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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

The use of crisis measures adopted pursuant to Articles 219 to 222 of the CMO Regulation

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1. Introduction

Under Article 225(db) of Regulation (EU) No 1308/2013 (CMO Regulation)[1] the Commission must present to the European Parliament and the Council by 31 December 2023 a report on the use of crisis measures, and in particular the exceptional measures adopted pursuant to Articles 219-222 of the CMO Regulation (CMO).

The present report covers the exceptional measures regulations adopted by the Commission pursuant to Articles 219-222 of the CMO from 1 January 2014 to the end of 2023.

Annex 1 to this report provides the list of all the regulations. Annex 2 provides information on the EU yearly aggregated expenditure per measure until the end of the 2023 financial year (15 October 2023).

2. Types of exceptional measures under the CMO Regulation

2.1 Introduction

Part V, Chapter I of the CMO is entitled 'Exceptional measures' (Articles 219 to 222). The Articles empower the Commission to adopt exceptional market measures in the event of:

- market disturbance (Article 219);
- animal diseases, plant pests, and the loss of consumer confidence due to risks to public, animal or plant health (Article 220);
- specific problems (Article 221);
- severe imbalance in markets (Article 222).

These provisions reflect the need – against the backdrop of a principled market orientation of the common agricultural policy (CAP) – to address potential risks, often sudden and unforeseeable, that are due to circumstances which may exceptionally arise in agricultural markets such as market instability, price volatility, or the consequences of restrictions linked to animal and plant health.

The exceptional measures can therefore be seen in connection with the preventive and risk-management tools available for EU farmers in the CAP and in national policies.

Agricultural production is inherently risky. Yields, product quality and related prices are influenced by many external factors with short-term impacts, like the weather and other environmental or sanitary factors (such as animal diseases and plant pests). Agricultural production is also subject to risks stemming from developments in agricultural markets, trade disruptions or geopolitical events. These risks are accentuated by the nature of production decisions, including investments, which often have to be taken on the basis of a medium- and long-term perspective. In addition, in some production systems (e.g. animal production) quick adjustments to production cannot be made.

Some of those risks can be classified as normal or marketable, and can be managed either on the farm itself, or via market tools or private risk-sharing instruments (such as insurance). Other risks can be systemic/catastrophic and lead to such high costs that private risk-management tools are inadequate (for instance, insurance companies may not be willing to

[1] Regulation (EU) 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agriculture and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007, OJ L 347, 20.12.2013, p. 671.

provide cover at reasonable premiums)[2]. During market crises, specific and exceptional public action may therefore be needed.

Exceptional measures are additional and complementary to both the other market intervention measures provided for under the CMO Regulation (notably public intervention and private storage aid (PSA)[3]) that aim at stabilising prices for farmers, and the provisions to prevent and manage crises through sectoral interventions that may be programmed in the CAP strategic plans (for instance in the fruit and vegetable sector).

Exceptional measures are by nature temporary and are adopted to the extent and for the time necessary to address the problems at stake.

The recitals of the Commission regulations based on Articles 219-222 of the CMO clarify the rationale for adopting the exceptional measure, based on an objective assessment of the market situation.

2.2 Budgetary aspects

Before 2023, exceptional measures involving financial support could be funded by mobilising financial resources under the ‘reserve for crises in the agricultural sector’ (Article 25 of the previous CAP Horizontal Regulation[4]; Article 226 of the CMO), which was financed by the application of ‘financial discipline’. This funding mechanism implied that activating the reserve for crises in the agricultural sector would result in corresponding cuts in direct payments to farmers and its use required a transfer decision by the Council and European Parliament. This reserve was never used until March 2022, when exceptional adjustment aid to producers affected by the consequences of the war in Ukraine was adopted. The support package amounted to EUR 500 million, EUR 350 million of which was financed from the 2022 crisis reserve. Previously, in all other cases, funding for exceptional measures was made available from other availabilities under the European Agricultural Guarantee Fund (EAGF) sub-ceiling, without the activation of the crisis reserve.

Starting in 2023, and in line with the provisions of the new CAP Horizontal Regulation[5], an agricultural reserve of at least EUR 450 million was set up and will be set up at the beginning of each year of the period 2023-2027[6]. A higher amount may be set in the EU budget.

The amount for the agricultural reserve is entered directly in the EU budget, making funds from the reserve directly available. Exceptional measures are to be financed from this reserve (together with market intervention measures). The agricultural reserve is established by first using the remaining availabilities from the previous year’s reserve not used and carried over, then availabilities under the EAGF sub-ceiling and, if needed, and only as a last resort, by applying financial discipline.

The Chapter of the CMO Regulation that deals with exceptional measures consists of four articles. The following sub-sections discuss each of these articles in more detail.

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[2] See report of the Agricultural Markets Task Force (2018).
[3] Articles 8 to 21 of the CMO Regulation.
[4] Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008, OJ L 347, 20.12.2013, p. 549.
[5] Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013, OJ L 435, 6.12.2021, p. 187.
[6] Article 16(2) of Regulation (EU) 2021/2116.

2.3 Article 219

Article 219 enables the Commission to take, by means of delegated acts, measures necessary to react efficiently and effectively to market disturbances, and threats of such disturbances, in all the agricultural sectors covered by the CMO[7]. On imperative grounds of urgency, delegated acts can be adopted pursuant to the urgency procedure (Article 228 CMO) and enter into force without delay as long as no objection is expressed by the European Parliament or the Council.

The Commission may adopt such measures if a market disturbance or a threat thereof (in particular, but not exclusively, due to price rises or falls) arises that is likely to continue or deteriorate. These measures may be adopted where any other measures available under the CMO Regulation – such as public intervention or PSA – appear to be insufficient or not suitable to address the situation[8]. Situations arising from oversupply (lack of demand) characterised by price falls were typically targeted by these measures, but the drafting of the Article also covers the opposite situation of shortages and price rises.

This arrangement reflects the gradual progression of measures laid down in the CMO: market intervention tools (public intervention and PSA) and other instruments available under the CMO Regulation must first prove insufficient before exceptional measures are adopted. In this spirit, each measure adopted clarifies, as relevant, the reason why the use of measures available under the CMO have not addressed, or would not have been sufficient to address, the market disturbance.

The measures in question may, to the extent and for the time necessary address the disturbance in the market or threat thereof, extend or amend the scope, duration or other aspects of other measures laid down in the CMO Regulation, and may also provide for entirely new measures, including the provision of exceptional aid to one or more sectors, and one or more countries.

All the exceptional measures granting exceptional aid clarify the following aspects.

i) They set out which countries are eligible and the basis for allocating aid envelopes among them.
ii) They clarify that aid distribution by Member States should target those producers most affected by the market disturbance at stake. To alleviate market disturbances, in a logic of subsidiarity, Member States are often better placed to analyse which farmers and sectors need to be supported in the different market situations. Also, aid should be distributed on the basis of objective criteria and in a non-discriminatory way, avoiding any market and competition issues.
iii) They set out whether Member States may grant additional support (top-up) under the same conditions of objectiveness, non-discrimination and non-distortion of competition. Such top-ups, which are not affected by State aid rules, can be justified by the fact that amounts allocated to beneficiary Member States compensate only partially for the actual losses suffered by the producers.

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[7] See Article 1 (2) and Annex I of the CMO.
[8] The reference to the 'not suitable' nature of other CMO market measures was introduced with the last CAP reform, Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021 amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union, OJ L 435, 6.12.2021, p. 262.

iv) They clarify how the exceptional aid links with EU financial assistance granted under other instruments, and whether there is a possibility to cumulate exceptional aid with such financial support.

v) They require Member States to notify to the Commission: (i) the objective criteria used to target the support; (ii) how they have avoided any distortions of competition; (iii) the total amounts paid; (iv) the number and type of beneficiaries; and (v) an assessment of the effectiveness of the measures taken. From 2015, the concrete measures taken, intended impacts, and additional top-ups must also be reported.

2.4 Article 220

Article 220 enables the Commission to adopt implementing acts and take, upon a Member State's request and based on an assessment on substance, exceptional measures to address the market impacts of measures taken at national level to combat the spread of animal diseases and plant pests[9]. The assessment evaluates evidence that health, veterinary and phytosanitary measures have been quickly adopted by the Member State concerned to stamp out the disease; or monitor, control, eradicate or contain the plant pest. Article 220 measures may also address serious market disturbances directly attributed to a loss of consumer confidence due to risks to public, animal or plant health.

Article 220 provides a legal basis for compensating producers affected by the indirect effects of trade restrictions or a loss in consumer confidence that are not eligible for EU financial contributions within the health and veterinary prevention-and-control measures provided for under EU legislation[10]. This compensation must be co-financed by the relevant Member State. The EU provides part-financing equivalent to 50% of the expenditures incurred by Member States (60% for combating foot-and-mouth disease).

Article 220 lists the sectors for which the impacts of measures restricting trade can be compensated.

Support schemes adopted pursuant to Article 220 require Member States to carry out administrative and on-the-spot checks, and duly document these checks.

2.5 Article 221

Article 221 enables the Commission to take, by means of implementing acts, emergency measures to resolve specific problems, if the conditions to adopt measures under Article 219 or Article 220 are not satisfied.

These measures do not require an existing market disturbance or a threat thereof. The 'specific problem' to be addressed may therefore lie in another reason which prevents the objectives of the CAP from being attained. These measures may derogate from the provisions of the CMO Regulation only to an extent and for a period that are strictly necessary, and in any case for a period not exceeding 12 months.

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[9] Plant pests, and the reference to the related phytosanitary controls, were introduced with the last CAP reform, Regulation 2021/2117. Plant pests only concern fruit and vegetables.

[10] See Regulation (EU) No 652/2014 of the European Parliament and of the Council of 15 May 2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, OJ L 189, 27.6.2014, p. 1. The Regulation was repealed by Regulation (EU) 2021/690 of the European Parliament and of the Council of 28 April 2021 establishing a programme for the internal market, competitiveness of enterprises, including small and medium-sized enterprises, the area of plants, animals, food and feed, and European statistics (Single Market Programme) and repealing Regulations (EU) No 99/2013, (EU) No 1287/2013, (EU) No 254/2014 and (EU) No 652/2014, OJ L 153, 3.5.2021, p. 1.

On imperative grounds of urgency, where the circumstances could cause a rapid deterioration of the situation which would become difficult to address if the measures were delayed, immediately applicable implementing acts can be adopted (Article 229(3) CMO).

2.6 Article 222

Finally, Article 222 CMO authorises the Commission to adopt implementing acts to exempt from the application of competition law agreements and decisions to stabilise the market by farmers and their associations, recognised producer organisations (POs), associations of POs, or recognised interbranch organisations[11].

The supply-management measures taken by private operators are meant to address severe market imbalances. Competition law usually disallows such agreements between POs as they have a restrictive effect on competition.

These agreements and decisions should: (i) be valid for a maximum of 6 months (but may be extended); (ii) not undermine the proper functioning of the single market; (iii) strictly aim to stabilise the sector concerned; and (iv) fall under one or more of the specific categories of collective actions enumerated in the Article. Until 2017, those measures could only be adopted if market measures or exceptional measures for the products concerned had already been adopted, as a means of last resort. Since then (and since the Omnibus Reform Regulation[12]), they can complement EU action under the other provisions without such a pre-condition applying.

It is worth mentioning that Article 222 does not imply the mobilisation of EU funding.

3. Use of exceptional measures (by crisis)

Since 1 January 2014 to the end of 2023, 63 exceptional measures have been adopted pursuant to Articles 219-222 of the CMO. The measures are reported below in relation to the specific crisis or situation triggering their adoption[13].

Most of the measures have been adopted under Article 219 (32 acts), followed by 14 acts under Article 220, 11 acts under Article 221 and 6 acts under Article 222.

All the measures are listed in Annex 1. Information on the execution of the measures until 15 October 2023 is also provided in Annex 2.

3.1 Russian ban on imports, combined with supply-demand imbalances

As a retaliation against the sanctions imposed by the EU after the Russian annexation of Crimea in spring 2014, the Russian government introduced a ban on imports of certain agricultural products from the European Union. The ban, which came into effect on 7 August 2014, included products such as milk and dairy products, livestock products, and fresh fruit

[11] The possibilities for such collective actions have been extended to farmers and their associations with Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), (EU) No 1306/2013 on the financing, management and monitoring of the common agricultural policy, (EU) No 1307/2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products and (EU) No 652/2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material, OJ L 350, 29.12.2017, p. 15 (Omnibus Regulation).

[12] Regulation (EU) 2017/2393.

[13] It should be noted that some acts only constitute amendments of previously approved acts, for example extending the duration of the measures, expanding their scope to additional beneficiaries, etc.

and vegetables. The initial ban, which was subsequently prolonged, had significant implications for EU exporters of the affected agricultural products as it limited their access to the Russian market.

3.1.1 Fruit & vegetables

The Russian ban on EU imports caused significant price falls in the EU's fruit and vegetable sector as one of its largest export markets became suddenly unavailable and this resulted in oversupply in the EU.

The threat of market disturbance was particularly pressing for this sector as it occurred unexpectedly at harvesting time, when farmers were left with large quantities of harvested and very perishable products and had limited storage possibilities. In addition, some product varieties mainly destined to Russia did not quickly find alternative export markets. For peaches and nectarines, the ban coincided with a high level of supply due to weather conditions in 2014. Since the production of fruit and vegetables is unpredictable and products are perishable, even small surpluses on the market can significantly disturb the market.

To prevent a severe market disturbance and mitigate the drop in prices, two measures were adopted. An Article 219 measure of 21 August 2014 increased the volumes of peaches and nectarines eligible for supported market withdrawals for free distribution by POs[14]. It also allowed the granting of EU financial assistance to producers who were not members of POs and additional support for promotion activities for POs from the four main producing countries, Greece, Spain, France and Italy for a maximum amount of EUR 3 million[15].

A second Article 219 measure dated 29 August 2014 expanded the Regulation to cover other fruits and vegetables affected by the loss of export markets. It allocated EUR 125 million (of which EUR 82 million for apples and pears and EUR 43 million for other fruits and vegetables) to grant financial assistance for higher volumes of market withdrawals, green harvesting and non-harvesting operations for both producers who were members and who were not members of POs, up to specific quantities of products (listed in its Annex I)[16].

These exceptional measures were prolonged and supplemented, including to extend the scope to oranges, clementines, mandarins and to lemons[17].

In January 2016, the Russian ban on agricultural imports was extended to imports of Turkish agricultural products. As Türkiye was a major exporter of fruit and vegetables to Russia, the threat of market disturbance in the EU was significant due to trade-diversion effects. In June 2016, a new measure under Article 219 was introduced, adapting the existing measures and expanding their scope to other products. The measure included maximum-quantity limits on

[14] The legal basis for crisis management measures (such as market withdrawals, green harvesting and non-harvesting) which can be supported by the EU under the operational programmes for fruit and vegetables has changed over time, from the CMO Regulation 1308/2013 (Articles 33-34) to the CAP Strategic Plan Regulation (Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013, OJ L 435, 6.12.2021, p. 1). Since 2021, the scope, duration and other aspects of sectoral interventions in the fruit and vegetable sector are regulated by the CAP Strategic Plan Regulation (Article 42 ff.).
[15] OJ L 248, 22.8.2014, p. 1.
[16] OJ L 259, 30.8.2014, p. 2.
[17] OJ L 284, 30.9.2014, p. 22; OJ L 366, 20.12.2014, p. 20; OJ L 211, 8.8.2015, p. 17.

products eligible for financial assistance per producing Member State[18]. In March 2017, unused allocated quantities were redistributed among producing Member States by means of a new delegated act[19].

Regular monitoring of the EU market subsequently revealed an improvement for non-permanent crops (vegetables and some fruits) which led to an adjustment of the existing measures. In April 2017, an Article 219 measure reduced the number of products and maximum quantities eligible for support[20]. However, due to high production levels and stockpiles of peaches and nectarines in some Member States, and due also to the introduction of sanitary and phyto-sanitary measures by alternative export destinations like Belarus, a new Article 219 measure was adopted in September 2017. This new act increased the maximum quantities of peaches and nectarines eligible for support for Greece, Spain and Italy[21].

As a result of all these measures, a grand total of more than EUR 500 million was disbursed until 2018, allowing almost 1.8 million tonnes of fresh fruit and vegetables to be withdrawn from the market.

3.1.2 Milk and dairy products

The Russian ban on EU imports resulted first in a threat of market disturbance, and subsequently in an actual market disturbance for the dairy market, with significant price falls. This situation combined with other circumstances such as the slow-down in Chinese imports (the largest global import market), positive prices and weather conditions which had resulted in an increase in global milk supply. The combined effect of all these circumstances led to a world-wide supply-demand imbalance in the milk sector and a sharp fall in the price of milk and dairy products, with negative side-effects on the livestock sector.

To provide certainty to the marketplace, the public intervention period for skimmed milk powder (SMP) and butter (that usually ran from 1 March to 30 September) was extended several times by means of Article 219 measures[22].

In addition to standard private storage aid for butter and SMP, a temporary and exceptional private-storage aid scheme for all types of cheeses (not limited to cheeses with a protected geographical indication (PGI) or designation of origin (PDO) which are eligible for PSA under the CMO) was introduced in late 2014[23] and in late 2015[24].

Between 2014 and 2017, these measures were complemented by exceptional financial support schemes for the milk and other livestock sectors.

An Article 219 measure providing exceptional aid to milk producers in Estonia, Latvia and Lithuania for EUR 28.6 million (respectively EUR 6.8 million, 7.7 million and 14.1 million) was adopted in November 2014. This measure aimed to address liquidity problems caused by the loss of a major trade partner and the subsequent decline in milk prices. The three countries heavily relied on exports to Russia, and their milk sector focused on products not

[18] OJ L 154, 11.6.2016, p. 3.
[19] OJ L 58, 4.3.2017, p. 8.
[20] OJ L 170, 1.7.2017, p. 31.
[21] OJ L 233, 9.9.2017, p. 1.
[22] OJ L 265, 5.9.2014, p. 21; OJ L 360, 17.12.2014, p. 13; OJ L 242, 18.9.2015, p. 28; OJ L 242, 9.9.2016, p. 15.
[23] OJ L 265, 5.9.2014, p. 22, repealed shortly after because the scheme appeared to be disproportionately used by producers of cheese from areas that did not traditionally export significant quantities to Russia (OJ L 279, 23.9.2014, p. 17).
[24] OJ L 271, 16.10.2015, p. 15, subsequently amended to make unused maximum quantities of cheeses available for some Member States (OJ L 41, 18.2.2016, p. 10).

covered by public intervention or PSA[25]. In December 2014, Finland was allocated EUR 10.7 million for similar reasons[26]. The aid allocation for the four countries was based on their milk production levels under the national quotas.

In October 2015, the strong supply-demand imbalance in the milk, milk-products and pigmeat sectors triggered by the Russian ban and its subsequent prolongation was compounded by an increase in production costs in other livestock sectors due to the 2015 drought in Europe. This combination of circumstances led to the adoption of an Article 219 measure granting exceptional aid to farmers in the milk and other livestock sectors in all EU Member States for an overall amount of EUR 420 million[27]. Additional national support up to 100% – not subject to State aid procedures – was allowed.

Two measures pursuant respectively to Articles 219 and 222 were subsequently adopted in April 2016. These two measures authorised cooperatives and other forms of both recognised and not recognised POs to conclude agreements and take decisions on the planning of milk production with a view to stabilising the market[28]. The latter measure was prolonged in September due to low uptake[29].

In September 2016, two new Article 219 measures were introduced to address market disturbances in the milk and livestock sector, influenced by the continued Russian ban and the persistent, global, supply-demand imbalance, and providing further exceptional aid to farmers in the milk and livestock sectors.

The first measure allowed Member States to grant aid based on voluntary reductions in deliveries of cow milk to decrease production volumes and help the sector to stabilise. The second measure aimed to address market disturbances in the milk, pigmeat, beef, veal, sheep and goat meat sectors. Depending on national circumstances, it: (i) allowed farmers to be compensated for the lower milk prices; (ii) permitted support for the beef and veal sectors; and (iii) addressed outbreaks of African swine fever in other livestock sectors. The act listed the activities aimed at fostering economic sustainability and contributing to market stabilisation that were eligible for support. Member States were required to report on the measures taken and justify the rationale for allocating aid in livestock sectors other than the milk sector. An amount of EUR 150 million was allocated to help reduce milk production, and EUR 350 million was allocated for adjustment aid in the livestock sectors[30]. This latter aid allowed for additional national support up to 100%.

3.2 COVID-19

During the COVID-19 pandemic, restrictions on movements, limited labour availability, and the mandatory closure of hospitality and catering facilities led to a sudden decrease in the consumption of several agricultural and food products.

3.2.1 Milk and dairy products

The milk and dairy sector faced a drop in demand during the lockdowns in 2020. In April 2020, market intervention measures under the CMO Regulation in the form of PSA was

[25] OJ L 341, 27.11.2014, p. 3.
[26] OJ L 366, 20.12.2014, p. 18.
[27] OJ L 271, 16.10.2015, p. 25.
[28] OJ L 96, 12.4.2016, p. 18; OJ L 96, 12.4.2016, p. 20. The different legal basis reflects the fact that Article 222 only covers recognised POs; to expand it to cooperatives not recognised as POs, an Article 219 measure had to be adopted.
[29] OJ L 242, 9.9.2016, p. 17.
[30] OJ L 242, 9.9.2016, p. 4; OJ L 242, 9.9.2016, p. 10.

opened for eligible products (butter, SMP). Since producers did not have the capacity to divert processed raw milk into storable and less labour-intensive products, these measures were accompanied by an Article 219 measure granting PSA to cheeses without PDO or PGI certifications (not eligible for PSA under the CMO provisions), within predefined maximum volumes per Member State[31].

In parallel, given the severe supply-demand market imbalance in the sector, an Article 222 measure was also adopted which allowed POs to conclude agreements and take common decisions on planning their volumes of raw milk production before the start of the high production season, so as to counterbalance the drop in prices for milk and milk products[32].

3.2.2 Fruit, vegetables and wine

The closure of important outlets (shops, restaurants) for fruit, vegetables and wine, coupled with shortages of workers, significantly disturbed the fruit, vegetable and wine sectors in the EU.

For the wine sector, the imposition of 25% import tariffs (by value) on EU wine imports by the United States in October 2019 had already had a negative impact on exports. This was exacerbated by the pandemic, leading to financial difficulties for wine producers.

In April 2020, an Article 219 measure was adopted to address the market disturbances resulting from COVID-19 in the fruit, vegetable and wine sectors. The act introduced derogations from the existing CMO rules on operational and support programmes[33].

For fruit and vegetables, expenditure limits for crisis-prevention and management measures in the operational programmes were temporarily lifted.

For the wine sector, to remove surpluses from the market which were reducing prices, financial assistance under the support programmes was temporarily extended to cover both wine distillation for industrial or energy purposes and aid for crisis storage. The measure also expanded EU support to producer mutual funds and increased thresholds for EU financial contributions for several measures to both reduce operators' own financial contributions and improve their cash flow. The operational budget for national support programmes remained unchanged[34].

In parallel, an Article 221 measure was adopted to address labour shortages in the vineyards, which extended both the planting authorisations expiring in 2020, and the deadline for grubbing up in the case of anticipated replanting[35].

In July 2020, two new measures were introduced to help the fruit, vegetable and wine sectors cope with the impacts of the pandemic. A first Article 219 measure introduced additional flexibilities to the operational and support programmes in the two sectors. In the wine sector, producers could also, under certain conditions, request advance payments equal to 100% of EU support for both crisis distillation of wine and crisis storage of wine, to alleviate their reduced cash flow[36].

A second measure was introduced pursuant to Article 222, and aimed to address the severe market imbalance in the wine sector, whereby consumption and exports were falling while

[31] OJ L 140, 4.5.2020, p. 1.
[32] OJ L 140, 4.5.2020, p. 37.
[33] In 2020 both programmes were still governed by the CMO Regulation.
[34] OJ L 140, 4.5.2020, p. 6.
[35] OJ L 140, 4.5.2020, p. 46.
[36] OJ L 300, 14.9.2020, p. 26.

large volumes of wine were being put into storage. It allowed farmers, recognised POs and interbranch organisations to conclude agreements and take common decisions on production, transformation, processing, storage, and promotion activities[37].

Acknowledging that the situation in the wine sector had not improved despite the previous measures, two Article 219 measures were taken in January and September 2021, prolonging the derogations previously adopted and providing for further flexibility to support harvest insurance[38].

3.2.3 Other sectors

The potatoes and live plants and flowers sectors experienced a period of market imbalance during the COVID-19 lockdowns due to sharp drops in demand and prices, limited labour availability, and higher transport costs.

To support producers, two Article 222 measures were adopted in April 2020, which allowed farmers and recognised POs to conclude agreements and take common decisions on, for instance, market withdrawals, free distribution, promotion, and temporary planning of production[39].

3.3 The war in Ukraine and subsequent market developments

As a consequence of Russia's war of aggression against Ukraine, there was an acute threat of disturbance in the EU market due to significant price rises for grains and inputs (especially energy and fertilisers) and to trade disruptions. To counter these threats, an Article 219 measure was adopted in March 2022 providing temporary exceptional aid to farmers active in all sectors if they engaged in activities contributing to food security or addressing market imbalances. A total amount of EUR 500 million was made available and allocated to Member States based on their ceilings for direct payments. Member States were free to select the beneficiary sector(s) to support the producers who suffered the most. Additional national support of up to 200% was also allowed[40].

An Article 219 measure was also adopted in July 2022 to support the fruit and vegetables sector. It allowed for derogations to the limits on expenditure on crisis management and prevention measures and increased the share of EU financial assistance for national operational funds in the sector[41].

The increase in imports of cereals and oilseeds from Ukraine to the Member States close to the Ukrainian border, where trade corridors called 'EU-Ukraine Solidarity Lanes' were developed, impacted local farmers. In certain regions of the EU, the additional imports caused domestic oversupply, depressed local prices, or saturated logistics chains. In acknowledgement of these problems, an Article 221 measure was adopted in April 2023. An amount of EUR 56 million was allocated to support farmers most affected by the increased imports of cereals and oilseeds from Ukraine in Bulgaria, Poland and Romania. Additional national support of up to 100% was allowed[42].

Given the scale of the negative impact of increased imports of cereals and oilseeds from Ukraine to Bulgaria, Hungary, Poland, Romania and Slovakia, a second Article 221 measure

[37] OJ L 215, 7.7.2020, p. 13.
[38] OJ L 31, 29.1.2021, p. 198; OJ L 415, 22.11.2021, p. 1.
[39] OJ L 140, 4.5.2020, p. 13; OJ L 140, 4.5.2020, p. 17.
[40] OJ L 96, 24.3.2022, p. 4.
[41] OJ L 189, 18.7.2022, p. 1.
[42] OJ L 96, 5.4.2023, p. 80.

was adopted in June 2023. This second measure expanded on the previous one with EUR 100 million made available to support farmers producing specific cereals and oilseeds [Annex 1] in the five countries. Additional national support of up to 200% was allowed[43].

In mid-2023, a rapid decrease in prices for several agricultural products, against a backdrop of high input costs, high food price inflation and reduced consumer demand was observed. These circumstances had a markedly negative impact on different agricultural sectors in the EU and created liquidity problems for farmers, beyond those detected in the five frontline Member States which had benefited from previous support.

An Article 221 measure was adopted in July 2023 to address the specific challenges observed in several sectors such as the animal, fruit and vegetable, wine, cereals and oilseeds sectors. The measure provided for emergency support for farmers in the most affected agricultural sectors of the 22 Member States that had not been beneficiaries of the two previous Article 221 measures. An overall amount of EUR 330 million was made available. Member States were required to target farmers in the most affected sectors, and could grant support to crisis distillation operations for wine beyond the allocations fixed in the national support programmes. Additional national support of up to 200% was allowed[44].

In parallel, to counter the threat of future market imbalances in the wine sector with the arrival of the new harvest, an Article 219 measure was adopted in June 2023 allowing Member States to redirect part of the financial resources within their national support programmes to provide support tailored to their specific circumstances. Support for the crisis distillation of wine was allowed under specific conditions, along with derogations from CMO provisions and increased EU financial contributions for different types of sectoral measures[45].

3.4 Extreme weather events and natural disasters

As early as 2015, the negative impacts on markets of adverse weather conditions have been recognised as one of the factors contributing to the supply-demand imbalance in the livestock sector because the drought during the summer of 2015 led to the scarcity of feed crops and pastures[46].

Following an earthquake which struck central Italy in August 2016, the Article 219 measure granting exceptional adjustment aid for livestock farmers adopted in 2016 was amended in 2017. To help compensate for the losses suffered by livestock farmers in the affected regions, Italy was allowed to grant additional national support of up to 200%[47].

Due to unprecedented and abnormal weather conditions, namely prolonged heavy rainfalls and floods which affected their arable land, an Article 221 measure was adopted in January 2018 to support farmers in Lithuania, Latvia, Estonia and Finland. The measure aimed to compensate the farmers most affected by the rainfall and floods, and who experienced the greatest losses in their arable land for winter sowing and in harvest. The act determined the maximum EU funds available for each country, for a total of EUR 15 million, while the countries themselves determined the number of eligible hectares and the flat-rate amount of aid per hectare. National top-ups of up to 100% were allowed[48].

[43] OJ L 168, 3.7.2023, p. 22.
[44] OJ L 180, 17.7.2023, p. 21.
[45] OJ L 160, 26.6.2023, p. 12.
[46] See above, OJ L 271, 16.10.2015, p. 25.
[47] OJ L 42, 18.2.2017, p. 7.
[48] OJ L 19, 24.1.2018, p. 6.

The Article 221 measure adopted in mid-July 2023 aimed also in part at addressing the impacts of extremely adverse weather events, such as the drought of spring 2023 (particularly acute in some regions of Spain, Portugal and Italy) and the related damages incurred by agricultural producers[49].

Those severe, adverse meteorological events had a specific negative impact on fruit, vegetable and wine producers and led to the adoption of a new Article 221 measure in August 2023. The measure allowed some flexibilities and increased EU financial contributions in the implementation of the operational programmes for POs and associations of POs in the fruit and vegetables sector. In the wine sector, the measure extended both the validity of planting authorisation expiring in 2023 and the period for grubbing up. It also introduced flexibilities for the measures to restructure and convert vineyards which had been only partially implemented in 2023[50].

Subsequently in 2023, Slovenia experienced extremely severe flooding and landslides, while parts of Greece faced unprecedented wildfires and flooding in August and September 2023. The significant damages caused by those natural disasters to agricultural production led to the adoption of a new Article 221 measure in December 2023, aimed at supporting affected farmers. An amount of EUR 51.7 million was allocated to the two countries, and national top-up of up to 200% was allowed[51].

3.5 Animal diseases

3.5.1 African swine fever

To prevent the spread of African swine fever (ASF) in their territories, in February 2014 Poland and Lithuania adopted preventive measures restricting the marketing of pigmeat in the affected areas. The two countries subsequently notified to the Commission significant price reductions and market disruption in those areas, caused by these restrictions. As a consequence, two Article 220 measures were adopted in March and April 2014, authorising the two countries to provide aid for slaughtering certain animals in a predefined period, and under specific conditions[52].

In response to new outbreaks of ASF in Poland which resulted in losses for producers, an Article 220 measure was adopted in April 2017. Poland was allowed to grant aid to producers for slaughtering certain animals, under specific conditions[53]. Exceptional aid under similar conditions was also granted in September 2017 to smallholdings of pigs with an Article 221 measure to prevent these smallholdings from ceasing production and to alleviate the cost to them of complying with the national measures[54].

3.5.2 Avian flu

Between 2014 and 2023, several outbreaks of avian flu took place in Europe, including in Italy, France and Poland. Over time, the three countries notified the Commission that the measures applied to contain and eradicate the spread of the disease led to income losses not eligible for EU financial contributions under the applicable EU legislation[55] for operators in the eggs and poultry-meat sectors. As a consequence, the Commission adopted 11 measures

[49] See above, OJ L 180, 17.7.2023, p. 21.
[50] OJ L 199, 9.8.2023, p. 96.
[51] OJ L, 2023/2820, 18.12.2023, ELI: EUR-Lex - L_202302820 - EN - EUR-Lex (europa.eu)
[52] OJ L 95, 29.3.2014, p. 24; OJ L 125, 26.4.2014, p. 64.
[53] OJ L 92, 6.4.2017, p. 41.
[54] OJ L 234, 12.9.2017, p. 1.
[55] Regulation (EU) No 652/2014, repealed by Regulation (EU) 2021/690.

under Article 220 between October 2014 and August 2023, providing for EU part-financing for the expenditure incurred by the three countries to temporarily support their operators located in the zones regulated by the national measures, for specific periods of time, and subject to the submission of eligible applications from them based on *ex ante* checks from the national authorities. The measures lay down: (i) the species affected; (ii) the maximum quantities of products eligible for financing; and (iii) the flat-rate amounts of part-financing and the criteria used to determine those amounts (in some cases, up to fixed maximum levels/amounts of EU part-financing). Since May 2014, the acts clarified that losses suffered should not be compensated by State aid or insurance; and that producers should not have received EU financial contributions for the same losses under other relevant EU Regulations[56].

3.6 Other

In the interest of market stability (either at EU level or within the sectors affected), or to avoid a rapid fall in the production of specific products, three more Article 221 exceptional measures have been adopted to address specific problems.

An Article 221 measure was adopted in July 2019 to provide exceptional aid to farmers in the beef and veal sector in Ireland. The measure was prompted by the potential impact of the United Kingdom's (UK) withdrawal from the EU, as the UK was a significant export market for Irish beef and veal. To support farmers in adjusting their production and finding new markets, Ireland was allocated a total of EUR 50 million to support farmers. National top-ups of up to 100% were allowed[57].

A derogation to the support programmes in the wine sector was introduced through an Article 221 measure in January 2020. The measure aimed to respond to the imposition of import duties by the US on EU wines from certain countries, adopted by the US as a countermeasure to the EU subsidies to Airbus and following a WTO arbitration decision. The measure allowed for more flexible implementation of promotion measures in the wine sector and higher rates for EU contributions[58].

Derogations to the operational programmes in the Italian fruit and vegetable sector were also adopted in March 2020 through an Article 221 measure. The measure aimed to support POs affected by the stink-bug infestation in certain regions of Italy and help them cope with the pest, since no eradication measures could be taken at EU level, under the applicable EU law. The thresholds for EU assistance for crisis prevention and crisis management measures were increased to achieve these objectives[59].

4. Final remarks

The measures discussed in this report show that the legal toolbox for exceptional measures introduced by the 2013 reform provides flexibility for tackling various types of crises. It therefore constitutes significant progress compared with the legal situation that prevailed before.

[56] OJ L 295, 11.10.2014, p. 51; OJ L 126, 14.5.2016, p. 63; OJ L 43, 21.2.2017, p. 196; OJ L 46, 20.2.2018, p. 1; OJ L 255, 11.10.2018, p. 1; OJ L 255, 11.10.2018, p. 7; OJ L 206, 6.8.2019, p. 12; OJ L 273, 20.8.2020, p. 1; OJ L 317, 9.12.2022, p. 56; OJ L 105, 20.4.2023, p. 2; OJ L 202, 14.8.2023, p. 8.
[57] OJ L 179, 3.7.2019, p. 20.
[58] OJ L 27, 31.1.2020, p. 20.
[59] OJ L 98, 31.3.2020, p. 26.

Politically, exceptional measures are generally well received. This is confirmed by the broad support expressed when proposing – or after adopting – the related acts at Council and European Parliament level, as well as in comitology procedures. The use of these exceptional measures demonstrates solidarity by the EU and its Member States. In this context, the following remarks concerning the rationale for the adoption of these measures, their design, and the financial aspects of these measures deserve consideration.

4.1 Rationale for adopting exceptional measures

Exceptional measures have been adopted to address clear policy objectives, as illustrated in the recitals of the acts, and address exceptional situations liable to negatively impact agricultural markets. These measures have been implemented in consistency with those policy objectives. The concept and place of the exceptional measures in the CMO Regulation suggest that they are means that should be deployed exceptionally in response to specifically challenging situations liable to negatively affect the agricultural markets.

The use of the exceptional measures shows that they have been mainly used to help farmers in relation to the damages they suffer as a consequence of market disturbances or issues with animal or plant health. They have also, albeit less frequently, helped farmers to address the negative impacts of extreme adverse weather events on their economic returns. In the event of low prices, additional tools that have been used include aid for private storage to try and prop up prices and public intervention buy-ins, as happened in 2014-2016 for SMP.

4.2 Design of the exceptional measures and implementation aspects

The spectrum of exceptional measures adopted so far, and the wide variety of circumstances these measures have responded to, show that market disturbances are often of a multidimensional and unpredictable nature and therefore require ad hoc and targeted responses.

Exceptional measures have overall proven to be effective in addressing stakeholders' needs to cope with crises[60]. The timely deployment of EU support provides a clear sign of public authorities' care, expresses European solidarity and has positive impacts on market sentiment in the agricultural sector.

The European Court of Auditors (ECA) has recommended that the Commission define *ex ante* objective parameters and criteria which would act as thresholds for determining when a market disturbance arises, and an exceptional measure is to be triggered[61]. However, defining *ex ante* triggering thresholds is extremely difficult given the variety of crises and related impacts. It would impose constraints on the measures and might prevent the tabling of responses tailored to the variety of situations that agricultural markets are experiencing. The absence of *ex ante* parameters has not prevented policymakers from designing measures that are based on a careful assessment of the specific market situation at hand.

Having said this, the ECA has mentioned in special reports[62] issues related to possible overcompensation of farmers benefiting from the measures or deadweight effects due in part

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[60] European Commission, Directorate-General for Agriculture and Rural Development, Improving crisis prevention and management criteria and strategies in the agricultural sector – Final report, Publications Office, 2020, https://data.europa.eu/doi/10.2762/650110.

[61] ECA Special Report 23/2019: Farmers' income stabilisation: comprehensive set of tools, but low uptake of instruments and overcompensation need to be tackled, https://www.eca.europa.eu/en/publications?did=52395 and ECA Special Report Special Report 11/2021: Exceptional support for EU milk producers in 2014–2016 - Potential to improve future efficiency, https://www.eca.europa.eu/en/publications?did=58807.

[62] ECA Special Report 23/2019 and ECA Special Report 11/2021.

to ‘moral hazard’ behaviour. Although these risks should not be underestimated, the Commission has increasingly factored them into the design of the regulations[63].

Similarly, the use of exceptional measures should not crowd out incentives for farmers to manage their own risks by resorting to sustainable agronomic and livestock breeding practices, and adopt appropriate risk-management tools and strategies, including those aimed at coping with natural disasters the occurrence of which is increasing over time with climate change. Although the purpose of this report is not to assess choices in this respect (including the choices set out in the Strategic Plan Regulation and the Member States’ CAP strategic plans), it illustrates the importance of ensuring policy coherence among different tools at national and EU level in the future.

From an implementation perspective, measures adopted pursuant to Article 222 CMO try to either achieve a dampening effect on supply or manage supply at the stage of production. Although in so doing such measures aim to prevent possibly more costly *ex post* compensation in the faces of threats of market disturbance, these measures can be subject to collective action challenges. Experience shows that the effectiveness of Article 222 of the CMO Regulation, under which agreements are not mandatory for the parties who do not wish to participate, may be hampered by potential free-riding concerns.

4.3. Financial aspects

The establishment of the ‘agricultural reserve’ in 2023, and its differentiated financing arrangements compared with the earlier ‘crisis reserve’, have made the budgetary availabilities for exceptional measures more predictable. The use of ‘financial discipline’ to constitute the crisis reserve limited the attractiveness of the crisis reserve, because Member States were reluctant to reduce direct payments to all farmers as the ‘price to pay’ for exceptional measures. The focus was on mobilising budget that would not impinge on direct payments. For this reason, measures were financed from sources other than the crisis reserve wherever possible. Having said this, pressure on the EU budget as well as competing needs led to uncertainty about the continued availability of such alternative sources for the financing of exceptional measures. The current budgetary configuration of the agricultural reserve has overcome these constraints. However, despite this increased flexibility, the new reserve remains subject to the annuality of the EU budget. Having regard to the large magnitude of impacts and damages generated by market crisis or natural disasters of a major scale, the agricultural reserve represents, despite its limited size, one of the means to alleviate the situation of farmers.

The experience gained with the use of the exceptional measures, including those funded under the new agricultural reserve, will be instrumental in informing future policy reflections. In this regard, options for addressing potential shortcomings in the design and use of these measures will be examined in the preparation of the future post-2027 common agricultural policy.

[63] For recent examples, Regulation 2023/1225, Regulation 2023/1343 and Regulation 2023/1465.