



Accession to European Union in the Field of Agricultural and Rural Policies

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C. Regulating and implementing CAP

Regulating the core CAP



Motivation

CAP is based on legal agreements and regulations of the European Union Law. The intensive legal system was developed decades.

CAP legal system:

- How the policy is legally structured and what are the main CAP legal rules?
- How to read and understand CAP legal system?
- To understand the specific legal language, approach and wording helps to understand to CAP.
- Huge barrier for non-specialists and condition for an adjustment in living in the EU and CAP framework, also in the pre-accession period.

Content



- a. EU legal system**
- b. Core CAP - Direct payments**
- c. Core CAP - Market Interventions**
- d. Horizontal measures**



a. EU legal system



European Union Law

■ The European Union is unique among international organisations in having a complex and highly developed system of internal law which has direct effect on the legal systems of its MS.

■ There are three types of Union law:

- primary legislation: the treaties. Effectively the constitutional law of the EU. They lay down the basic policies, establish its institutional structure, legislative procedures, and the powers of the Union
- secondary legislation: regulations, directives, decisions, recommendations and opinions made by the Union's institutions in accordance with the treaties (see next slides)
- decisions of the European Court of Justice and the Court of First Instance

■ The whole body of EU law together is called the acquis communautaire, broken down into 35 chapters for purposes of accession negotiations.



European Union Law

Secondary legislation

Regulation

- It is obligatory in all its elements and is directly applicable in all MS. Immediate force of law in MS without the need to enact implementing measures.
- MS do not need to pass local laws to bring them into effect.
- CAP is mainly based on the regulations.

Directive

- It is act which requires MS to achieve a particular result without dictating the means of achieving that result. Directives normally leave MS with a certain amount of leeway as to the exact rules to be adopted.
- If the MS fails, the EC can initiate legal action against the MS in the European Court of Justice.
- Food safety is mainly based on directives.

Decisions

- It is a law which is not of general application, but only applies to its particular addressee of the decision (be it MS, companies or individuals).

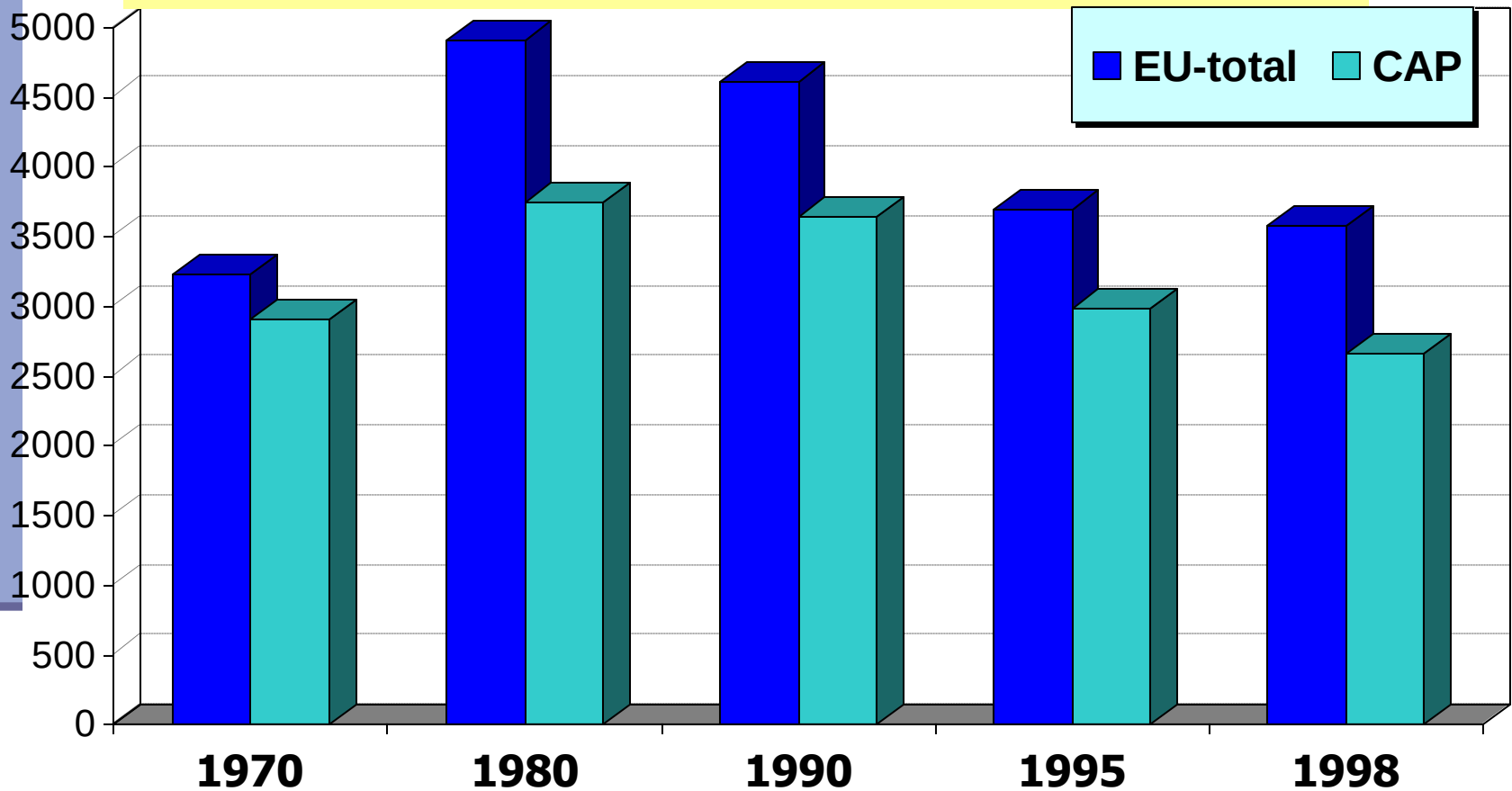
Recommendation

- Recommendations are without legal force, they do have a political weight. It is aiming at preparation of legislation in Member States.



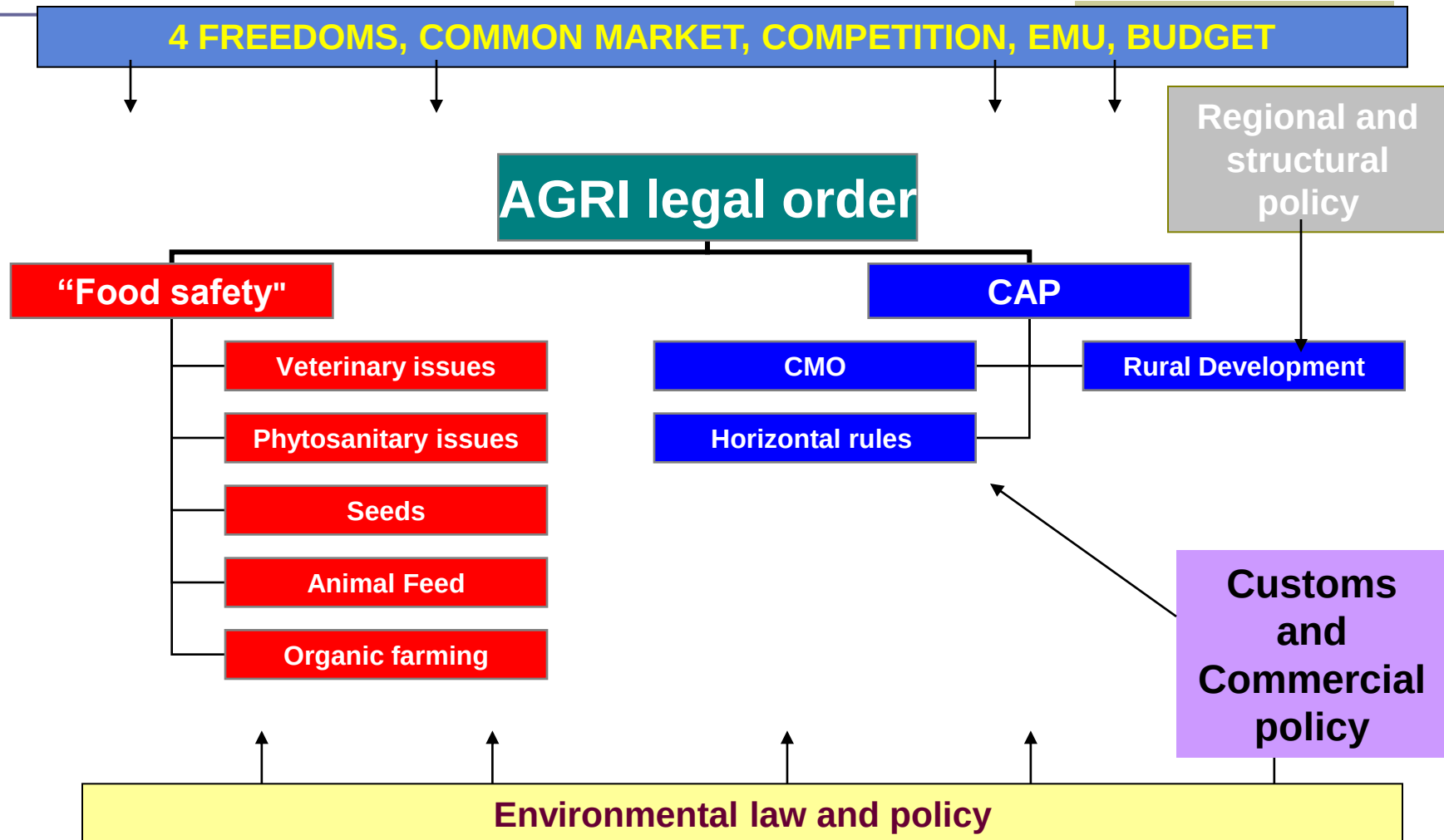
The importance of CAP legislature

Number of published EU legal texts per year





EU agriculture legislature





CAP legal frame

– 4 main regulations

CAP - first pillar

■ **Direct aids**

- Council Regulation (EC) Nr. 73/2009 on single payments schemes

■ **Market interventions**

- Council Regulation (EC) Nr. 72/2009 on single common market organisation

CAP – second pillar

■ **Rural development policy**

- Council Regulation (EC) Nr. 1698/2005 on support for rural development European fund for rural development (EARFD)

Horizontal regulations

■ **CAP financing**

- Council Regulation (EC) Nr. 1290/2005 on financing of CAP



**b. Direct aids to
producers (direct
payments)**



Direct payments

Original direct payments

- introduced by MacSharry reform: 33 different arts
- Payments per ha (arable crops)
- Payments per head (beef and veal, sheep,).
- Payments per production unit or quota (olive oil, milk)

CAP Reform 2003 introduced Single payment scheme (SPS):

- Direct aids to farmers are made mainly via one SPS payment per year, replacing most coupled direct aids. MS have flexibility in applying the SPS. They may also maintain some production-linked payments.
- Objectives
 - The main aim is to guarantee farmers more stable incomes. Farmers can decide what to produce.
- Financial limits on SPS expenditure - national envelopes per MS
 - Maximum amount each state could spend on direct aids, based on the total of direct aids paid in a historic reference period.



Direct payments

■ SPS payment entitlements

- To be eligible for the single payment, a farmer requires payment entitlements.
- Entitlements only go to farmers actively farming at the date each MS introduces the scheme.
- Farmers are allotted payment entitlements based on reference amounts (different calculation options are available).
- Each entitlement is calculated by dividing the reference amount by the number of hectares which gave rise to this amount in the reference years.
- Payments are granted where farmers have eligible hectares at their disposal to activate the appropriate number of entitlements.
- Eligible hectares normally include all types of agricultural land

■ Options for SPS design and calculation

- Member States have options in how they calculate and make payments. This leads to significant differentiation in the CAP policy between the MS!



Direct payments

Options of SPS

Basic (historic) approach:

- each farmer is granted entitlements corresponding to the payments he received during the reference period (reference amounts) and the number of hectares.

Regional (flat rate) approach:

- reference amounts are calculated at regional level (national for small countries - the sum of the payments received by the farmers during the reference period.
- Regional reference amounts are then divided by the number of eligible hectares declared by the farmers of the region in the year of SPS introduction-

Mixed (“hybrid”) models:

- MS may also calculate SPS payments using a part-historic/part-flat rate approach.

Dynamic or static system

- **Static** hybrid systems (no change over time)
- ‘Dynamic hybrid’ systems can act as a vehicle to transit from the basic (historic) to the regional (flat) rate approach.



Direct payments

Single Area Payment Scheme (SAPS)

- This simplified scheme was proposed for the new Member States. It involves the payment of uniform amounts per eligible hectare of agricultural land (also permanent crops!), up to a national ceiling laid down in the Accession Agreements.
- The level of payments for New MS increase gradually from 25 to 100 % over 10 year period.

Other aid schemes (coupled direct payments)

- Farmers may received aid under other specific support schemes linked to production (suckler cow, sheep and goat premium).
- Untila 2012 also other production support was permitted.



Direct payments

■ SPS ‘Additional payments’ (so-called 'Article 68' measures):

- Support for the agricultural activities that encourage the protection or enhancement of the environment or for improving the quality and marketing of agricultural products.
- The money may be also used to help farmers producing milk, beef, goat and sheep meat and rice in disadvantaged regions or vulnerable types of farming;
- It may also be used to support risk management measures such as insurance schemes for natural disasters and mutual funds for animal diseases;
- The MS may use funds available in the SPS, thus reducing the funds available for basic SPS payments.



Direct payments

Cross compliance

■ Conditions farmers must fulfill ('cross compliance')

- Farmers should maintain their land in good agricultural and environmental condition and respect other cross compliance standards (expressed in two ways):
 - **Good agricultural and environmental condition:**
 - All farmers claiming direct payments, whether they actually produce from their land or not, must abide by standards to be established by the Member States.
 - **Statutory management requirements:**
 - Farmers must respect other cross compliance standards called statutory management requirements set-up in accordance with 19 EU Directives and Regulations relating to the protection of environment; public animal and plant health; animal welfare.
- Failure by farmers to respect these conditions can result in deductions from, or complete cancellation of, direct payments.



Direct payments

■ Modulation

- Direct payments of over EUR 5 000 have been reduced by 7 % in 2009. This rate will be increased to 10 % by 2012. The first EUR 5 000 of support is exempt.
- An additional reduction of 4 % applies to support of over EUR 300 000. The corresponding amounts are transferred to the (EAFRD). A
- Until 2012 only for EU-15!

■ ‘Financial discipline’ mechanism

- It provides for further reductions in payments when overall ceilings on CAP expenditure are in danger of being breached.



c. Single CMO



Single CMO

Single CMO are the rules to regulate production of and trade with agricultural products in all the Member States of the EU. CMO cover about 90% of final agricultural production in the EU.

There were in the past 22 CMOs. The common organisation of the market:

- ... in bananas ... in cereals ... in live plants and floricultural products ... in dried fodder ... in fruit and vegetables ... in processed fruit and vegetable products ... in hops ... in olive oil and table olives ... in flax and hemp grown for fibre ... in eggs... in pig meat ... in milk and milk products ... in rice ... in seeds ... in the sugar sector ... in raw tobacco ... in beef and veal ... in sheep meat and goatmeat ... in wine ... in poultry meat ... in certain products listed in Annex II to the Treaty

Following the reform of direct payments in 2003, a first single CMO was adopted in 2009.

- This I provide a single set of harmonised rules in the classic areas of market policy and thus a simpler and more streamlined legislative structure of the 1st pillar of the CAP.



CMO

Type of measures

Institutional prices

- fixing single institutional prices for agricultural products on all European markets as a base for market interventions.

Internal market intervention measures

- measures for stabilizing markets

Trade policy

- organizing trade with non-member countries

Supply management measures

- establishing mechanisms to control production

Other measures, like

- encouraging farmers to form producer organisations
- marketing standards



CMO

Prices

The Council or the EC fixes three different (institutional) prices for products at the beginning of marketing year:

■ **The intervention price:**

- the guaranteed price below which an intervention body designated by the Member States buys in and stores the quantities produced.
- The products stored may be denatured, used for humanitarian purposes or sold by the Commission. Sales are by tender and the Commission decides in advance on the destination of the products. The Council also encourages private storage.

■ **The reference (indicative) price (basic or guide price):**

- the price at which the Community authorities consider that transactions should take place.

■ **The threshold price:**

- the minimum price at which imported products may be sold. It is higher than the intervention price and encourages economic operators in the EU to buy within the EU (respecting the principle of Community preference).



CMO

Internal market interventions

Intervention arrangements

- Intervention buying
 - Market distortion, purchase by intervention agencies
 - Cereals, milk (SMP, butter), sugar
- Private storage aids
 - The costs for storage for limited time are covered
 - Meat, milk, wine, ...
- Market withdrawals
 - Withdrawal compensation for selected products, paid by producer organizations

Support for consumption (selected measures)

- Milk
 - Aids for disposal of Skim Milk and SMP,
 - Skim milk subsidies, for casein manufacture
 - Concentrated butter, Social butter, ...
- Sugar for the chemical industry
- Beet for alcohol
- Aids for the use of grape must



CMO

Trade with non-member countries

Imports:

Import licences:

- The Commission can require the presentation of import licences

A single levy system:

- for most products to ensure that import prices are not less than those in the EU
- The import may be subject to quotas or preferential tariffs. Imported products are partially or completely exempted from all customs duties.
- Tariff quotas which fix the quantity of products subject to exceptional arrangements may be granted using the first come/first served method, simultaneous examination, traditional operators/new operators or other non-discriminatory methods.

Safeguard measures:

- if there is a danger that the EU market will be seriously disturbed by imports or, in certain cases, exports.



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Trade with non-member countries

Exports:

The Commission may require the presentation of export licences for products:

- cereals, rice, sugar, olive oil and table olives, beef and veal, pigmeat, sheepmeat and goatmeat, poultrymeat, milk and milk products, eggs and agricultural ethyl alcohol.

The export of certain products may be supported by export refunds

- which cover the difference between global and EU market prices.
- These may be differentiated according to the destination and are fixed periodically by the EC, taking account of market developments.

Management of export quotas in the milk and milk products sector and special import treatment by third countries are also regulated.



CMO

Supply management measures

Controlling supply of agricultural production:

Quotas:

- the maximum production quantities allocated to farmers. Over-production results in financial penalties. Milk (until 2015),
- Sugar (minimum price for sugar beet producer under quota regime, the processors is paying levies).

Set-aside and diversification into non-food products:

- agricultural land is taken out of cultivation or production is diversified (e.g. raw materials for biomass fuels) in exchange for financial compensation.

Grubbing-up premia and restructuring aids in wine regime

- Aids to encourage vineyard owners to grub up vineyards. The premia vary according type of crop and varieties.
- Restructuring premia for improvement of technology, varieties.

CMO – The power of instruments per sectors



	Trade mechanism	Direct payments	Supply management	Market interventions
Milk	+++	+	+++	++
Sugar	+++	+	+++	+
Cereals	+	+++	+	
Beef	++	+++		
Olive oils	+	++		
Wine	+		++	++
Sheep	+	++		
Pork, poultry, eggs	+			
Fruit and Veg	++			+



CMO

Other measures

Producer organisations:

- So that producers can make best use of the resources allocated to them and achieve the objectives of the market organisations (improved productivity and marketing and greater attention to the environment), on a voluntary basis they may group themselves in producers' organisations.
- The Community provides financial incentives for the establishment of such organisations.
- Important in fruit and vegetables sectors. (presented also for wine, hops, olive oil).

Marketing standards

- Specific marketing standards may also be introduced for milk and milk products, oils and fats, eggs and poultrymeat, hops, olive oils and olive-pomace oils, cheeses and ethyl alcohol. This Regulation defines the methods of adoption, implementation and derogation. Ž
- The Commission may establish standards for the **marketing** or sale of olive oil and table olives, bananas and live plants.



Rural development policy

- specific lecture



d. Horizontal measures



Horizontal rules

Competent authority

Competent authority for CAP

- Ministry of agriculture

Administration necessary for CAP cost management under EAGGF Guarantee Section have to meet certain requirements.

- Payment agencies have to be accredited.
- Payments are done correctly and are completely registered in the accounts
- They must keep records that justify the payments made and that state in detail the administrative and physical control carried out
- If there is more than one payment agency, there must be a central coordination body;
- The body responsible for issuing and withdrawal of accreditation for every payment agency – certification body.



Horizontal rules

IACS

Integrated Administration and Control System (IACS):

- Each Member State is to set up an electronic system which enables farmers' payment applications to be checked.
- MS is able to deal with aid applications and be assured that payments are made properly, through administrative checks and on-site checks of information provided by farmers.
- Elements of IACS:
 - Computerized database;
 - Alpha-numeric system of identification of agricultural parcels (LPIS);
 - Applications for assistance;
 - Integrated control system;
 - Animal identification and registration system;
 - Relevant registers of farms, land and animals;
 - Administration for efficient implementation of registration and identification plans.



Horizontal rules

Market interventions

■ Intervention agencies

- Agencies and intervention centres necessary for making interventions and setting aside products in a number of sectors. One body can be established, can also be the paying agency.
- Regular monitoring of markets and prices.
- Controlling over the intervention mechanism.

■ Trade with non-member countries

- Management over export refund for the purpose of covering the difference between prices in the EU and lower prices in the world and export levies,
- Issuing of export/import licences,
- Management of tariff quotas,
- Use of the export control system etc.
- Use of relevant rules of the Customs Code of the community.



Horizontal rules

Registers and data

Registers and control organization

- Register of olive growing which includes all olive-growing holdings on their territories.
- Vineyard registry, in the sector of viticulture
- Citrus registry in the sector of fruit and vegetable production.

Agricultural statistics

- Agricultural census,
- Surveys on the farm structures,
- Farm Income Survey – FIS,
- Requirements regarding the collection of data specific of the sector in question, for example, areas and yields of crops.

FADN (Farm Accountancy Data Network),

- Specific data system based on farm sample.
- National committees for data networks, responsible for selection of holdings from which data are collected. Be capable of approving the plan for selection of holdings from which data would be collected and to report on implementation of the plan.



Horizontal rules

Quality

Quality policy and control organisations

- Special Olive oil control agency.
- The control function necessary for wine CMO.
- The Classification of carcasses and reporting on prices in the livestock production and quality standards for milk production with appropriated control organisations.
- Observance of different standards of sale, classification by size and packaging,
- Observance of the rules on labeling (for example in the viticulture and beef sectors), analyses, controls and monitoring.

Specific quality policy

- Check whether the application for geographic indication, indication of origin or certificate on special feature is justified or not. Ensure that approved inspection structures are in place.



Horizontal rules

State aids

■ State aids

- State aid for the agricultural sector must be compatible with the Community's common agricultural and rural development policies and with the Community's international obligations (WTO).
 - Any state aid which will interfere with the mechanisms of 1. Pillar is prohibited
 - By state aids in agriculture it should be understood aid measures financed by parafiscal taxes, granted in connection with activities related to the production, processing and marketing of agricultural products.
 - State aid which is intended to improve the financial situation of the recipient, without any counterpart from the beneficiary, can never be considered compatible with the EC Treaty.
 - State aids - agriculture are under the responsibility of Commission – DG Agriculture.



Horizontal rules

State aids

- The main types of state aids:
 - aids for investments;
 - aids granted in return for agri-environmental undertakings;
 - aids to compensate for handicaps in less favoured areas;
 - aids to help the setting-up of young farmers;
 - aids for early retirement, the cessation of farming activities, or the closure of production, processing and marketing capacity;
 - aids for the establishment of producer groups;
 - aids to compensate for **damage caused to agricultural production** or the means of production caused by **natural disasters** or exceptional occurrences, adverse weather conditions or outbreaks of animal or plant disease,
 - and aids granted to encourage **insurance against such risks**;
 - aids to encourage the production and marketing of quality agricultural products, the provision of technical support for producers and the improvement of the genetic quality of livestock;
 - aid may also be granted for **research and development, for promotion and advertising of agricultural products**, for short-term operating loans, for rescue and restructuring farms in difficulty, and to support employment.