



## Analysis of the CAP Health Check outcomes: Implications for biodiversity in the EU

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Even before the Health Check began in earnest earlier this year, the Commission stated categorically that the process would not be a major or radical reform of the Common Agricultural Policy (CAP) but rather a re-visiting of the 2003 reforms and a series of adjustments to ensure the CAP was fit to face the challenges of the 21<sup>st</sup> century.

For BirdLife, and other environmental NGOs, this announcement was extremely worrying: for European agriculture to be able to meet the new challenges of climate change, water management, renewable energies and biodiversity, much more than a minor tweaking exercise was required.

BirdLife International believes that the CAP must be based on the principle of paying farmers and land managers to deliver the public benefits that EU citizens expect and need from farming: healthy ecosystems, wildlife, clean water, beautiful landscapes and sustainable natural resource management. The current system broadly fails to do so. Most of current spending is untargeted and severely skewed in favour of the most competitive and intensive sectors and farmers, which are often also the most environmentally harmful. On the other hand, millions of farmers managing High Nature Value farming systems and providing an outstanding amount of public goods are getting a raw deal and finding it ever harder to stay in business.

The Commission proposals, released in May 2008, were greeted with dismay from BirdLife as they failed to propose any robust measures to address the inherent flaws of the CAP system or suggest meaningful approaches to protect and enhance the natural environment. Sadly, the negotiation process, which was dominated by national economic interests rather than the needs of the environment, has resulted in a watering down of already modest proposals. As the analysis below will show, they also contain excessive flexibility, allowing those Member States who so wish to effectively sideline the environment, or worse to actually degrade it further.

Set aside

The proposal to formally abolish set aside, with no meaningful analysis of the impacts on the environment and farmland biodiversity, is perhaps one of the most misguided actions by the Commission in recent years. Despite the rhetoric contained within the CAP Health Check proposals, which highlighted the need to retain the environmental benefits of set aside (such as valuable feeding and nesting resources for many species of birds), the reality is a fragmented hotchpotch of measures, none

of which are truly targeted at retaining set aside's benefits or come close to the BirdLife demand for 10% of each farm to be managed as an Environmental Priority Area.

One new measure concerns the protection of landscape features in cross compliance. Following the Health Check, this have been significantly tightened up to make reference to specific features such as hedgerows, ponds and lines of trees. Although this change is extremely welcome and will benefit biodiversity by protecting key farmland habitats it is misleading to compare the environmental benefits of this measure to set aside, the importance of which lay predominantly in its part and whole field coverage.

Another change being presented both as a set aside mitigation measure, and as a measure to reduce water pollution, is the introduction of compulsory buffer strips alongside watercourses, again within cross compliance. This measure does have the potential to significantly reduce diffuse pollution of watercourses from agricultural sources but its utility has been immediately reduced by the Commission's failure to specify management prescriptions such as buffer strip width and cultivation methods. Without this guidance, the capacity of buffer strips to protect watercourses will be severely reduced as Member States will generally opt for the narrowest width permissible. With no guidance on how the strips are to be managed, such as the type of vegetation to sow and how often they are cut, their utility as a set aside mitigation measure is also severely reduced as without specific management, these strips will not provide the right kind of feeding or nesting resources for farmland birds. It is also misleading for buffer strips to be presented as a set aside mitigation measure as, like landscape features, they do not cover whole fields.

The only Member State to make set aside a negotiating priority during the Health Check was the UK who asked for changes to be made to cross compliance to allow States to introduce a more targeted set aside replacement if they so wished. This change has been agreed and the UK plans to introduce a new requirement for farmers in England from 2010. Although extremely welcome, this measure is entirely optional for Member States. To BirdLife's knowledge, the UK is the only Member State planning to robustly tackle set aside's loss with specific reference to farmland biodiversity.

As a production control measure in a (mostly) decoupled world, set aside can no longer be justified. However, the retention of its multiple environmental benefits is justified, and was recognised implicitly by the Commission. Unfortunately, despite some positive, if relatively minor changes to the cross compliance system, the benefits set aside brought will not be replicated across the European Union and inevitably farmland bird populations, and wider environmental quality, will suffer.

#### A weakening of cross compliance

Despite the additions to cross compliance outlined above, there has been a net weakening of cross compliance's environmental credentials.

Statutory Management Requirements (SMRs) within cross compliance reflect existing legislation and provide a financial incentive for farmers and land managers to abide by the law. Unfortunately, due to an agenda of 'simplification' by the Commission and Member States alike, the CAP Health Check has seen the removal of a number of

articles relating to the Birds and Habitats directives. One of the most significant losses is Article 8 of the Birds directive which covers indiscriminate killing methods, such as poisoned bait and traps. This article was recently used to very good effect in Scotland where an estate had an agricultural subsidy of more than €100,000 withheld following a series of incidents involving the unlawful use, and possession of, banned agricultural pesticides, suspected of being used to target birds of prey using poisoned bait.

Aspects of Article 5 have been removed (concerning the taking of eggs and birds from the wild) and Article 15 of the Habitats directive (the equivalent to Article 8 for other species) has also been lost.

The Commission's justification for the removal of these articles stems from the belief that they were either not being used in a farming context or were not applicable to farming. Both these assertions can be challenged: firstly, the Scottish case is a clear example of how cross compliance can be used to apply proportionate economic pressure on those suspected of being involved in serious wildlife crime. Secondly, subsidies distributed through the Single Payment Scheme are not restricted to farming activity and are directed to enterprises conducting a range of land management and rural activities. All land managers in receipt of publicly funded CAP payments should therefore respect legislation which is directly relevant to rural land management.

Despite indications that permanent grasslands are being lost across the EU, the Health Check has also failed to improve cross compliance to provide an adequate protection framework. As permanent grasslands are of critical importance both in terms of biodiversity and as a carbon store, the failure to robustly protect this valuable and irreplaceable resource runs counter to the focus placed on new challenges within the new regulation.

#### Inadequate funding for biodiversity

Almost 80% of the CAP budget is consumed by Pillar 1 payments which are distributed to farmers and land managers in return for respect of cross compliance requirements. Although cross compliance encourages basic environmental standards, Pillar 1 payments are not specifically targeted towards any positive environmental outcomes and therefore their utility for protecting and enhancing biodiversity is extremely limited.

Significant amounts of additional funding are required to adequately address biodiversity decline and environmental degradation across the European countryside and yet the CAP Health Check outcome has failed to provide this.

- Modulation

Modulation is the main tool available for transferring funds from untargeted CAP subsidies towards the delivery of specific public goods. The rate of modulation is currently set at 5% which means 5% of Single Payment receipts are transferred to rural development and agri-environment measures. In 2002, Commissioner Franz Fischler suggested that in order to be effective, this rate should be closer to 20%. However, the Commission in its CAP Health check proposals suggested a rate of just

13% by 2013, with the agreed rate following negotiations even more modest at just 10%.

The Commission has specified that all additional modulated funds must be directed towards new challenges, one of which is biodiversity. Therefore, the reduction of an already inadequate modulation rate proposal will mean even less money is available for positive biodiversity measures up to 2013. Worse still, the proposal to apply 'additional modulation' on farms in receipt of more than €100 000 has been drastically watered down. In the original proposals, farms receiving more than €100 000 would have an additional 3% modulation rate, farms receiving more than €200 000 would be subject to an additional 6% reduction and farms receiving more than €300 000 an additional 9%. This has been scaled back to just 4% additional modulation for farms in receipt of more than €300 000, once again reducing the funds available to agri-environment and rural development measures.

With relatively minor sums of additional money being transferred to environmental measures in Pillar 2 the commitment to halt biodiversity decline has not been supported with adequate financial resources.

- National envelopes

An additional funding stream is the revised Article 69 (now Article 68) which allows Member States to redirect up to 10% of Single Payment money towards measures related to the protection or enhancement of the environment. This mechanism is potentially very valuable as it allows Member States to generate substantial sums of extra financing for environmental projects (such as targeting payments to extensive livestock systems delivering public goods like biodiversity and landscape quality).

However, national envelopes are not restricted to environmental projects and can be directed towards quality and marketing projects for agricultural goods, disadvantaged sectors and risk management programmes such as mutual funds for animal and plant diseases and extreme weather events.

National envelopes have the potential to deliver real environmental delivery but only if they are used by Member States for that purpose. The flexibility with Article 68 means that Member States can develop programmes that have no positive environmental effects at all.

### New Challenges

Within the CAP Health Check proposals, the Commission highlighted four issues as 'new challenges' facing European agriculture in the 21<sup>st</sup> century: biodiversity, climate change, water management and renewable energies. The Commission also specified that all additional modulated money should be directed towards these priority areas with Member States' responses highlighted within revised Rural Development Programmes.

There is no question that biodiversity, or rather the continued decline thereof, is one of the biggest problems connected to modern agricultural practices and it is extremely positive that the issue has been highlighted prominently within the recent reform process. The Commission also provided a list of indicative measures Member States could use (or place an additional emphasis upon) to address these challenges and for climate change, water management and biodiversity agri-environment

measures were regularly highlighted as an appropriate response. This added emphasis on such measures (plus the additional, although modest, financing from modulation) should be extremely positive for biodiversity.

However, the CAP Health Check has not guaranteed that biodiversity will benefit from its position as a priority area. Firstly, following negotiations between Member States two additional priority areas have been added: accompanying measures for dairy and innovative approaches to the priorities identified. Although agri-environment or biodiversity specific measures are proposed as potential responses for both of these issues there are many potential responses that are biodiversity neutral or may even harm biodiversity if inappropriately used (such as support for energy crops). Furthermore, the extension of the list ensures that the very limited pot of extra money from modulation has further to go and less is available for biodiversity.

The second concern is more pressing. Although the Commission has specified that all additional modulated funds must be directed to these new challenges/priority areas, it has not specified how much emphasis should be placed on each. There is a major risk that Member States could choose to direct all their attention towards projects that have no biodiversity benefits at all. Worse still, there is a danger that the effects of certain operations could negatively effect biodiversity e.g. modernising a dairy farm to make it more competitive could have a negative effect on biodiversity by intensifying farming operations to the detriment of farmland habitats.

## Conclusions

Following the Health Check of the CAP, the prospects for biodiversity in the wider EU countryside are variable. On the positive side, more money is available for environmental and rural development measures, an emphasis has been placed on biodiversity and cross compliance has been amended to include better protection for landscape features, buffer strips by watercourses and the optional establishment of habitats for biodiversity. Crucially however, the effectiveness of these measures will depend on the Member State's attitude towards implementation. In order to generate maximum biodiversity benefits, guidance from the Commission must be provided.

Sadly, the negative effects of the CAP Health Check changes are more numerous and significant: the funding available is still vastly inadequate for the task at hand; set aside has been abolished with no effective environmental replacement and valuable provisions have been lost from cross compliance which disincentive the persecution of wild birds. Finally, the Health Check negotiations have left the Common Agricultural Policy so flexible that Members States are now able to use the same issue (such as national envelopes or one of the new challenges) in such different ways that at one extreme biodiversity is targeted, protected and enhanced and at the other it is sidelined or worse still, damaged even further.