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Report Name: German Cabinet Agrees on Draft Laws to Implement the New EU Agricultural Policy

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Report Highlights:

On April 13, 2021, the German Cabinet agreed on four draft laws to transpose the European Union (EU)'s new common agricultural policy (CAP) into national law. Member States are required to notify their national implementation plan to the Commission before the end of 2021. To meet this deadline, the German legislative process must be concluded before the summer recess as Germany holds Federal elections in September. The German draft laws represent a clear shift to a “greener” agricultural policy. For example, they include a reduction of the basic area payments; a gradually increasing reallocation of funds from pillar 1 to pillar 2; a ring-fencing of 25 percent of the remaining area payments for “eco-schemes;” and a three percent set-aside for biodiversity. This report summarizes the major provisions of the proposed laws.

The *common agricultural policy* (CAP) is the European Union's equivalent of the U.S. Farm Bill. The CAP usually runs for a period of seven years. The previous CAP covered the years 2014-2020 but was extended for two years when EU member states were unable to agree on the CAP for 2021-2027 in time. While negotiations are still ongoing, member states are required to notify their national implementation plan to the European Commission before the end of 2021. To meet this deadline, the German legislative process must be concluded before the summer recess as Germany holds Federal elections in September and the timeframe would be too short for a new government to get the laws passed.

On April 13, the German Cabinet passed four draft laws to implement the new CAP into German national law:

- The **CAP Direct Payments Act**¹ regulates the direct payments that agricultural farmers can receive from 2023 onwards.
- The **CAP Conditionality Act**² specifies the basic conditions every farmer must meet to be eligible for direct payments. These conditions include provisions on environmental protection and strengthening biodiversity.
- The **CAP Integrated Administration and Control System Act**³ regulates the administration and control procedure for the implementation of direct payments.
- The **Act for the Amendment of the Direct Payments Implementation Act**⁴ regulates the reallocation of eight percent of the direct payment funds to the so-called "second pillar" for the transition year 2022.

The first three laws form the basis of the German national CAP strategy plan, which must be submitted to the European Commission for approval by January 1, 2022. The fourth law covers the one-year transition period that takes place in 2022.

While the draft laws still have to be approved by the *Bundestag* and *Bundesrat* (German equivalent of the U.S. Congress) no major changes are expected. The laws are also subject to changes that may become necessary once the EU finalizes its CAP. In this respect, adjustments could affect the percentages of non-productive land and reallocation.

The agreement was preceded by lengthy negotiations between the Ministry of Food and Agriculture (BMEL) headed by Julia Klöckner from the the center-right party, Christian Democratic Union (CDU), and the Ministry of Environment, Nature Conservation, and Nuclear Safety (BMU) led by Svenja Schulze from the center-left party, Social Democratic Party (SPD). For example, the initial BMEL draft proposed a 20 percent reallocation of funds from pillar 1 to pillar 2 while BMU demanded 30 percent. The Council of the 16 State Ministers of Agriculture, whose party affiliations depend on the ruling coalition in the respective states, agreed on their own compromise on March 26. This paved the way for the cabinet draft. Unsurprisingly, the compromise spurred mixed reactions. Several farmer groups fear that the measures will drive an increased number of (especially smaller) farms out of business, while environmental groups demand that this is only the first step towards a "greener" agriculture and more has to follow in the coming years.

¹ www.bmel.de/gapdzg available only in German language

² www.bmel.de/GapKondG available only in German language

³ www.bmel.de/GAPInVekoSG available only in German language

⁴ www.bmel.de/aend-direktzahlungen-durchfuehrungsgesetz available only in German language

CAP Direct Payments Act:

The key point of the law is the distribution of the annual €4.9 billion in EU funds for Germany among the various direct payments that agricultural farmers will be able to receive from 2023 onwards.

Reallocation:

- Some of the financial resources will be reallocated from direct payments (pillar 1⁵) to the so-called second pillar. In Germany, pillar 2 is administered by the federal states (*Länder*.) As a result of this act, the German *Länder* will receive more money for further environmental and climate protection measures in agriculture that are tailored to their different agricultural structures and natural conditions.

- Beginning in 2023, 10 percent of the funds from pillar 1 will be reallocated to pillar 2 of the CAP. This share will gradually increase to 15 percent by the end of the next funding period in 2026 in the following increments:

- 10 percent in 2023
- 11 percent in 2024
- 12.5 percent in 2025
- 15 percent in 2026

- The funds will then be available for

- further climate and environmental services
- the promotion of organic farming
- increased animal welfare in livestock housing.

Redistribution:

To provide greater support for small and medium-sized enterprises the redistribution premium is to increase significantly - from seven to twelve percent of the ceiling for direct payments. This amounts to more than €530 million in 2023. Farmers will receive more money for their first 60 hectares in two levels:

- In level 1 (hectare 1 to 40,) there will be a supplement of around €69 per hectare.
- In level 2 (hectare 41 to 60,) an additional supplement of about €41 will be paid.

Young Farmers:

- Young farmers up to the age of 40 will receive an expanded subsidy of two percent of direct payment funds to help them set up in business. The budget for this amounts to €98 million.

- In the future, young farmers will be granted an additional premium of about €70 for up to 120 hectares (previously 90 hectares.)

Grazing Animal Premium:

⁵ The CAP is split into two pillars. Pillar 1 includes direct payments to farmers and market measures, while pillar 2 funds member projects and programs for sustainable and environmentally friendly farming as well as rural development. In 2019, pillar 1 accounted for 76% and pillar 2 for 24% of the total EU CAP budget.

Two percent of the ceiling after reallocation is available for the introduction of a coupled payment for sheep, goats, and suckler cows. The goal is to promote extensive grazing on valuable permanent grassland, which has significant environmental benefits. It also increases value creation in peripheral regions.

Eco-Schemes:

So called “eco-schemes” are measures that strengthen the environment and biodiversity and exceed the requirements covered by conditionality. The CAP specifies that member states must offer eco-scheme programs for their territory, but farmers may choose if and to which extent they want to participate.

The draft act reserves (“ringfences”) 25 percent of the budget for direct payments under pillar 1 for measures that strengthen the environment and biodiversity and go beyond the requirements of conditionality. For Germany this translates into approximately €1.1 billion per year.

The list of measures was expanded in consultation with the BMU compared with the BMEL's first proposal. They now include:

- Increasing the amount of non-productive areas and landscape elements on arable land, where neither arable farming nor animal husbandry is practiced, beyond the three percent prescribed in the conditionality.
- Establishing flowering strips or areas on the aforementioned non-productive areas, as well as on permanent crop areas, and establishment of old grass strips or areas on permanent grassland to increase biodiversity.
- Crop rotations with a minimum of five crops, including a minimum 10 percent of legumes/protein crops.
- Extensification of permanent grassland to enhance biodiversity. Permanent grassland is mowed or fertilized less frequently, for example, and used by fewer animals.
- Maintaining agroforestry systems on arable land. This involves farming with the inclusion of trees and shrubs. Agroforestry systems are rich in species, stabilize the water balance and protect the soil from erosion.
- Extensive management of permanent grassland with proof of presence of a minimum of four local indicator species.
- No use of synthetic-chemical plant crop protection products.
- Compensation for special forms of management in nature conservation and *Natura 2000* areas.

CAP Conditionality Act:

To become eligible for direct payments farmers must adhere to certain basic requirements in the area of environmental protection. Violations will result in a reduction of payments.

The requirements include:

- A minimum of three percent of the arable land has to be set aside as non-productive land for biodiversity.
- Provisions for grassland conservation and peat soil protection.

CAP Integrated Management and Control System Act:

This law regulates the administration and control procedure in the implementation of direct payments. This also affects the procedures for farmers to submit applications.

Attachments:

No Attachments.