

THE INFLUENCE OF DECISION- MAKING PROCESSES ON THE CAP2020 NEGOTIATIONS

Alan Matthews

Trinity College Dublin

alan.matthews@tcd.ie

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Four issues in CAP2020 decision-making

- Co-decision with the European Parliament
- Parallelism with the MFF negotiations
- ‘Constitutional’ issues arising from Lisbon Treaty changes
- CAP2020 is for first time explicitly about redistribution

Literature

- Both theoretical and descriptive literature on how institutional rules influence EU agricultural policy making
- Runge and von Witzke (1987), Pokrivcak, de Gorter and Swinnen (2001), Pokrivcak, Crombez and Swinnen (2006), Pokrivcak, Crombez and Swinnen (2008), Crombez and Swinnen (2011)
- Arovuori and Niemi (2009), Greer and Hind (2011), Swinnen and Knops (2012)
- Blumann (2008), Geuguen and Marissen (2012), Massot (2012)

Co-decision ('Ordinary legislative procedure')

- Now applies to the CAP
 - ▣ Except Art 43(3) – fixing prices, levies, aid and quantitative limitations
- First reading, second reading, conciliation
- Strong preference for first reading agreement highlights the importance of the trilogue process
- What are implications of EP involvement?

Co-decision and CAP2020 to date

- So far, Parliament has backed COMAGRI reports with relatively consistent line
 - ▣ Lyon 2010; Bové 2010, Sarbu, 2010; Dess 2011
- Rapporteurs' 2012 draft reports
 - ▣ Over 7,000 amendments to Commission proposals
- COMAGRI first draft position awaited in November

Parallelism with MFF negotiations

- CAP reform and CAP budget are being decided simultaneously
- Clear linkage established – EP will delay CAP first reading until financial parameters are agreed
- MFF package covers
 - ▣ MFF Regulation (expenditure)
 - ▣ Own resources decisions
 - ▣ Around 70 sector-specific acts

MFF negotiations are highly complex

- Overall size of budget
 - ▣ Friends of better spending
 - ▣ Friends of cohesion
 - ▣ European Parliament
- Composition of budget
 - ▣ Conservative CAP group
 - ▣ Liberal CAP group
 - ▣ Cohesion group
- Own resources
 - ▣ New own resources
 - ▣ Correction mechanisms
- Now linked to Eurozone budget proposal (UK)

Progress of the MFF negotiations

- Discussions revolve around the ‘negotiating box’
 - ▣ first CAP outline by DK Presidency in April 2012
- Negotiations prepared in the General Affairs Council, finalised in the European Council
- Role of the European Parliament
 - ▣ Lisbon Treaty also revised decision-making on the MFF Regulation (‘special legislative procedure’)
- CY Presidency Sept 2012 negotiating box draft suggested overall cuts across the board
- Numbers expected in Oct draft following European Council meeting 18-19 Oct

The CAP in the MFF negotiations

- Overall budget for CAP freezes spending at 2013 in nominal terms
- Commission 'policy fiche' on CAP attached to June 2011 MFF proposal gave further details on:
 - ▣ The proposed convergence mechanism between MS
“All Member States with direct payments below 90% of the EU-27 average will, over the period, close one third of the gap between their current level and 90% of the EU average direct payments”
 - ▣ RD allocation to be based on a series of objective territorial and economic criteria reflecting the future economic, social, environmental and territorial policy objectives
 - ▣ 30% of direct payments contingent on greening
 - ▣ Crisis reserve and EGF outside the MFF
- DK Presidency negotiating box widened scope of CAP discussions in the MFF

CAP issues in the negotiating box

- Overall level of commitment appropriations for Heading 2, including specific ceilings for direct payments
- Level and model for redistribution of direct support – details of convergence across Member States
- Capping of support to large farms
- Method for financial discipline
- Other elements relating to Pillar I [an apparent reference to possible linear reductions in direct payments]
- Greening [of direct payments]
- Flexibility between pillars
- Principles for allocation of rural development support
- Co-financing rates for rural development support
- Role to be played by macro-economic conditionality in deciding on the release of EAFRD rural development funds (as well as for the structural and cohesion funds)

CAP and MFF linkages

- Special vs ordinary legislative procedures give different roles to EP
- Has Council ‘trespassed’ on EP’s co-decision powers in scope of CAP issues in the MFF box?
 - ▣ CY Presidency may narrow scope in October draft
- Is there in practice such a big difference in EP powers between co-decision agreement on first reading and special legislative procedure?
 - ▣ Example of flexibility between the Pillars
 - ▣ But critical role of the European Council

Cyprus Presidency Sept 2012 draft

Pillar 1 spending

- 39. Direct support will be more equitably distributed between Member States, while taking account of the differences that still exist [**in wage levels and input costs**], by stepwise reducing the link to historical references and having regard to the overall context of Common Agriculture Policy and the Union budget.
- 52. **In order to adjust the overall level of expenditure under heading 2, the EU average level of direct payments per hectare will be reduced by [X% to Y%] per year for the financial years 2015-2020.** Direct support will be more equitably distributed between Member States, while taking account of the differences that still exist [**in wage levels, purchasing power, output of the agricultural industry and input costs**], ...

Cyprus Presidency Sept 2012 draft Greening

- The overall environmental performance of the CAP will be enhanced through the greening of direct payments by means of certain agricultural practices, to be defined in the *Regulation of the European Parliament and of the Council establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy*, beneficial for the climate and the environment, **whilst avoiding unnecessary administrative burden**, [that all farmers will have to follow]. [Flexibility for the Member States relating to the choice of greening measures will be established.] In order to finance those practices, Member States will use [**X to 30**] % of the annual national ceiling.

Cyprus Presidency Sept 2012 draft

Flexibility

- 56. Member States may decide to make available as additional support for measures under rural development programming financed under the EAFRD, up to **[10 to X]** % of their annual national ceilings for calendar years 2014 to 2019 as set out in Annex II to the Regulation on direct payments. As a result, the corresponding amount will no longer be available for granting direct payments.
- 57. Member States [**with direct payments per hectare below [90%] of EU average after general budget reduction, phasing in and redistribution**] may decide to make available as direct payments under the Regulation on direct payments up to **[5 to X]** % of the amount allocated to support for measures under rural development programming financed under the EAFRD in the period 2015-2020.

Cyprus Presidency Sept 2012 draft

Co-financing

- April 2012
- - amounts transferred from pillar I to pillar II referred to in paragraph 9 as additional support under rural development will be co-financed according the general co-financing rates
- OR
- [100] % for amounts transferred from pillar I to pillar II referred to in 9 as additional support under rural development.

- Sept 2012
- - **100%** for amounts transferred from pillar I to pillar II referred to in paragraph 57 as additional support under rural development.

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Comitology changes and CAP alignment

- Most agricultural acts adopted by the Commission under comitology procedures
- Commission controlled by committees of member state representatives (comitology)
- Lisbon Treaty overhauled comitology and introduced distinction between **delegated** and **implementing** acts
- Despite efforts to codify procedures the choice of procedure is blurred and, because the powers of the institutions differ in the two procedures, **highly political**

Post-Lisbon legislative procedures

- Basic acts
 - ▣ ordinary legislative procedure (co-decision) between Council and Parliament
- Delegated acts
 - ▣ supplements or amends non-essential elements of EU legislation
 - ▣ proposed and adopted by Commission. EP can veto with an absolute majority while Council can veto with a qualified majority
- Implementing acts
 - ▣ proposes uniform conditions for implementation of basic acts
 - ▣ proposed by Commission with involvement of committees of national experts

'Constitutional' issues

- Distribution of powers between Council and EP post-Lisbon still to be clarified
 - Choice between delegated and implementing acts
 - Article 43(3) exceptions on fixing prices, levies, aid and quantitative limitations

where an issue is *inextricably* linked with the political substance of the decisions to be taken by the Legislator, Article 43(3) TFEU should not be applied.

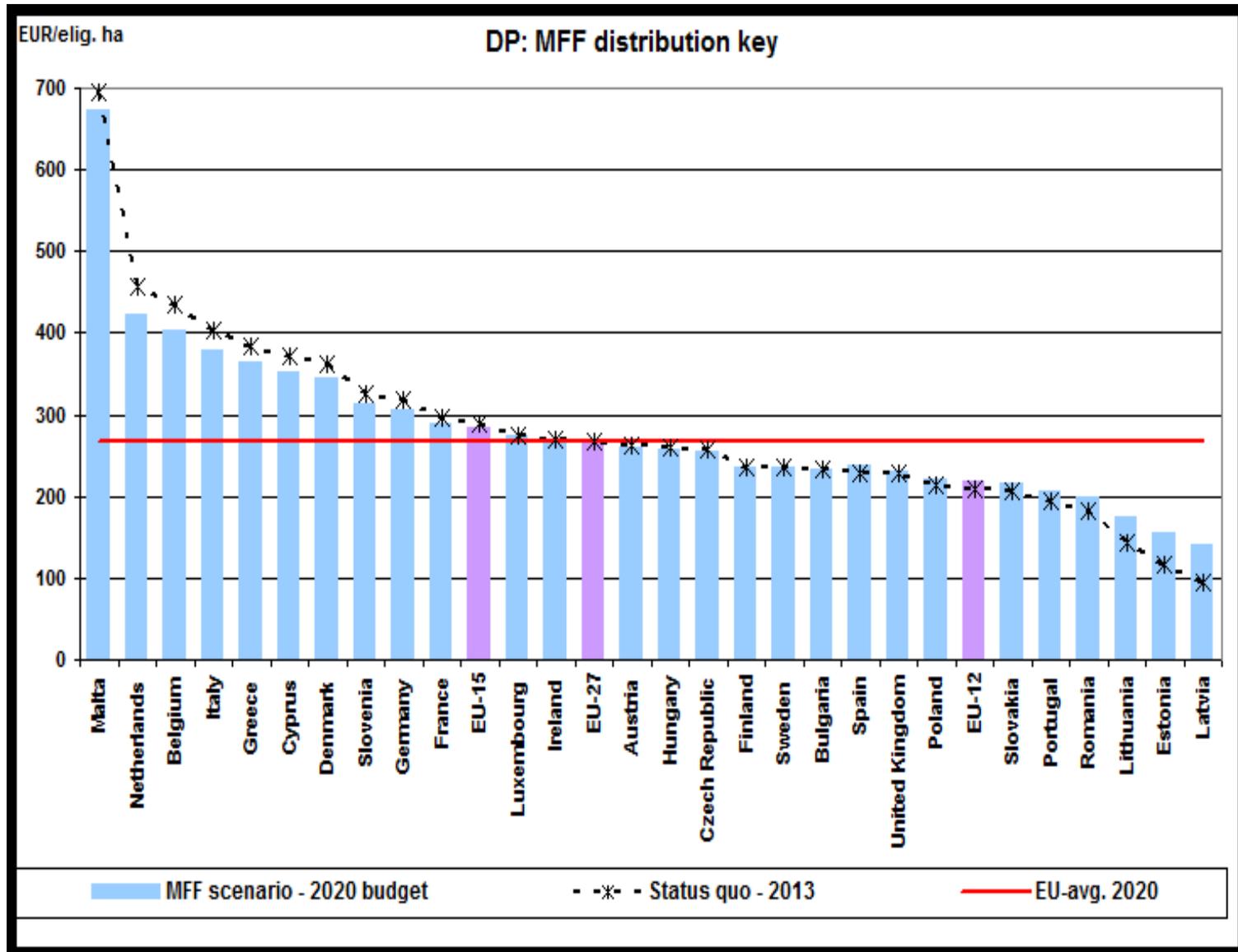
CAP alignment process failed

- Council and Parliament failed to reach agreement on Commission 2010 proposals on alignment of CAP regulations with Lisbon Treaty provisions
- EP favours greater use of delegated acts, Council favours more use of implementing acts where MS exercise influence through comitology
- Unfinished 'constitutional' issue complicates CAP2020 negotiations

Voting weights and feasible redistribution

- Key issue in CAP2020 negotiations is convergence of direct payments across member states
 - ▣ - zero sum game, how to get agreement?
- Arovuori and Niemi (2009) hypothesise that countries vote according to the impact of decision on their CAP Pillar 1 payments
- Their conclusion is that any policy with significant redistributive effects is not likely to gain a qualified majority
- Paper written before Commission's MFF and CAP proposals in 2011
- How does the proposed 'MFF distribution key' fare?
- Only an illustrative exercise as CAP redistribution will be decided as part of the new MFF by unanimity among MS

The MFF distribution key



Member state	Votes	Gain/loss (strict rule)	Gain/loss (5% franchise)
Belgium	12.0	-	-
Bulgaria	10.0	+	+
Czech Republic	12.0	-	+
Denmark	7.0	-	-
Germany	29.0	-	+
Estonia	4.0	+	+
Ireland	7.0	-	+
Greece	12.0	-	+
Spain	27.0	+	+
France	29.0	-	+
Italy	29.0	-	-
Cyprus	4.0	-	-
Latvia	4.0	+	+
Lithuania	7.0	+	+
Luxembourg	4.0	+	+
Hungary	12.0	-	+
Malta	3.0	-	+
Netherlands	13.0	-	-
Austria	10.0	-	+
Poland	27.0	+	+
Portugal	12.0	+	+
Romania	14.0	+	+
Slovenia	4.0	-	+
Slovakia	7.0	+	+
Finland	7.0	+	+
Sweden	10.0	+	+
United Kingdom	29.0	+	+
Total P1	345.0	162	280
Qualified majority	255.0		

Convergence included
in MFF box and so must
be decided with
unanimity

With some flexibility,
proposed MFF
distribution key can
gain a qualified
majority

Note voting rules
change in 2014 to
'double majority'
system under Lisbon
Treaty

Concluding comments

- Size of the CAP budget
 - ▣ No agreed figures yet – everything to play for
- Distribution of CAP budget
 - ▣ Voting arithmetic severely constrains the extent of redistribution
 - ▣ Could Pillar 2 payment allocation swing agreement?
- What if MFF agreement delayed?
 - ▣ Can European Council reach agreement by December?
 - ▣ Will EP give consent to Council position (rejected 2006 MFF)?
 - ▣ CAP Pillar 1 payments continue as before, no new Pillar 2 programmes or commitments

Concluding comments

- Has co-decision given the EP greater influence?
 - ▣ Evidence of EP positions influencing the Council legislative track
 - ▣ Evidence of EP influence on MFF negotiating box provisions on CAP in political track
 - ▣ Question mark over administrative and technical resources
- Has co-decision pulled CAP2020 reform in a backward direction?
 - ▣ What role played by the Commission?
 - ▣ The critical role played by COMAGRI
 - ▣ May depend on whether agreement is reached on first reading
- Could disagreements on comitology prove an unexpected last-minute sticking point for EP agreement?