

with the principle of subsidiarity. But the Court then adopted an approach which makes it hard to imagine circumstances in which a harmonisation measure will be tripped up by the demands of subsidiarity. The Directive's objective is to eliminate the barriers raised by the differences between State laws. This objective cannot be sufficiently achieved by the Member States individually—indeed it is the variety of approaches taken that causes the problem! The matter therefore calls for action at Community level.

The Court has neatly sustained subsidiarity as a legal principle on paper while conceding much in practice to legislative discretion. In fact, the real work in braking expansion of EC activity that was expected to be done by the subsidiarity principle in Article 5(2) may now, as in *Tobacco Advertising*, be seen more properly to be done by the principle of attributed competence in Article 5(1). So whereas the above-mentioned Communication on European Contract Law asserts that subsidiarity 'serves as a guide as to how the Community powers are to be exercised at Community level'³⁴ and examines the question of a future EC contribution to contract law from the perspective of Article 5(2) EC, in fact it is Article 5(1), and the question of the very existence of relevant powers, that is the real issue.

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III. AGRICULTURE

A. Introduction

Since the last review in 2000, there have been dynamic developments in European Community agricultural law. This might appear surprising in that the Berlin Special European Council of March 1999 ('Berlin Summit') had seen agreement on major reforms to the common organisations of the market, including consolidation of existing legislation, and the drawing up of financial perspectives for the period 2000–2006. Accordingly, a degree of stability might have been expected. However, not long after agreement was reached at the Berlin Summit, Commissioner Fischler could emphasise that: 'Reforming farm policy is an ongoing process.'¹

Two aspects of this ongoing process may be considered. First, there have been numerous developments outside the common organisations of the market, pursued with a view to implementing in concrete form a 'multifunctional' model of agriculture. Such matters as food safety, food quality, the protection of the environment, and animal welfare have become increasingly integral to agricultural policy; and, with the co-decision procedure being largely that applicable to such matters, the role of the European Parliament has been materially enhanced. Secondly, the agreement reached at the Berlin Summit itself contained the seeds of the next round of reform. For example, the decision was yet to be taken as to the final reduction in intervention price for cereals as from the 2002/3 marketing year;² and a mid-term review of the milk quota system was

³⁴ Above n 31, para 43.

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¹ Speech/01/10, *The CAP after Agenda 2000: The Achievements and Challenges*, Berlin, 18 Jan 2001.

² Council Regulation 1766/92, OJ 1992 L 181/21, Art 3(4), as amended by Council Regulation 1253/1999, OJ 1999 L 160/18.

to be carried out in 2003.³ In addition, the Göteborg European Council of June 2001 had required that the Common Agricultural Policy should contribute to sustainable development. That said, when the *Mid-term Review of the Common Agricultural Policy* was issued on 10 July 2002, it proposed a breadth and depth of reform that could not readily have been anticipated at either the Berlin Summit or the Göteborg European Council.⁴ Indeed, the document expressly accepted that it went 'beyond this task'.⁵ Further, Commissioner Fischler affirmed that: 'it is obvious that market adaptations alone will not suffice to fill the gap between the objectives and achievements of our policy. If we want to make our policy sustainable, a piecemeal approach is not enough.'⁶

B. Reforms outside the Common Organisations of the Market

1. General

Over the period prior to the issue of the *Mid-term Review of the Common Agricultural Policy* the agricultural industry was materially affected by advances in the regulation of food safety, food quality and animal welfare.⁷ As indicated, these advances were consistent with the realisation of a European Model of Agriculture, whose objectives embraced more than food production.⁸

2. Food Safety

With regard to food safety, a *White Paper on Food Safety* had been issued in 1999.⁹ This was followed in 2000 by a proposed regulation;¹⁰ and in 2002 by Regulation 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety ('Food Law Regulation').¹¹ Central to the Food Law Regulation was the importance of considering the food production chain as a continuum, with agriculture enjoying a key role as the first link

³ Council Regulation 1256/1999, OJ 1999 L 160/73, Art 3.

⁴ COM(2002)394.

⁵ *Ibid.*, at 11.

⁶ Speech/02/339, *The Mid-term Review: Towards a Policy that Pleases Everybody*, Wageningen, 12 July 2002.

⁷ It may be noted that over the same period there were, nonetheless, substantial reforms to common organisations of the market which did not fall within the ambit of the agreement reached at the Berlin Summit: see, eg, Council Regulation 1260/2001, OJ 2001 L 178/1 (extending the sugar regime to the 2005/6 marketing year); and Council Regulation 2529/2001, OJ 2001 L 341/3 (consolidating the legislation governing the common organisation of the market in sheepmeat and goatmeat and introducing a fixed as opposed to a variable premium).

⁸ For early exegesis of the objectives of the European Model of Agriculture, see, eg, the Explanatory Memorandum which accompanied the proposed regulations issued on 18 Mar 1998, available at: <http://europa.eu.int/en/comm/dg06/ag2000/agprop/mot_en.htm>, visited on 3 June 1998. See also, generally, eg, JA McMahon, 'The Common Agricultural Policy: From Quantity to Quality' (2002) 53 *Northern Ireland Legal Quarterly* 9–27; and for an analytical treatment of multifunctionality, eg, OECD, *Multifunctionality: Towards an Analytical Framework* (Paris, OECD, 2001).

⁹ COM(99)719.

¹⁰ COM(2000)716.

¹¹ [2002] OJ L31/1.

in the chain.¹² At the same time, weight was attached to the provision of a strong science base. However, the precautionary principle was expressly incorporated as one of the general principles of food law, as was the protection of the interests of consumers.

In this context, it may also be noted that further litigation flowed from the Bovine Spongiform Encephalopathy ('BSE') crisis. In particular, France refused to permit the marketing in its territory of bovine products subject to the Date-based Export Scheme.¹³ In *Commission v French Republic* the European Court of Justice found such refusal contrary to Community law.¹⁴ Of significance was the approach adopted by the Commission towards invocation of the precautionary principle. The French Government argued that the scientific opinion of the national Agence Française de Sécurité Sanitaire des Aliments should have led the Commission to revise its decision to lift the beef ban or, in any event, to suspend its application; and that failure to do so constituted an infringement of the precautionary principle. By contrast, the Commission was eager to preserve its competence, maintaining that: 'A Member State cannot, by relying on the scientific opinion of a national body, substitute its own assessment of the risks for that carried out by the Commission in accordance with its powers.'¹⁵

The consequences of the BSE crisis were also addressed in tighter labelling requirements for beef and beef products, the legislation expressly recognising the imperative of re-establishing consumer confidence. Under Regulation 1760/2000 of the European Parliament and of the Council it has been compulsory that, as from 1 January 2002, labelling of beef and beef products must indicate, *inter alia*: the Member State or third country of birth; all Member States or third countries where fattening took place; and the Member State or third country where slaughter took place.¹⁶

3. Food Quality

With regard to food quality, further legislation was enacted to provide information on and to promote agricultural products and food products both externally and internally.¹⁷ While several advantages of Community production were enumerated, including food safety, labelling, animal welfare and environment-friendliness, particular weight was placed on food quality and its ability to unlock 'added value'.

¹² *Ibid*, Preamble, Recital (12).

¹³ Under this Scheme the United Kingdom was permitted to resume the export of certain bovine meat and derived products subject to specified conditions. For example, the bovine meat or derived products must have been obtained from animals eligible for the Scheme born after 1 Aug 1996, an eligibility criterion being that the dam must neither have developed BSE nor have been suspected of having contracted BSE. See Council Decision 98/256 of 16 Mar 1998, OJ 1998 L 113/32, as amended by Commission Decision 98/692 of 25 Nov 1998, OJ 1998 L328/28.

¹⁴ Case C-1/00, judgment of 13 Dec 2001, not yet published.

¹⁵ *Ibid*, Rec 88 of judgment.

¹⁶ OJ 2000 L 204/1, Art 13. However, where the beef is derived from animals born, raised and slaughtered in the same Member State or third country, the indication may declare the name of that Member State or third country as its 'Origin'. For the detailed implementing legislation, see Commission Regulation 1825/2000, OJ 2000 L 216/8.

¹⁷ In respect of the external market, detailed legislation to implement Council Regulation 2702/1999, OJ 1999 L 327/7, was supplied by Commission Regulation 2879/2000, OJ 2000 L 333/63. In respect of the internal market, see Council Regulation 2826/2000, OJ 2000 L 328/2, and Commission Regulation 94/2002, OJ 2002 L 17/20. See also, generally, eg, JA Usher, *EC Agricultural Law* (2nd edn, Oxford: Oxford University Press, 2001), at 166–9.

Consistent with this emphasis on food quality, there has been continuing litigation before the European Court of Justice on protected geographical indications and designations of origin. Not least, this would seem to reflect their pecuniary benefits as industrial and commercial property rights. Two examples may be provided by *Dante Bigi* (relating to parmesan cheese) and *Conzorzio del Prosciutto di Parma v Asda Stores Ltd* (relating to parma ham).¹⁸ Further, in the world trade context the Community has sought to protect denominations relating to food quality and food specificity. Thus, in *European Communities Proposal: Food Quality—Improvement of Market Access Opportunities* it was argued that such protection would ‘grant to producers the opportunity to gain from product differentiation and to reap the rewards for their investments’, as well as enhancing consumer choice.¹⁹ This theme was taken up in *The EC’s Proposal for Modalities in the WTO Agriculture Negotiations*, which proposed that a list of protected geographical indications be annexed to the amended Agreement on Agriculture.²⁰

4. Animal Welfare

With regard to animal welfare, a significant development prior to the issue of the *Mid-term Review of the Common Agricultural Policy* was legislation revising minimum standards for the protection of pigs.²¹ This would see the end of, *inter alia*, closely confined stalls and tethers, but only as from 1 January 2013 would all the provisions apply to all holdings. As with food quality, the Community has also promoted animal welfare issues in the world trade arena. For example, in *European Communities Proposal: Animal Welfare and Trade in Agriculture* fears were highlighted that, in the absence of a World Trade Organization framework to address such issues, animal welfare standards might be undermined if agricultural and food products produced to high domestic standards were simply replaced by imports produced to lower standards.²² Accordingly, when the *Negotiations on Agriculture: First Draft of Modalities for the Further Commitments* was issued in February 2003, the Community could take some comfort from the proposed exemption of specified animal welfare payments from domestic support reduction commitments.²³

That said, it may be suggested that the elevation of animal welfare issues in the Community legal order received somewhat of a check in *Jippes v Minister van Landbouw, Natuurbeheer en Visserij*.²⁴ The case related to the ban on vaccination against Foot and Mouth Disease, except in specified emergency circumstances.²⁵ It

¹⁸ Respectively, Case C-66/00, judgment of 25 June 2002, not yet published; and Case C-108/01, judgment of 20 May 2003, not yet published. In the latter case it was expressly confirmed that: ‘Designations of origin fall within the scope of industrial and commercial property rights’: Rec 64 of judgment.

¹⁹ G/AG/NG/W/18, 28 June 2000.

²⁰ European Commission, Ref.625/02, Brussels, 16 Dec 2002.

²¹ Council Directive 2001/88, OJ 2001 L 316/1, and Commission Directive 2001/93, OJ 2001 L 316/36, both amending Council Directive 91/630, OJ 1991 L340/33.

²² G/AG/NG/W/19, 28 June 2000.

²³ TN/AG/W/1, 17 Feb 2003. This proposed exemption was retained in the revised first draft: TN/AG/W/1/Rev 1, 18 Mar 2003.

²⁴ Case C-189/01 [2001] ECR I-5689. See E Spaventa (2002) 39 *Common Market Law Review* 1159–70.

²⁵ The ban was imposed by Council Directive 85/511, OJ 1985 L 315/11, as amended by Council Directive 90/423, OJ 1990 L224/13.

was argued that this preference for a slaughter as opposed to a vaccination policy was contrary to Community law and, in particular, the principle of proportionality. In support of this argument it was maintained that there was a general principle of Community law to the effect that, except in so far as might be necessary, animals were not to be exposed to pain or suffering and their health and welfare was not to be impaired. The European Court of Justice, however, noted that ensuring the welfare of animals was not one of the objectives of the Treaty, as defined in Article 2 EC, and that no such requirement was mentioned in Article 33 EC, setting out the objectives of the Common Agricultural Policy. Indeed, it went so far as to present a restrictive interpretation of the Protocol on Protection and Welfare of Animals, added by the Treaty of Amsterdam.²⁶ Thus, it declared that: 'As to the Protocol, it is apparent from its very wording that it does not lay down any well-defined general principle of Community law which is binding on the Community institutions.'²⁷

C. The Mid-term Review

1. The Policy Document

As indicated, the *Mid-term Review of the Common Agricultural Policy* was issued on 10 July 2002. It asserted that the objectives of Common Agricultural Policy reform remained essentially those agreed at the Berlin Summit and Göteborg European Council, namely: a competitive agricultural sector; production methods that supported environmentally-friendly, quality products that the public wanted; a fair standard of living and income stability for the agricultural community; diversity in forms of agriculture, maintaining visual amenities and supporting rural communities; simplicity in agricultural policy and the sharing of responsibilities among the Commission and the Member States; and justification of support through the provision of services that the public expected farmers to provide.

Five aspects of the reforms proposals to meet these objectives may be highlighted. First, Community competitiveness on world markets was to be promoted by further reductions in support prices. In particular, cereals were to see a general 5 per cent reduction in intervention price to 95.35 Euros per tonne as from the 2004/5 marketing year.²⁸

Secondly, there was to be a major reconfiguration of direct payments to producers. In place of separate payments under the different common organisations of the market, a single decoupled income payment per farm would be introduced. This would initially embrace all products within the cereals, oilseeds and protein regime; grain legumes; starch potatoes; beef; and sheep. Other regimes would be integrated, as and when their respective programmes of reform were implemented. That said, *ab initio* it was acknowledged that there would be limited exceptions to address crop-specific requirements (and, in particular, the need to maintain cropping in traditional production areas).

²⁶ See, generally, eg, T Camm, and D Bowles, 'Animal Welfare and the Treaty of Rome—a Legal Analysis of the Protocol on Animal Welfare and Welfare Standards in the European Union', (2000) 12 *Journal of Environmental Law* 197–205.

²⁷ Case C-189/01, [2001] ECR I-5689, at I-5718.

²⁸ These reductions were based on a relatively optimistic view of the outlook for agricultural markets presented by the European Commission Directorate General for Agriculture in *Prospects for Agricultural Markets 2002–2009* (June 2002).

Examples of such exceptions were specific quality premia for durum wheat and a 'stand-alone' protein crop supplement. A key facet of this new form of payment was that it was apprehended to be 'Green Box' compatible for the purposes of the Uruguay Round Agreement on Agriculture.

Thirdly, multifunctional conditions would be attached to both the single decoupled income payment per farm and other direct payments. This 'cross-compliance' would extend well beyond the compulsory environmental protection requirements implemented under the 'Horizontal Regulation' following the Berlin Summit.²⁹ Thus, farmers would be obliged to meet statutory management requirements relating to not only the environment but also food safety, animal health and welfare standards and occupational safety for farmers. In any event, farmers would be further obliged to maintain land in good agricultural condition. Of great significance was that these proposals would incorporate 'non-trade concerns' within the heart of the Common Agricultural Policy. The reforms made prior to the Mid-term Review outside the common organisations of the market would henceforth determine the criteria for direct payments under those common organisations of the market.

Fourthly, in an endeavour to transfer finance from the 'First Pillar' to the 'Second Pillar' of the Common Agricultural Policy, the *Mid-term Review of the Common Agricultural Policy* advocated 'dynamic modulation'. The Horizontal Regulation had granted Member States the option to reduce payments under specified direct support schemes by up to 20 per cent in order to fund rural development initiatives.³⁰ However, this option had not been widely exercised;³¹ and, even where it had been exercised, the rate of modulation was not high. For example, in England it was to rise to only 4.5 per cent where the scheme year commenced in 2005 and 2006.³² Accordingly, it was proposed that modulation be rendered compulsory as from 2004, with all direct payments, whether or not comprised within the single decoupled income payment per farm, reduced progressively by 3 per cent per year until the full 20 per cent rate agreed at the Berlin Summit was reached. Redistributive effect was also to be achieved, to counter persistent criticism that the bulk of direct payments passed to large-scale operators.³³ For example, exemption would be available for many small-scale operators, farms with up to two Annual Work Units enjoying a 'franchise' of 5,000 Euros.³⁴ Moreover, the maximum amount of direct payments which could be received by any one farm would be capped at 300,000 Euros (after

²⁹ Council Regulation 1259/1999, OJ 1999 L 160/113, Art 3.

³⁰ The sums so modulated became available to the Member State concerned as additional Community support for four measures implemented under the 'Rural Development Regulation', Council Regulation 1257/1999, OJ 1999 L 160/80 (those relating to: early retirement; less-favoured areas and areas with environmental restrictions; agri-environmental initiatives; and afforestation).

³¹ France, Portugal and the United Kingdom implemented modulation prior to the issue of the *Mid-term Review of the Common Agricultural Policy*; and they were joined by Germany as from 1 Jan 2003: *Agra-Europe Weekly*, No 2035, 3 Jan 2003, at N/2.

³² The Common Agricultural Policy Support Schemes (Modulation) Regulations 2000, SI 2000 No 3127.

³³ Shortly after the issue of the *Mid-term Review of the Common Agricultural Policy*, Commissioner Fischler reiterated the nostrum that, under the existing system, 80 per cent of payments were made to 20 per cent of farms: IP/02/1074, 'Paying Farmers for What Society Wants': *Franz Fischler Presents CAP Review in the UK*, Brussels, 17 July 2002.

³⁴ In addition, Member States would be permitted to increase this franchise by 3,000 Euros for each further Annual Work Unit.

taking into account the franchise and modulation). This latter provision proved particularly controversial, in that the burden would fall substantially on the United Kingdom and Germany (and, in particular, the former collective farms of the Eastern *Länder*).³⁵

Fifthly, the Rural Development Regulation would be amended to incorporate two new chapters. The first would be on food quality and would become a compulsory element of rural development programming in 2005/6. The second would be on 'meeting standards', in order to help farmers to implement demanding standards based on Community legislation in the fields of environment, food safety and animal welfare.

2. The Proposed Regulations

The proposed regulations were issued on 21 January 2003, accompanied by an Explanatory Memorandum, *A Long-term Policy Perspective for Sustainable Agriculture*.³⁶ This document expressly acknowledged that account would need to be taken of the budgetary constraints agreed at the Brussels European Council of October 2002. Thus, the overall budget in nominal terms for market-related expenditure and direct aids within the enlarged European Union in the period 2007–2013 was not to exceed the 2006 ceiling agreed at the Berlin Summit increased by 1 per cent per year.³⁷

The central planks of the proposals set out in the *Mid-term Review of the Common Agricultural Policy* remained intact. Not least, the proposed regulations provided for the introduction of the single decoupled income payment per farm, together with enhanced cross-compliance. Three developments may, however, be emphasised.

First, detailed provisions were supplied to govern the single decoupled income payment per farm. In particular, the reference period for establishing entitlements was to be the calendar years 2000, 2001 and 2002. As heralded in the *Mid-term Review of the Common Agricultural Policy*, transfers would be permitted. However, although the overall thrust of the proposed regulations was to prevent speculative activities and to focus support on active producers, entitlements could be sold with or without land.³⁸

For the purposes of implementing enhanced cross-compliance, the specific legislative provisions to be observed were identified. In the case of just public health these were some twelve in number. As noted, farmers would also be obliged to maintain land in good agricultural condition in any event, this being understood to prevent land abandonment and subsequent environmental problems. A Community framework was set out for Member States to take into account in their definition of such 'good agricultural conditions', reflecting concerns already expressed in the *Mid-term Review of the Common Agricultural Policy* that accommodation of regional differences should not lead to distortion of competition. This proposed Community framework contained positive management obligations, including the maintenance of stocking rates, which may have implications for 'Green Box' compatibility. In particular, to qualify for exemption from domestic support reduction commitments as 'de-coupled income support', no production shall be required.³⁹

³⁵ See, eg, Memo/02/198, *Commission Publishes Indicative Figures on the Distribution of Direct Farm Aid*, Brussels, 1 Oct 2002.

³⁶ COM(2003)23.

³⁷ Council of the European Union, *Presidency Conclusions: Brussels European Council, 24 and 25 October 2002*, 14702/02, Brussels, Nov 2002, at para 12.

³⁸ The importance of engaging in active production has also become a pervading theme of the European Court of Justice: see, eg, Case C-401/99, *Thomsen v Amt für Ländliche Räume Husum*, judgment of 20 June 2002, not yet published.

³⁹ Uruguay Round Agreement on Agriculture, Annex 2, para 6(e).

Secondly, dairy reform would be brought forward to 1 July 2004, a year earlier than agreed at the Berlin Summit. Further, the reduction in intervention prices for butter and skimmed-milk powder would be deepened and implemented over a longer period. Thus, over a 5-year implementation period the intervention price for butter would be reduced by 7 per cent per year and that for skimmed-milk powder by 3.5 per cent per year.⁴⁰ However, perhaps most importantly, it was proposed that the milk quota system be extended from 1 April 2004 until 31 March 2015.⁴¹

Thirdly, there was a major recasting of the proposals for dynamic modulation as set out in the *Mid-term Review of the Common Agricultural Policy*. Indeed, the focus would rather be on 'degression', with only a proportion of the funds so realised being transferred by modulation from the 'First Pillar' to the 'Second Pillar'. Such degression would commence in 2006, whereas it had been proposed that dynamic modulation should commence in 2004; and, in principle, the rate would rise incrementally from 1 per cent in 2006 to 19 per cent in 2012. However, again there would be provisions to recognise the vulnerability of farmers operating on a small-scale.⁴² Indeed, some latitude would also be granted to those operating on a medium scale;⁴³ and, significantly, it was no longer proposed to implement capping. As noted, of the sums realised by degression only a proportion would be transferred by modulation to the 'Second Pillar'. The proportion would be 1 per cent of direct payments under the specified support schemes in 2006, rising incrementally to 6 per cent by 2011. This may be compared to 20 per cent by 2010 as proposed under the *Mid-term Review of the Common Agricultural Policy*. Sums not so modulated would be available as additional financing for new market reforms.⁴⁴

3. The Agreed Reforms

Although it had been hoped to conclude negotiations prior to the Thessaloniki European Council of 19–20 June 2003, agreement was not reached until 26 June 2003 in Luxembourg. The reason for delay has in large part been attributed to French concern at the extent of decoupling; but other Member States had also voiced serious reservations.⁴⁵

In the event, the agreed reforms did see the introduction of decoupled support, together with enhanced cross-compliance. However, while in principle these measures are radical, their immediate effect has been somewhat blunted by the extent to which derogations have been afforded to Member States. Indeed, Commissioner Fischler expressly accepted that the Commission had 'trimmed its reform plans'.⁴⁶ He even felt

⁴⁰ By contrast, at the Berlin Summit a uniform reduction of 5 per cent per year was agreed over a 3-year implementation period.

⁴¹ For the various options for reform of the milk quota system considered within the context of the Mid-term Review, see European Commission, *Report on Milk Quotas*, SEC(2002)789.

⁴² This would be achieved by providing, in respect of the first 5,000 Euros of direct payments, additional aid equal to the amount removed by degression.

⁴³ This would be achieved by providing, in respect of direct payments in excess of 5,000 Euros and up to 50,000 Euros, additional aid at half the rate applicable to the first 5,000 Euros, account also being taken of modulation.

⁴⁴ New Member States would be exempt from both degression and modulation until such time as their direct payments reached parity in 2013.

⁴⁵ For a summary of the views of Member States, see, eg, *Agra-Europe Weekly*, No 2056, 30 May 2003, at EP/2-3.

⁴⁶ Speech/03/326, *The New, Reformed Agricultural Policy*, Luxembourg, 26 June 2003.

it appropriate to assert that: 'This gesture towards subsidiarity is by no means a step towards renationalising the CAP.'⁴⁷

Four aspects of the agreed reforms may be highlighted, with particular reference to changes from the proposed regulations.⁴⁸ First, as indicated, a decoupled single payment scheme is to be introduced, as a general rule, from 1 January 2005. This is expressly accepted to be 'income support'. However, as also indicated, this scheme is accompanied by numerous derogations; and two may be mentioned. First, Member States enjoy the option to delay implementation until 1 January 2007. Secondly, 'partial implementation' is authorised. For example, a Member State will be able to retain coupled to production up to 25 per cent of arable area payments.

With regard to cross-compliance, the number of statutory management requirements has been reduced from 38 to 18, with those 18 being phased in over a 3-year period as from 1 January 2005. In particular, all statutory management requirements relating to occupational safety have been removed. Moreover, while farmers will be obliged to respect both good agricultural and environmental conditions, the specific requirements in the Community framework have also been lightened.

Secondly, compulsory modulation is also to be introduced, commencing at the rate of 3 per cent in 2005, rising to 4 per cent in 2006, and then remaining at 5 per cent from 2007 to 2012. A change from the proposed regulations is that only in respect of the first 5,000 Euros of direct payments will farmers receive additional aid equal to the amount removed by modulation. Further, and very importantly, the proposals relating to depression will not be implemented. Instead, there are provisions to ensure respect for financial discipline. As from 2006 adjustments in direct payments will be applied if forecasts indicate that expenditure on market measures and direct aids will exceed budgetary ceilings, less 300 million Euros, in any budget year.

Thirdly, the food quality chapter will become a voluntary, as opposed to compulsory, element of rural development programming.

Fourthly, under the common organisations of the market it was decided that there should be no 5 per cent cut in intervention price for cereals; and that the reduction in intervention price for skimmed-milk powder should simply proceed as agreed at the Berlin Summit. However, consequent upon market difficulties in the case of butter, its intervention price is to be reduced by 25 per cent over the 4-year period from 2004 to 2007. Milk quotas, as envisaged in the proposed regulations, will continue until 31 March 2015.

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⁴⁷ Speech/03/356, *CAP Reform*, Brussels, 9 July 2003.

⁴⁸ For the decisions reached in Luxembourg on 26 June 2003, see, eg, IP/03/898, *EU Fundamentally Reforms its Farm Policy to Accomplish Sustainable Farming in Europe*, Luxembourg, 26 June 2003. At the time of writing, the Community implementing legislation remains to be enacted.

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