework will govern the provision of information to consumers on the sustainability performance of food products regarding their nutrition, climate, environment and social aspects. This proposal is considered an important element of the Farm to Fork Strategy consisting in changing production patterns through empowering consumers to make informed and sustainable food choices. Such legislation would also apply to food imports and might put considerable sourcing and reporting obligations with regard to sustainable production on importers and third country producers.

7.3. EU standards on Health and Environment and Imports of Agri-Food

In the course of negotiations on the CAP reform 2023-2027 Member States asked the European Commission to review options about applying EU health and environmental including animal welfare standards on imports of agri-food, whilst respecting WTO rules. This review should include an analysis about how the WTO system could be strengthened to better reflect EU interests in this area.

As a response the Commission presented a report in June 2022 on the matter ¹⁰⁷. The Commission stressed the EU’s ambition to become a global leader in food sustainability through its international cooperation on food research and innovation, by building partnerships, by promoting standards supporting sustainable practices at international level and through its trade and development policies.

¹⁰⁷ eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022DC0226

The Commission stressed the importance of WTO compliance and tried to 'educate' Council and Parliament on the restrictive nature of the WTO system to take action against imports on the basis of in particular environmental concerns. The Commission concluded that there nevertheless is some scope to extend EU production standards to imported products in full respect of the relevant WTO rules.

We would like to reiterate that requirements on the way products are produced (referred to as 'process and production methods' – PPMs), however, are usually not imposed on imported products. There are currently no general (horizontal) provisions in EU law referring to environmental or – more generally – sustainability requirements applicable to domestic or imported food products.

But there are a few exceptions where the EU imposes PPMs on imports:

- The EU sets out conditions for the protection of animals at the time of killing, as well as regarding the protection of animals during transport. Regulation 1099/200930 requires third countries exporting meat to the EU to apply at least equivalent standards to those in the EU Regulation. For this purpose, third countries attest in the export certificate that at least equivalent animal welfare standards at slaughter to those of the EU have been met and this has never been challenged by trade partners.
- Similarly, animals imported into the EU must be fit for transport in accordance with the relevant EU requirements, which the third countries must confirm in the official certificate in accordance with Regulation 1/200531.
- The EU also has a mandatory system of animal welfare labelling for table eggs indicating the production method (cages, free range, barn, etc.).
- Regulation 2019/6 on veterinary medicinal products (VMP Regulation), which applies from January 2022, provides for a wide range of concrete measures to fight antimicrobial resistance (AMR). of the F2F Strategy objective to reduce by 50% overall EU sales of antimicrobials for farmed animals and in aquaculture by 2030. In this context, new requirements will be set on the basis of Article 118 of the VMP Regulation in relation to the use of antimicrobials in animals and products of animal origin intended for import into the EU. Namely, these cannot be treated with antimicrobials for the purpose of growth promotion or yield increase or with antimicrobials designated in the EU as reserved for the treatment of certain infections in humans.
- Last but not least the EU has banned in 1989 the use of six growth hormones used in beef production and applies this ban on meats imports from third countries.

In the context of the Farm to Fork Strategy, the Commission is preparing a revision of the EU animal welfare legislation, with legislative proposals originally planned for the end of 2023 but now postponed. The Commission has previously stated that with regard to imported products, it will consider, as one of options, the introduction of rules requiring that imported products were obtained under conditions that are equivalent to the EU's animal welfare rules, or some of them, and/or a labelling requirement for

imported products (either focusing on the housing conditions or covering more animal welfare criteria).

On the basis of present examples but also political discussions in Council and Parliament, we can expect that the Commission in future will make more extensive use of applying its production standards on imports. This is driven by a double objective of contributing to more sustainable food systems globally and making sure that European farmers are not penalized in terms of competitiveness for being pushed into more sustainable production systems.

7.4. Bilateral Trade Agreements and Sustainability

As many countries the EU has over the last years focused its trade liberalization efforts on the instrument of bilateral and regional trade agreements with most important trading and cooperation partner. Bilateral trade and cooperation agreements exist with different categories of countries, pursuing different objectives. In all categories of bilateral agreements, the topic of sustainability has increased in importance over the last 10 years.

Through its cooperation policy with developing countries, the EU supports programmes of capacity building aimed at strengthening sanitary and phytosanitary systems of agricultural exports in those countries. In this respect, those programmes contribute to compliance with the EU standards and support the transition towards sustainable food systems. The EU Sustainable Cocoa Initiative is an example of a sectoral approach developed with Cote d'Ivoire and Ghana and aiming to support sustainable cocoa production in these countries encompassing social, economic and environmental aspects.

All the newer EU trade agreements now contain a dedicated chapter on trade and sustainable development (TSD) with binding commitments to respect multilateral labour and environmental agreements (including climate) and to ensure that labour and environmental standards are not lowered in order to attract trade.

Since 2011 the FTAs (with Canada, Central America, Colombia/Peru/Ecuador, Georgia, Japan, Korea, Moldova, Ukraine, Singapore, United Kingdom and Vietnam) have included TSD chapters. The 2018 15-Point Action Plan on Trade and Sustainable Development has guided the improvement of the implementation and enforcement of TSD chapters in EU FTAs. In practice enforcement of TSD chapters has posed recurring problems. Therefore in June 2022, the Commission presented a proposal to strengthen the role of trade and sustainable development chapters in free trade agreements with a focus

on implementation and enforcement ¹⁰⁸. Some of these TSD chapters are more elaborate than other, the one under the CETA Agreement includes a specific dialogue on sustainable agriculture.

Over the years, commitments on cooperation in the area of animal welfare and AMR have been added to FTAs. Regarding animal welfare, the agreements focus on farmed animals with a view to improving the mutual understanding of respective laws and regulations and their implementation, as well as on exchange of information, expertise and experiences in this field. On the issue of combatting antimicrobial resistance, the FTAs envisage co-operation, collaboration and information exchange to promote the prudent and responsible use of antibiotics in animal husbandry and veterinary practices. The EU also promotes the phase out of the use of antibiotics as growth promoters.

The Farm to Fork Strategy makes explicit reference to bilateral trade agreements by stating the need for ‘an ambitious sustainability chapter in all EU bilateral trade agreements’. This will result in a new chapter on sustainable food systems (SFS) in FTAs, building on the good experience with the cooperation provisions established in previous most advanced FTAs. This chapter, however, represents an important change in the paradigm of the cooperation between the parties, moving away from a topical to a holistic approach encompassing the entire food chain and focusing on the transition to sustainable food systems. With this objective, the SFS chapter includes provisions to cooperate at all steps of the food chain from production to consumption in order to reduce food loss and waste; to fight against food fraud; and to cooperate on multilateral forums and in food science in the areas of animal welfare, fight against antimicrobial resistance, and the reduction of the use of fertilizers and chemical pesticides. The first examples of such SFS chapters have already been agreed with Chile and New Zealand.

The Commission has also announced that in future it wants to make more use of giving tariff preferences on the basis of sustainability criteria. It is in principle possible within FTAs to condition tariff preferences to meeting certain standards, this being subject obviously to other partner’s acceptance of such conditions. This approach has however been applied only once to date – in the planned FTA with Mercosur, where tariff liberalisation for shell eggs is granted subject to compliance with the relevant EU animal welfare standards for laying hens.

On a side note, as not relating to bilateral trade agreements, differentiation between imported products based on sustainability criteria can also apply in the absence of any trade preference – that is, when trade is conducted on the most-favoured-nation (MFN) basis. For non-preferential trade, the EU applies tariffs in accordance with its WTO schedule. In the context of the GATT Uruguay Round (and other negotiations), the EU has committed to a number of WTO Tariff Rate Quotas (TRQs), allowing given

¹⁰⁸ <https://eur-lex.europa.eu/search.html?type=expert&qid=1700483261021>

volumes to be imported under a lower tariff. Conditions are sometimes attached to the use of these TRQs. An example is the WTO high quality bovine meat TRQs (known as the 'Hilton quota'), accessible to various countries, for some of which it is required that the animals be exclusively grass-fed.

The EU can also enter into specific agreements with third countries. One of the existing examples is organic farming. Under the new organic regulation from 2022, a product may be imported to be sold in the EU as an organic product if it either complies with production and control rules of the non-EU country that are recognised under a bilateral, stand-alone agreement or administrative arrangement as equivalent to those in the EU; or has a certificate issued by the relevant control authorities or control bodies in non-EU countries confirming that the product complies with EU standards. At present the EU has such an agreement signed with three third countries: Chile, Switzerland and the UK.

We believe that in future the EU will want to make an even more proactive use of Bilateral Trade Agreements with respect to sustainability policy in general and promotion of sustainable food systems in particular. The European Green Deal and the ambitious EU emission reduction targets make the 'promotion' of the European sustainability model with global trading partners a key element of securing its implementation.

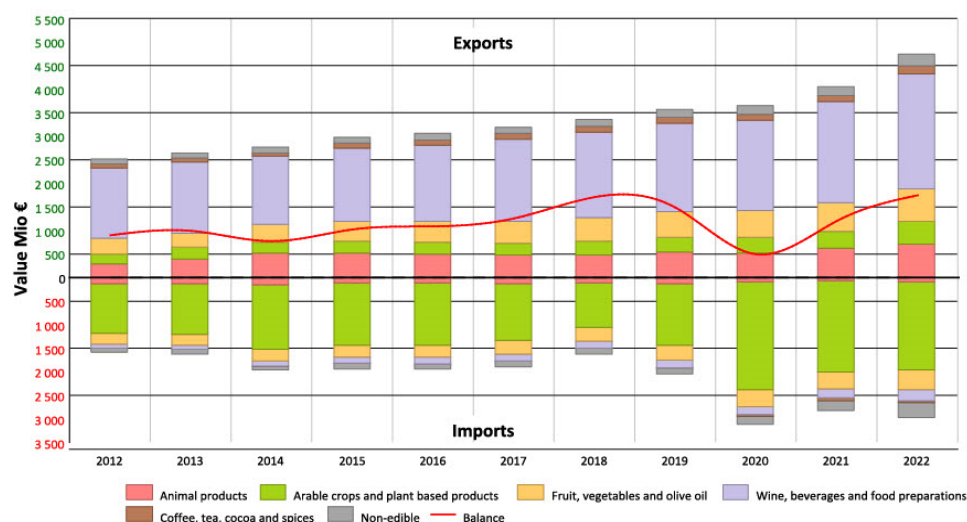
Chapter 8: European Sustainability Policy: Perspectives for Canadian Agricultural Exports

The EU-Canada Comprehensive Economic and Trade Agreement (CETA) is a progressive trade agreement between the EU and Canada. It entered into force provisionally in 2017, meaning that most of the agreement now applies. Since 1998 the EU and Canada had a Veterinary Agreement in place, which got integrated into CETA as chapter 5. Chapter 21 of the agreement covers regulatory cooperation, chapter 22 trade and sustainable development, chapter 24 trade and environment and chapter 25 bilateral dialogues and cooperation. Annexes deal with the recognition of specific standards or sectorial agreements.

CETA features some of the strongest commitments ever included in an EU trade agreement, including on promoting labour rights, on protecting the environment, and on sustainable development. CETA integrates EU and Canadian commitments to apply international rules on workers' rights, environmental protection and climate action. It is important to note that the EU considers CETA – besides the newly updated Trade Agreement with New Zealand – its flagship bilateral trade agreement (even if it still suffers from not having been formally ratified by all Member States).

Since the conclusion of CETA in 2017, trade between the two partners has developed positively. With respect to trade in agricultural and food products, we note that the trade balance is in favor of the EU:

EU Agri-Food trade with: Canada
2. Structure of EU Agri-food trade with Canada, 2012 - 2022



11-05-2023

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AGRI.6.1

Source: European Commission DG Agri

The agricultural and food product mix of EU exports to Canada and EU imports from Canada is quite different:

- EU exports to Canada are dominated by wine, spirits, confectionary and chocolates, followed by a broad mix of smaller product groups, like cereal preparations, dairy products, pork meat and olive oil.
- In contrast, Canadian exports to the EU are primarily in the form of cereals, like high quality wheat, maize, oilseeds, protein crops and petfood, so few processed products.

CETA has eliminated tariffs on over 94% of Canadian food products, giving Canadian exporters a competitive advantage in Europe. Looking into CETA agricultural trade statistics, it seems Canada has increased agricultural exports to Europe since 2017 but mainly in the area of cereals whereas exports in other products categories have remained small and have grown only marginally.

On some of the more sensitive products, Tariff Rate Quotas, TRQs have been introduced both ways ¹⁰⁹. Under CETA, the European Union has established annual duty-free tariff-rate-quotas for fresh/chilled beef and veal, frozen/other beef and veal, and pork. The following table illustrates available quota (TRQ) quantities (measured in carcass weight equivalent) for Canadian exports.

	Fresh/Chilled Beef and Veal	Frozen/Other Beef and Veal	Pork
Sept. 21 to Dec. 31, 2017	2,584 metric tonnes (MT)	695 MT	5,014 MT
2018	14,440 MT	5,000 MT	30,549 MT
2019	19,580 MT	7,500 MT	43,049 MT
2020	24,720 MT	10,000 MT	55,549 MT
2021	29,860 MT	12,500 MT	68,049 MT
From 2022 Onwards	35,000 MT	15,000 MT	80,549 MT

To be eligible to benefit from these quotas for CETA preferential tariff treatment, products must meet certain conditions, in particular with respect to rules of origin. Looking at the CETA trade statistics, it seems Canada has not been able so far to benefit from these additional quotas.

Although Canada following CETA has in addition to the above quotas a WTO High quality beef schedule of 11.500 tons for exports to the EU, the rights are not being used. Apparently, this is due to the EU ban on the use of hormones in the rearing of beef cattle.

This is contrast to the US. For the US there is an export of high-quality beef to the EU under the WTO 25.400 tons schedule. The US exports beef from animals where no hormones have been used. Imports of U.S. beef into the U.S. specific part of the EU High Quality Beef (HQB) quota during 2022 amounted to 13,438.6 MT, or 52.9 percent of the 23,500 MT of quota available for the year. This compares to the 11,532.5 MT exported in 2021, an increase of over 2,000 MT. As the quota availability for the year 2022

¹⁰⁹ [Canada – European Union \(EU\) Comprehensive Economic and Trade Agreement \(CETA\) - Exporting Beef and Pork to the EU: Simplified Information for Canadian Stakeholders \(international.gc.ca\)](#)

was 2,400 MT higher than in 2021, this represents an increase in the quota usage compared to 50.1 percent in 2021.

U.S. HQB Exports to the EU in 2022			
Period	Available quota	EU imports	Unused quota
Quarter 1	6,350 MT	2,437.93 MT	3,912.07 MT
Quarter 2	6,350 MT	3,928.22 MT	2,421.78 MT
Quarter 3	6,350 MT	4,011.47 MT	2,338.53 MT
Quarter 4	6,350 MT	3,060.94 MT	3,289.06 MT
Total 2022	25,400 MT	13,438.56 MT	11,961.44 MT

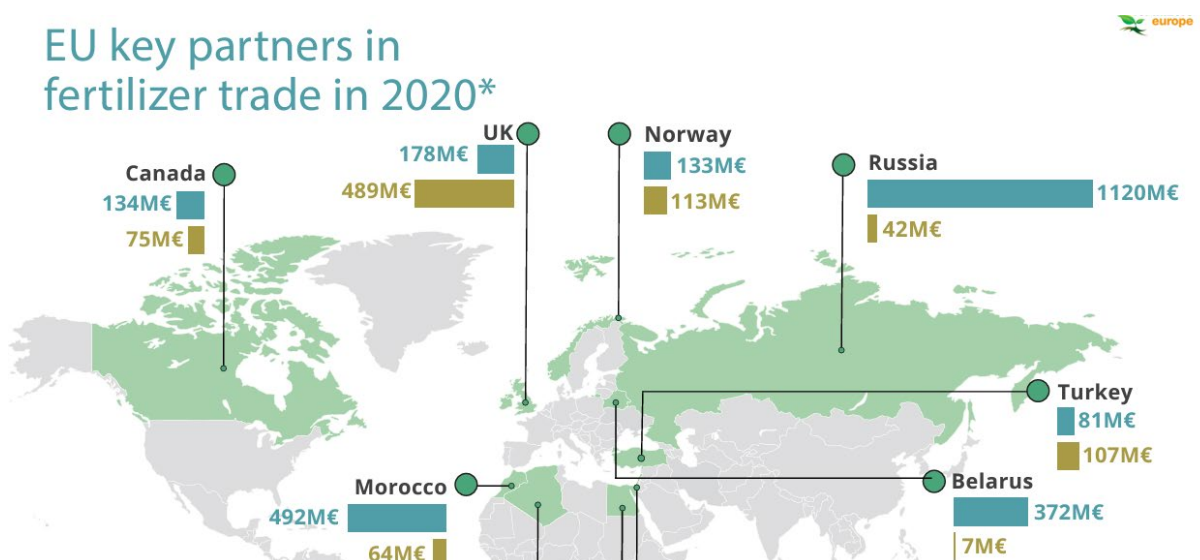
Source: USDA

It would be interesting to investigate in more detail why Canadian beef producers cannot benefit from this High-quality beef quota the same way as US producers and if anything could be done to facilitate and support Canadian exports in this area.

We would also like to touch on the issue of Canadian exports of fertilizers.

Canada is an important producer and exporter of fertilizers. In 2022 the six biggest fertilizer exporters were Russia, Canada, China, US, Morocco and Saudi Arabia. Collectively, those major suppliers accounted for over half (51.6%) of globally exported fertilizers during 2022 down from 52.6% for 2021. Canada exports of fertilizers in 2022: \$13.7 billion (10.3% of world total).

According to Fertilizers Europe there is a sizeable trade in fertilizers between the EU and Canada:



 Imports from EU-27 (in million euro)
 Exports to EU-27 (in million euro)

What effect will the EU Sustainability Policy have on Canadian exports?

As we have shown at various places in this document, the EU Green Deal and its implementation are ‘in full flow’ and will continue to be so for a least the next 10 – 15 years. The Green Deal has ended the CAP as an ‘insular’ EU policy and has integrated it into the broader EU sustainability and net-zero approach. This has a direct impact on the regulatory environment under which the CAP and European agriculture operate, e.g. with respect to pesticides and fertilizer use as well as sustainable agricultural practices. Many of these regulatory changes will have to be taken into account in the annual planning of the Strategic Plans under the CAP 2023-2027. But very few of these regulatory requirements will have an impact on imports. Given the composition of present Canadian exports it would appear on surface that the sustainability discussion in the EU would not have any immediate effect on Canadian exports. That said, the EU will most likely try to expand its external application of the Green Deal to third countries as some examples show.

We envisage that at some point in the future a carbon tax on agriculture will be introduced and become part of the EU Emission Trading Scheme (ETS), probably in form of a special Ag ETS. In that case CBAM would need to be extended to include agriculture (Ag CBAM would be the counterpart affecting imports).

We understand that Canada is undergoing a similar exercise as the EU with respect to setting targets for reduction of greenhouse gases with a reduction target of 40-45% below 2005 levels by 2030. The measures taken in this context also relate to fertilizer use and agriculture in more general.

With respect to Canadian exports of fertilizers, CBAM might have an effect on exports to the EU given the high energy element in the production. If, however, the Canadian action plan on greenhouse gas reductions is put in place, Canadian producers might be able to partially or fully escape the application of the CBAM on Canadian exports of fertilizers if the industry can demonstrate equivalent GHG obligations to EU producers. The phasing-in period of CBAM should be able to answer this question.

Cooperation between EU and Canada on Agricultural Sustainability

As mentioned before, the EU considers CETA – together with the New Zealand FTA – the flagship of EU FTAs. This provides potential for further cooperation, either within the framework of CETA (regulatory cooperation, sustainable development, trade and environment or the dialogue on sustainable agriculture) or via a separate initiative.

It goes beyond the scope of this report to explore in detail what exact format could be envisaged for reinforcing cooperation between the EU and Canada in the area of sustainable agriculture. But we can

definitely signal that the EU is interested in partnering with other major trading partner to push the debate on sustainable food systems not only globally but in trade.

The EU-Canada dialogue on Sustainable Agriculture is the most developed exchange on sustainable agriculture under any European FTA and therefore could form the basis for a closer cooperation. The EU-Canada Summit launched in 2021 a formal EU-Canada dialogue on sustainability, environmental stewardship and climate action in agriculture. Between 2021 und 2023 six workshops have taken place on specific topics of sustainable agriculture. The series came to an end with the Stakeholder conference on 5 December 2023.

EU – Canada Dialogue on Sustainable Agriculture

- Workshop on Soil Health (26 October 2021)
- Workshop on GHG reduction in Livestock (10 March 2022)
- Workshop on Organic Production (8 June 2022)
- Workshop on Sustainable Use of Fertilizers (25 January 2023)
- Workshop on Sustainable Crop Protection – Pesticide Use in Agriculture (25 April 2023)

The stakeholder conference on 5 December 2023 discussed next steps in joint activities of the EU – Canada Dialogue on Sustainable Agriculture. Besides, the end of this first cycle also presents opportunities to discuss at government officials' level further cooperation engagement, e.g., on evaluation of effectiveness of various policy options and mix of policy instruments to achieve emission reduction targets. Carbon farming and farming sequestration could be a possible candidate for such joint evaluation efforts. As mentioned at various occasions in this report, the EU approaches a period of temporary relative political standstill. Regulatory decision-making will come to an end in April 2024 with the last Plenary session of the European Parliament before its elections in June 2024. The new European Parliament will reconstitute in July 2024 and hold its first regular session in September 2024. Traditionally, the autumn will be busy with the nomination of the new Commission, which will start its next 5-year mandate in 2025. We can therefore expect EU policy making, in particular with respect to adoption of further measures on implementation of the Green Deal, to pause until summer 2025. This period of 'political calm' could be used for launching a more in-depth dialogue on sustainable agricultural policy at technical level of government officials, which could then be built on in future domestic policy debates.

Outlook and Conclusion

The Green Deal is a blueprint strategy for European's growth and conversion to a net-zero economy within a time horizon of 2030 and further to 2050.

Policy and regulatory measures to implement the Green Deal will occur in 'waves' and continue over a time frame of at least another 10 to 15 years. The package the European Commission presented under its mandate 2019 to 2024 must be seen as a first step. The next Commission starting its mandate in 2025 will review progress and then decide what further measures are needed to achieve the objectives set by the Green Deal. Green Deal implementation will therefore evolve over time as will the CAP with it.

Due to the complex EU decision-making process, there will always be a certain discrepancy between political ambition and political reality with respect to implementation of any strategic plan, even more so with a plan as disruptive as the Green Deal. The EU decision-making process is driven by compromise, consensus-building and step-by-step development of policies. This differs from national decision-making processes that tend to be driven more by the respective government authority and its alliances in national parliaments. It is therefore no surprise that not all policy proposals put forward by the Commission were equally successful in transposing high political ambition into legislation.

The Green Deal for the first time in EU policy fully incorporated agriculture into a comprehensive EU sustainability policy, expecting agriculture to contribute to GHG emission reduction targets. Environmental legislation originating from the Green Deal establishes a new and tightened framework in which the CAP has to operate. By tying agriculture into the Green Deal, agricultural stakeholders loose influence and political pressure on further CAP reform increases. If this will result in a major overhaul of the next CAP reform scheduled for 2027 remains to be seen.

Key in this discussion is the issue of governance - i.e. the pressure to give environmental and climate action stakeholders (both without the EU institutions as well as NGOs and the public voice) more competence in the negotiation and implementation of a new agricultural policy. The policy focus will increasingly shift towards food production taking place under sustainable environmental and climate friendly conditions, with less emphasis on farmers economic interests.

The first implementation package of the Green Deal, resulting in a huge number of individual policy and regulatory initiatives during the period 2021 to 2023, coincided with a difficult political and economic environment. The Covid-19 crisis and the Ukraine war exposed Europe's global supply chain and energy dependency on Russia, led to high inflation, significantly rising food prices and in reduced economic growth. In combination with national and upcoming European elections in 2024, this has led to a

reluctance of politicians to proceed with implementation of the Green Deal at the speed originally envisaged. The unease considerably slowed down the EU decision-making process and has reduced the political ambition both in Council and Parliament, in particular on the conservative and liberal side of the political spectrum. As a result, several important Green Deal files will be adopted with less ambitious targets and measures than originally envisaged.

The Covid-19 crisis and the Ukraine war resulted in rising energy and food prices which led to discussions about affordability of food for the most vulnerable groups in society. Agricultural interest groups rallied behind the concept of 'European Food Security' to slow down transformation to a more sustainable model of agriculture. With the support of conservative policy makers, mainly from the EPP, who turned into champions of farmers and rural communities to secure votes for the June 2024 European Parliament elections, some important pieces of Green Deal legislation on agriculture got stalled. The recent farmer protests in January and February 2024 have added to the pressure to slow down the reform process, both with respect to the Green Deal and the implementation of CAP 2023-2027.

As the Commission Green Deal proposals on a 'Pesticides Sustainable Use Regulation' and 'Nature Restoration Law' spectacularly failed to gain support both with Member States in Council and the European Parliament, the Commission faces increased criticism of a top-down approach with respect to implementation of the Green Deal. Commission President Ursula von der Leyen's announcement in September 2023 to establish a 'Strategic Dialogue on Agriculture' could lead to a more inclusive approach of policy making. If this will re-establish the traditional governance model of farmers and farmers interests deciding on the future of agricultural policy, remains to be seen.

The new reformed CAP 2023-2027 has only entered into force at the beginning of 2023. Although it focuses on increasing environmental aspects of agriculture, first analysis of Member States' Strategic Plans indicate that most countries have opted for maintaining a rather traditional approach on direct payments to farmers and have not fully leveraged the potential of 'greening' the CAP. This might be remedied through annual adaptations of national plans, but exposes the reform as inefficient with respect to transformation towards a sustainable model of agriculture. Not because of a failure of design but due to lack of political will in Member States.

The Commission authorization renewal of the pesticide glyphosate for another 10 years, which had to be taken on the basis of sole Commission competence due to a failure to find a majority of member states supporting the decision, demonstrates the continuous environmental and health concerns in Europe. At the same time Europe seems to open up to the use of modern technology in agriculture with clear environmental benefits, as demonstrated by the quite warm welcome of member states and MEPs to the Commission proposal on 'New Genome Techniques'.

The EU has set ambitious targets to reduce greenhouse gases (GHG) by 2030. The main instrument in this context is the European Emission Trading System (ETS) which targets the most polluting industries. Those sectors that do not participate in the ETS – like agriculture – are supposed to contribute to the reduction of GHG via the Effort Sharing Regulation (ESR) and the Land Use, Land Use Change and Forestry Regulation (LULUCFR). Monitoring of emission reductions across sectors have shown that agriculture has failed to reduce its emissions considerably since 2005 and will not contribute significantly to meet reduction targets for 2030.

This has not only led to calls for a radical reform of the CAP towards environmental objectives with a different governance structure, but also started reflections on developing a special agriculture Emission Trading System – an Ag ETS. The recent publication of a study commissioned by the European Commission on policy options for such a scheme as well as the Danish discussion on the introduction of a carbon tax on agriculture, are a sign of such an upcoming political debate.

The Green Deal's primary objective is to convert Europe to a net-zero economy by 2050. But it reaches beyond Europe both in terms of trade implications and global ambitions. The Green Deal implies imposing European environmental norms in certain cases on imported products. By setting pesticides residue levels on two specific pesticides that are prohibited in the EU to zero for imported products and developing a deforestation-free import regulation, the EU sets first but important steps in 'exporting' its approach to sustainability. To make the European Emission Trading System ETS really effective and avoid so-called 'carbon leakage', a Cross Border Adjustment Mechanism (CBAM) was created which will gradually be applied to imports from third countries. In case a similar Agricultural Emission Trading System (Ag ETS) will be established in the future, this will also result in a corresponding Cross Border Adjustment Mechanism for import of agricultural products.

Due to the present mix of Canadian agricultural exports to the EU, the Green Deal in all its complexity does not seem to directly impact such Canadian exports. But regulatory initiatives under the EU Farm to Fork Strategy and the EU Biodiversity strategy have the potential to create barriers to trade, if and once the EU will decide to apply such standards to imports. Canada is also a major exporter of fertilizers, which will be covered by the EU CBAM instrument. With the understanding that Canada is setting up a domestic action plan for the reduction of GHG, such effort might be recognized as equivalent to the ETS and therefore 'escape' the CBAM implications. The Canada - EU Trade Agreement (CETA) as applied since 2017 is one of the EU flagship FTAs and covers a broad range of cooperation activities in the area of environment and sustainability. The EU is eager to contribute to an international debate on 'sustainable food systems' and looks for major trading partners to drive this effort. The EU – Canada Strategic Dialogue on Sustainable Agriculture was launched in 2021 and will enter a new cycle of cooperation in 2024. This should be an excellent opportunity to increase the level of ambition from 'good practice sharing' to 'evaluation of effectiveness of policy options' with respect to successfully transforming towards sustainable models of agriculture.