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Designing an effective agri-environment-climate policy as part of the post-2020 EU Common Agricultural Policy

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Designing an effective agri-environment-climate
policy as part of the post-2020 EU Common
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Designing an effective agri-environment-climate policy as part of the post-2020 EU Common Agricultural Policy

cite as:

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Summary

The European Union is facing huge environmental and climate-related challenges. Greenhouse gas emissions, biodiversity losses, ammonia emissions and continuing excessive nutrient loads in water bodies demand a much more targeted and consistent agri-environment-climate policy than has hitherto been the case. Agri-environment-climate policy measures to date – including within the Common Agricultural Policy (CAP) – have not sufficiently reduced the environmental pollution caused by agriculture.

In its 2018 draft regulations, the European Commission proposes a “new delivery model” for the post-2020 CAP. This model shifts responsibility for policy-making towards member states and strives for greater “results orientation”, offering member states the possibility of implementing the CAP to focus much more on the public good. Under these legislative proposals, the EU will in future only specify the objectives and broad types of interventions, leaving member states to quantify targets and design the specific measures. To that end, each member state will produce a national strategic plan for its entire territory in which measures in Pillars 1 and 2 of the CAP are jointly programmed. This plan is to be submitted to the European Commission for approval.

Three policy tools are envisaged in the design of the CAP’s “green architecture”: the “conditionality” of direct payments; the new so-called “eco-schemes” in Pillar 1; and environmental and climate-related regulations in Pillar 2 (AECM II). These three policy tools combined offer member states much greater leeway than they have had in the current funding period (2014-2020). In Germany this requires more extensive coordination between the Federal Government and German states.

The Advisory Board’s conclusions on the legislative proposals submitted by the European Commission are mixed. Member states are being offered new opportunities to implement targeted agri-environment-climate measures, but the scope they are being given is so broadly defined that it is possible for their agri-environment-climate policies to be relatively unambitious and continuing to focus on income support. The Advisory Board recognises a risk of a race to the bottom in terms of the level of ambition of agri-environment-climate policy if the European Commission, which is the impetus behind it, does not apply more ambitious budgetary provisions or stringent criteria for the approval of national strategic plans. Whether a challenging, targeted and efficient agri-environment-climate policy is developed or member states stick with the status quo of agricultural aid primarily depends on their political will to take action.

In the present report, the Advisory Board evaluates the legislative proposals for their potential to produce a targeted agri-environment-climate policy, and offers suggestions for an effective national design of this policy area as part of the CAP’s “new delivery model”. The Advisory Board also gives details of its April 2018 recommendation to gear the post-2020 CAP more towards serving the public good (WBAE 2018).

To design an effective agri-environment-climate policy as part of the post-2020 CAP, the Advisory Board makes the following recommendations for the Federal Government and in part for state governments:

- I) **Clearly identify agri-environment-climate policy issues and operationalise objectives.** (1) Based on the issues identified, prioritise objectives; (2) state the contribution the CAP should make to achieving national environmental and climate action plans; and (3) support the interpretation of target income according to the case law of the European Court of Justice, thus focusing the CAP on safeguarding agriculture's social functions.
- II) **Specify and gradually increase the minimum budget shares for agri-environment-climate protection.** For national implementation: (1) spend at least 30 % of the sum from direct payments and EAFRD funds on agri-environment-climate action objectives from the start of the new funding period; (2) increase this budget over ten years so that 100 % of Pillar 1 funds are available for ambitious eco-schemes, AECM II or animal welfare measures; (3) communicate this change in premiums in good time; (4) if eco-schemes are oversubscribed, reduce the basic premium ("basic income support for sustainability"); and (5) reallocate more funds from Pillar 1 to Pillar 2 as early as 2020. **Furthermore, at EU level, support:** (6) the complete removal of the basic premium over ten years; (7) the possibility of the basic premium being co-financed nationally; (8) a distribution of funds between member states in line with the challenges faced and added value to Europe; and (9) the stipulation that all member states spend at least 30 % of the sum from direct payments and EAFRD funds on agri-environment-climate objectives.
- III) **Establish specific budgets at EU level for biodiversity and moor preservation across member states.** At EU level, lobby for: (1) the establishment of specific EU budget shares for the Natura 2000 network and moor preservation (as a pilot project); and (2) the implementation across the EU in the medium term of a specified minimum percentage of extensively farmed land at regional level for species and biotope protection.
- IV) **Replace blanket cross-compliance of direct payments with "specific conditionality".** (1) Minimise the conditionality requirements for individual farms in the CAP strategic plan and instead programme targeted, ambitious and well-funded eco-schemes and AECM II; (2) enshrine selected funding regulation standards in regulatory law to maintain land in a good agricultural and environmental condition (GAEC); and (3) from a certain subsidy amount, place beneficiaries under an obligation to receive advice or undergo individual farm sustainability checks.
- V) **Reinforce constitutional and target conditionality.** In EU negotiations, support the introduction of: (1) a sliding scale of constitutional conditionality; and (2) the implementation of binding target conditionality across the EU as part of the CAP strategic plans.
- VI) **Overhaul the CAP's performance framework.** In EU negotiations support: (1) a closer alignment of the reported indicators and objectives; and (2) the simplification of reporting.

- VII) **Clearly state the requirements for approval of the CAP strategic plans, thus increasing transparency and planning predictability.** In negotiations at EU level, support: **(1)** the stipulation of minimum requirements in terms of the ambitiousness of eco-schemes; **(2)** timely public access to member states' strategic plans; and **(3)** maximum inclusion of requirements in the basic legal instruments and not in the form of implementing acts or delegated legislative acts.
- VIII) **Design targeted and efficient eco-schemes.** **(1)** In the national strategic plan, programme measures that are of interest nationwide and have been formulated for the relevant objectives; **(2)** design and reward measures differently by location; **(3)** differentiate efficiently between eco-schemes and AECM II, and create targeted combination options; **(4)** exclude eco-scheme payments from capping or degression.
- IX) **Open up eco-schemes to animal welfare measures and develop animal welfare support.** At EU level, support: **(1)** the ability of member states to compensate for some of the costs incurred by increasing regulatory animal welfare standards considerably above the EU average with state payments within the scope of the European Agricultural Guarantee Fund (EAGF) or the European Agricultural Fund for Rural Development (EAFRD); **(2)** open up eco-schemes to non-investment animal welfare measures that can be linked much more effectively to the number of animals than to the eligible area. **For national implementation:** **(3)** considerably increase the use of funds for animal welfare funding; and **(4)** make use of opportunities to appropriate funds within the Joint Task for the Improvement of Agricultural Structures and Coastal Protection if funding does not come from eco-schemes.
- X) **Increase the focus of Pillar 2 agri-environment-climate measures on objectives by means of innovative incentive mechanisms.** **(1)** Test incentive tools for improved spatial steering of agri-environment-climate activities in practical applications; **(2)** develop programmes for results-based reward of environmental and climate performance; **(3)** do not stand in the way of a shift towards a more targeted agri-environment-climate policy by using the argument of higher administration costs.
- XI) **Improve the institutional prerequisites for collectively organised agri-environment-climate protection.** **(1)** Examine the extent to which elements of the Dutch system of collective nature conservation arrangements could also be applicable in Germany; **(2)** improve the institutional prerequisites for the implementation of collective models of environmental and climate action; **(3)** in pilot projects in the current finance period, support the grouping of relevant local actors into "biodiversity-generating communities".
- XII) **Revise the definition of subsidy beneficiaries and eligible land.** At EU level, support: **(1)** the eligibility of all land managers who perform agricultural activities within the scope of Pillar 1; **(2)** the expansion of the definition of "agricultural activities" to include paludiculture in the draft CAP strategic plan regulation; and **(3)** the expansion of the definition of "permanent grassland" in the draft CAP strategic plan regulation so that member states can distinguish "permanent grassland" on a particular qualifying date. **For national implementation:** **(4)** make as much use as possible of the freedom to encourage high-quality nature conservation-related management and care of non-forest areas through Pillar 1.

In conclusion, the WBAE wishes to stress that the legislative proposals submitted by the European Commission in 2018 for the post-2020 CAP offer member states much greater leeway in the design and implementation of a targeted policy than is currently the case. Although the proposals offer an opportunity to design an ambitious, well-funded CAP focused on objectives that serve the public good, there is still a risk that individual member states could use the new freedoms primarily to continue pursuing an income policy for the sector rather than focus on overarching social objectives. This is all the more reason for Germany to support restricting the scope available to all member states to design an unchallenging agri-environment-climate policy. At the same time, in its national implementation, Germany should make use of the new design opportunities available to gradually move the CAP away from its focus on income and align it consistently with objectives that serve the public good, focusing in particular on the environment, climate action and animal welfare. If this necessary realignment of the CAP is delayed, the issues that need to be addressed will become even more urgent and the requirement to adapt operations even greater – resulting in additional adaptation costs. A CAP that focuses on the public good would help agriculture cope with the challenges that lie ahead, secure social acceptance of the CAP in the long term, and thus create reliable framework conditions for agricultural policy for the next decade and beyond.

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List of abbreviations

AFP	Agricultural Investment Funding Programme
AKIS	Agricultural Knowledge and Information System
AECM II	Agri-environment-climate measures in Pillar 2
BL	Basic Law (Grundgesetz)
BMEL	Federal Ministry of Food and Agriculture
CA	Compensatory allowance
CAP	Common Agricultural Policy
CB	Certification body
CF	Cohesion Fund
DVL	German Association for Landcare (Deutscher Verband für Landschaftspflege)
EAFRD	European Agricultural Fund for Rural Development
EAGF	European Agricultural Guarantee Fund
EC	European Community / European Communities
EEC	European Economic Community
EMFF	European Maritime and Fisheries Fund
ERDF	European Regional Development Fund
ESF	European Social Fund
EU	European Union
FFH	Flora-fauna-habitat
GAEC	Good agricultural and environmental condition
GAK	Joint Task for the Improvement of Agricultural Structures and Coastal Protection (Gemeinschaftsaufgabe zur Verbesserung der Agrarstruktur und des Küstenschutzes)
GHG	Greenhouse gas
IACS	Integrated Administration and Control System
LANA	Federal Government/States Working Group for Nature Conservation, Landcare and Recovery (Bund-Länder-Arbeitsgruppe Naturschutz, Landschaftspflege und Erholung)
LIFE	Funding Instrument for the Environment (L'Instrument Financier pour l'Environnement)
LU	Large animal unit
MC	Monitoring committee
MFA	Main forage area
NGO	Non-governmental organisation
RCAU	Roughage consuming animal unit
SEA	Strategic environmental assessment
SMR	Statutory management requirements
UAA	Utilised agricultural area
WBAE	Scientific Advisory Board on Agricultural Policy, Food and Consumer Health Protection
WFD	Water Framework Directive

1 Introduction

1. The origins of the EU's current agri-environment-climate policy lie in the 1980s when the EU² Parliament and Council of Ministers issued the first European regulations and directives to limit agriculture's negative environmental impacts, prompted by the growing negative external effects of intensification in land use and livestock farming. In addition to regulatory approaches, measures were offered in Germany in the 1980s and in the EU in the early 1990s for the extensification of agricultural production. This approach, which was based on voluntary participation and financial compensation, laid the foundation for contractual environmental protection measures introduced across the EU in Regulation 2078/92 on agriculture and the environment.³

2. As part of the Fischler Reform, another environmental tool was introduced in the CAP in 2003 in the form of cross-compliance, which tied the receipt of direct payments motivated by income policy to compliance with certain standards (including those related to the environment). The Ciolos CAP reform in 2013 supplemented cross-compliance. Farmers only receive part of the direct payments, known as the greening premium, if they implement measures on their farms from an EU-wide package of measures. Under the Ciolos reform, climate action was enshrined as an objective of the CAP for the first time.

3. Today's agri-environment-climate policy therefore comprises a mix of tools that have evolved historically out of regulatory requirements, funding regulation standards, and support for environmentally and climate-friendly production methods in which farmer participation is voluntary. While regulatory rules constitute the minimum standard for conserving various environmental media and protected resources, the aim of some of the so-called GAEC (good agricultural and environmental condition) standards in cross-compliance, funding regulation standards in greening, and particularly also voluntary agri-environmental schemes, is to achieve higher levels of protection.

4. In the opinion of the Scientific Advisory Board on Agricultural Policy, Food and Consumer Health Protection (WBAE), the various regulations and programmes introduced in this policy area over the last few decades have brought European agriculture more into line with society's demands. However, the Advisory Board is concerned that in many areas environmental policy objectives are still far from being adequately achieved and that in some problem areas, particularly the decline in biodiversity, a clear trend reversal is still a long way off. This means there is a need for further political action (cf. WBA et al. 2013, WBA 2015, WBAE & WBW 2016).

5. The Advisory Board sees a considerable requirement for action in the development of a consistent and coherent climate policy for the agriculture and forestry sector, including the areas of food and wood use (WBAE & WBW 2016). The Federal Government's ambitious climate goals (to reduce greenhouse gas

² In this report, the term EU (European Union) can also refer to the terms EC (European Community or European Communities) and EEC (European Economic Community).

³ The promoted extensification was also to contribute to "an improved market balance" by reducing production (Article 1, Council Regulation (EEC) No 2078/92).

emissions by between 80 % and 95 % by 2050 compared to 1990 levels) can only be achieved if the agricultural sector also makes a significant contribution to reducing emissions.

6. In view of these challenges and their associated costs, the Advisory Board is persuaded that the policy area of agri-environment-climate protection should feature more prominently in the future CAP (WBAE 2018). First this would require developments in and consistent enforcement of regulatory law. In particular the regulatory standards of good professional practice should be reviewed against the backdrop of new scientific findings and technological advances. Although not yet currently widely implemented, precision farming and digitisation could facilitate compliance with higher basic standards in terms of nutrient surpluses at a lower cost than has previously been the case. Second, agri-environment-climate protection should be better funded through a gradual reduction in direct payments and the reallocation of funds to support general interest services (WBAE 2018). Third, improvements should be made within the policy area. Better coordinated policy instruments and the smart application of innovative steering mechanisms, particularly in contractual nature conservation measures, can significantly increase the effectiveness and efficiency of agri-environment-climate policy in the CAP.

7. The transformation of agri-environment-climate policy should be part of a strategy to refocus the CAP, the main features of which have been outlined in the WBAE's report on the post-2020 CAP (WBAE 2018). The challenge lies in designing this policy area in such a way that the desired objectives are achieved as efficiently as possible, while the economic opportunities presented by the "production" of environmental and climate change performances are opened up to farmers. In its report (WBAE 2019), the Advisory Board argued for administration to be simplified. This should be targeted at reducing the part of the administrative burden at EU, member state and beneficiary level where an appropriate contribution is not made to the objectives of the CAP. The transformation of agri-environment-climate policy should contribute to fulfilling the EU's environmental and climate objectives. This could also involve additional administrative and advisory costs, but these should be proportionate to the contribution to the achievement of objectives.

8. The legislative proposals on the post-2020 CAP published in June 2018 by the European Commission envisage a "new delivery model" (COM 2018a). The model strengthens subsidiarity by shifting responsibility for policymaking more towards member states. They have to develop national strategic plans that relate to the entire territory, but may also include elements with a regional dimension. These can be used to give due consideration to natural conditions in the region and to the preferences of local people. The strategic plans must also be consistent with the CAP's overarching objectives. Three policy instruments are of central importance to agri-environment-climate policy: conditionality, eco-schemes⁴ and regulations in Pillar 2 relating to protecting the environment and climate, particularly "environmental, climate and other management commitments" (Article 65 of the draft strategic plan regulation), simplified below as agri-environment-climate measures in Pillar 2 (AECM II). Particular importance can also be attached to opportunities for reallocating funding from direct payments to Pillar 2.

⁴ Eco-schemes are environmental schemes and should not to be confused with organic farming regulations.

9. This report first offers a critical appraisal of current practice in agri-environment-climate policy within the CAP (Section 2). Building on this, fundamental consideration is given to designing this policy area more efficiently. The focus here is on innovative governance structures as well as alternative contractual arrangements that should make the measures more targeted while underpinning farmers' business momentum in the provision of environmental public goods (Section 3). The fourth section discusses the issues that arise in designing agri-environment-climate policy as part of the CAP's new delivery model, taking the specifications in the legislative proposals into account. This is not about coming up with a "finished" blueprint for this policy area, but rather about developing criteria and guidelines for the design of the CAP's so-called "green architecture". Section 5 contains recommended actions for policymakers.

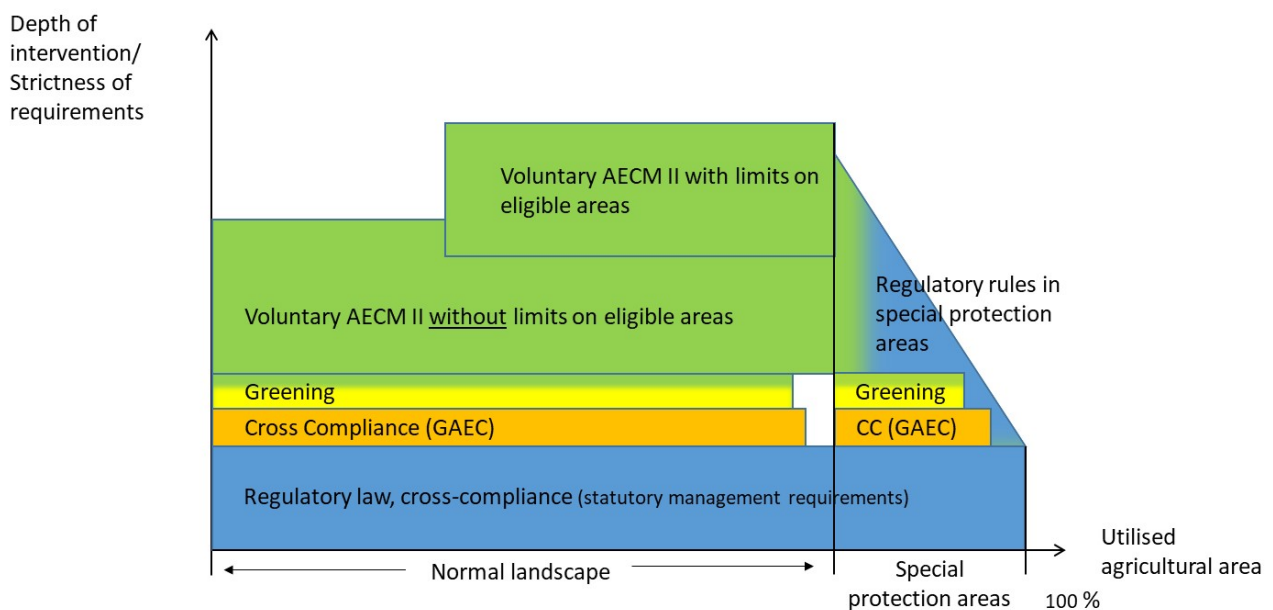
10. In line with the main remit of the Advisory Board, the recommendations in this report are directed primarily at Germany's Federal Government, particularly at decision-makers in the Federal Ministry of Food and Agriculture (BMEL). The recommendations relate both to the national design of this policy area and to changes to the legislative proposals that the Federal Government should, in the Advisory Board's opinion, support in ongoing negotiations with the European Commission. The recommendations are also intended for state governments and the state ministries responsible for implementing Pillar 2.

2 Critical appraisal of current agri-environment-climate policy within the CAP in Germany

11. This section focuses on the area-based tools that directly address aspects of agri-environment-climate protection within the CAP. Alongside these tools, there are several other support instruments in Pillar 2 that, with the right design, can contribute to the efficient provision of environmental and climate performance through agriculture. These primarily include investment support, collaboration, advice, training and knowledge transfer, including in European innovation partnerships. Many of the following considerations on area-based payments can also be applied to these tools.

12. Figure 1 shows the current architecture of area-based agri-environment-climate policy. The horizontal axis shows the utilised agricultural area of a territorial unit (e.g. a federal state) and the vertical axis shows the depth of intervention, i.e. the strictness of the conditions farmers have to meet.

Figure 1: Diagram of current agri-environment-climate policy



Source: Own illustration.

13. **Regulatory legislation on agriculture** should offer a minimum protection of environmental media and protected resources. This is binding for all farmers equally, and generally features a low depth of intervention. One important exception to this rule at the moment is regulations on protected areas for declared nature and water protection zones, as well as certain types of vegetation that enjoy special regulatory protection (legally protected biotopes and habitat types under the Habitats Directive). In these

areas farmer have to comply with stricter regulatory requirements than is the case in normal landscapes⁵. Generally only actions are prohibited in the practice of regulatory law; no activities are compulsory. Especially in nature conservation, this is often not sufficient to achieve objectives.

14. Within the scope of the social responsibility of ownership, the requirements of regulatory law are generally to be tolerated without being compensated. However, with increased regulatory requirements in designated protected areas, a fairness correction is made in many cases that is designed to take account of the particular impact this has on farmers in protected areas compared to those outside such areas. However, the state is not obliged to do so unless it has imposed an obligation of this kind, as in the Federal Water Act (Article 19 (4)). In Germany only seven federal states offer compensation for difficulties encountered in Natura 2000 areas and no federal state makes compensatory payments under Pillar 2 for areas in the Water Framework Directive (WFD).

15. Regulatory law can only offer comprehensive basic protection of environmental media and protected resources if there are sufficient inspections and if violations are penalised appropriately. In Germany it is up to the federal states to conduct inspections. In specific areas, for example in the implementation of the Fertiliser Act, there are clearly considerable shortcomings in conducting these (WBA et al. 2013). This has contributed to Germany's failure to meet the target in its 2001 sustainability strategy (max. +80 kg N/ha agricultural land/year nitrogen surplus in Germany's overall balance by 2010)⁶, despite a slight downward trend. In their 2013 joint opinion on the amendment to the Fertiliser Law, the Scientific Advisory Boards on Agricultural Policy and Fertiliser Issues at BMEL and the German Advisory Council on the Environment (SRU) called for improved inspection of compliance with the Fertiliser Law and heavier penalties. Indeed the Advisory Board saw the amendment to fertiliser legislation adopted in 2017 as a step in the right direction, although the effectiveness of these regulations in terms of water conservation is still debatable (Taube 2018). Since the European Commission did not consider the 2017 amendment to be sufficient, the Federal Government pledged to the European Commission in early 2019 that it would make further specific changes to the Fertiliser Law. However, these are also not considered adequate by the European Commission. The Advisory Board considers improvements to the Fertiliser Law amended in 2017 to be necessary in terms of water conservation. There is also potential for this to be used to send out the right signals on good professional practice beyond the use of fertilisers (crop rotation design etc.) (Taube 2019).

16. In the specifications, cross-compliance goes beyond regulatory standards, at least in part, in terms of farmers who apply for state income support having to observe increased funding regulation standards on

⁵ Areas that do not have special regulatory protection status.

⁶ In the 2016 edition of Germany's sustainability strategy, the target for reducing the nitrogen surplus in the overall balance for Germany was set at an annual average of 70 kg N/ha agricultural land between 2028 and 2032. This target was carried forward in the 2018 update of the strategy (Federal Government 2018: 35, Indicator 2.1a).

keeping areas in a good agricultural and environmental condition (GAEC) and expecting tougher penalties if there are infringements of regulatory law (statutory management requirements).⁷

17. With statutory management requirements, cross-compliance represents the provision of assistance with regulatory standards, whereby infringements of regulatory requirements are also penalised (if at all) by a threat of cuts to direct payments and member states are obliged to have a minimum inspection level (1 % of farms and land). Only the GAEC standards go beyond regulatory law. These feature, for example, minimum requirements on ground cover or the preservation of the proportion of soil organic matter. Furthermore, it should be noted that cross-compliance is only valid on eligible land (and thus not on all agricultural land) (cf. Fig. 1).

18. In relation to the achievement of environmental objectives, the current design of cross-compliance can deter farms from participating in voluntary agri-environment-climate measures. It is a deterrent in that the inspection rate for farms participating in agri-environment-climate measures is much higher than for those that just receive direct payments. During inspections of agri-environment-climate measures, there are also checks on the relevant elements of cross-compliance. Given the greater intensity of checks, there is a greater probability that infringements will be discovered and consequently prosecuted. Added to this, when violations of cross-compliance regulations are identified, the calculation of the cuts and penalties are hard for most farm managers to understand, which means that from their perspective these are not a calculable risk, but an unpredictable uncertainty.

19. In principle, greening conditions (ecological focus areas, crop diversity and grassland preservation) represent obligations that go beyond regulatory law for farmers who are eligible for premiums. The non-observance of greening conditions does not constitute a failure to comply with applicable law if the farmer has not applied for the greening premium. The decision on this is much more down to the business calculation of each and every farmer. However, in the current greening design, compliance with requirements is the preferred economic choice for almost all farmers (de Witte & Latacz-Lohmann 2014). This explains greening's high geographical penetration. In this context, it has turned out to be a strength that in many cases greening measures are also being implemented by farms in favoured locations.

20. Nevertheless greening as a funding regulation standard in its current design has mostly proven to be ineffective in relation to its environmental benefits (Nitsch et al. 2017, Hart et al. 2017, ECA 2017). This is particularly due to the regulations on crop diversification in practice having virtually no restrictive impact and to measures mainly being implemented in ecologically sensitive areas that make a comparatively small contribution to the objective or have already been implemented before and – as in the case of intercropping – are nothing more than good agricultural practice (Pe'er et al. 2014, 2016, Hart 2015a, b). In principle the same also applies in Germany to the regulations to preserve grassland. Germany lost over 574,000 ha of permanent grassland between 1993 and 2015 (BMEL 2016: 92). As financially and environmentally the remaining areas mostly concern absolute grassland sites that do not allow sustainable alternative economic

⁷ In 2015 the regional requirement to conserve grasslands was transferred from cross-compliance to greening. In some federal states it has been adopted into regulatory law in the form of requirements for authorisations or grassland preservation regulations/laws, and thus strengthened.

arable use, existing grassland should be comprehensively protected by specific legislation (regulatory law), irrespective of funding regulation conditions (WBAE 2018).

21. Agri-environment-climate measures (AECM II) in Pillar 2 of the CAP must go beyond the scope of existing specific legislation and GAEC standards. AECM II in Germany are programmed and implemented by federal states under the principle of subsidiarity. The measures offered address a broad spectrum of environmental and climate protection objectives at various depths of intervention. While some measures (e.g. the promotion of organic farming) pursue several objectives at the same time, others have very specific objectives (e.g. the protection of grassland birds). The depths of intervention range from measures that can be implemented relatively easily by a large number of farmers (e.g. the creation of flower strips) all the way to measures that demand dramatic cutbacks in land management and operations (e.g. rewetting of grassland). Some AECM II are offered on all agricultural land in a federal state without limits on eligible areas, while others are only offered in selected areas.

22. Most of the AECM II currently offered in Germany are pursuing an activity-oriented support approach where land use is regulated by bans and requirements geared to the respective protection goals. In return participants receive what is generally an area-based premium, the amount of which is geared to a benchmark farm's participation costs. For the most part, the amount of the premium is the same for all participating farmers. This kind of payment therefore involves a standard cost compensation that, as legislation stands, may be topped up by a transaction cost surcharge of up to 20 % of participation costs (30 % with group applications). Not all federal states are making use of the opportunity to give subsidies for transaction costs in the current funding period.

23. The standard model of AECM II has frequently been criticised from an economic and environmental perspective. There are two main points of criticism:

- a) **It fails to take account of the heterogeneity of farms and local conditions:** As AECM II participation costs vary from farm to farm, a standard premium leads to some farms being considerably overcompensated, while for others the premium does not create enough of an incentive. The latter primarily concerns favoured locations of agricultural production and regions with a high density of pigs and poultry, where classic extensification measures encounter very limited acceptance because the opportunity costs of land use are too high.
- b) **It offers no incentives for entrepreneurial activity:** With activity-oriented payment, farmers have no personal financial interest in producing the best possible environmental outcome. This means that they are not that anxious to strive as hard as they can to achieve objectives through entrepreneurial activity. Given the excellent knowledge most of them have of the natural circumstances on site, with the right training farmers could improve environmental outcomes through appropriate activities. Activity-oriented payment does not exploit the potential of this on-site information. In contrast, each independent activity that deviates from contractually agreed requirements could be construed as a violation of funding conditions by farmers, with sanctions applied accordingly. See Section 3.4 for the limits of a results-based payment.

24. The dividing lines between the individual tools depicted in Figure 1 are not clear-cut (as shown by the overlapping colours). Thus greening and AECM II overlap, which means that voluntary AECM II (e.g. flower strip schemes) can also be implemented on land declared as ecological focus area. There are similar overlaps in the interaction between increased regulatory standards in special protection areas and voluntary AECM II: in most special protection areas with increased regulatory standards, AECM II measures are offered that comprise the higher standards and have other protective measures attached to them.

25. The overlaps between individual tools makes it harder to programme, manage and inspect measures. This particularly applies to the interfaces between greening and AECM II. A particular challenge in programming them is to avoid situations of double payments. In order to keep administrative costs in check, it is possible to manage with blanket cuts to AECM II premiums when the required measures are implemented on land that is also being used to meet greening obligations. Equally the premium calculation for voluntary AECM II in special protection areas should theoretically take into account the higher regulatory requirements there (as well any fairness correction paid) in order to satisfy the stipulation that participating farmers can be compensated for additional costs.

26. In summary, the programming and management of agri-environment-climate policy could be simplified by differentiating clearly between individual tools. The overriding objective should be to design measures in a more targeted and efficient way, coordinate the individual tools more effectively, and make participation more attractive for farmers. Reflections on this are presented in the first instance in Section 3, while Section 4 gives guidelines for developing this policy area within the context of the legislative proposals on the CAP's development.

3 Reflections on the development of agri-environment-climate policy as part of the CAP

3.1 Blanket cross-compliance of payments versus targeted payments for agri-environment-climate action

27. In addition to tightening regulatory law, greater environmental and climate protection can be achieved in the CAP by three fundamentally different approaches. Two of these three approaches address the final beneficiaries of the payment, therefore generally the farmer. The first approach links direct payments, which are currently motivated by income policy, more than before to conditions to protect the environment and climate that are applicable to farmers (individual farm cross-compliance). The second makes provisions for a financial strengthening and more effective design of voluntary agri-environment-climate measures, in the manner of how they are currently implemented in Pillar 2. The third approach, however, compels the member state to discharge its duty and ties the payment of CAP funds to the demonstrable fulfilment of requirements on content defined by the European Commission (target conditionality at member state level). These three basic options are explained below.

28. **Cross-compliance of direct payments on individual farms:** In principle, cross-compliance of direct payments is suitable in cases where an individual's intervention has irreversible (or at most long-term reversible) consequences (e.g. removal of a landscape feature) or where relatively considerable damage can be caused by an individual's misconduct (e.g. unplanted fallow land on a sloping surface at considerable risk of erosion). However, with interventions that, at most, have consequences that can be reversed in the long term, regulatory law per se should be designed and implemented in such a way that effective compliance does not need the possible additional penalty of a cut in direct payments.

29. A fundamental problem with more cross-compliance in direct payments at farm level comes with the lack of congruence between a financial incentive and the costs of providing environmental benefits, since the costs of providing them clearly differ between farms and standard area-based direct payments can be differentiated at regional level if need be. From the perspective of environmental and climate protection, this problem would be exacerbated by differentiating geographically between the conditions that need to be met in order to receive direct payments. Simultaneously tightening conditions and reducing the amount of direct payments could lead to farms with high adjustment costs to voluntarily give up receiving direct payments. This would be the case if the additional costs associated with the conditions exceeded the amount of the direct payments, with the risk that direct payments tied to more conditions would lose their leverage effect for environmental and climate protection. This is to be expected particularly in regions that are characterised by high area-based added value (regions with special crops or focusing on intensive livestock farming). This would jeopardise the expectation frequently associated with conditional direct payments of taking environmental protection "onto farmland".

30. A regional differentiation in conditions for direct payments would also be accompanied by administrative challenges. In particular, exclusion from double payments would only be possible if the payment from AECM II were to match the region-specific design of conditions for direct payments.

31. Finally cross-compliance of direct payments on individual farms carries the risk of being used strategically in arguments for retaining direct payments. This is worrying if the conditions are not proportionate to the amount of the direct payments, as is currently the case with cross-compliance and greening.

32. **Voluntary agri-environment-climate measures:** Compared with conditional direct payments, agri-environment-climate measures with voluntary participation have the advantage of allowing differentiation in the type and severity of the contractual conditions and the amount of the payment. Differentiation can take different natural conditions, different farm types and different participation costs into account. Furthermore, incentives for the spatial coordination of environmental protection activities can be provided or certain schemes only offered in eligible areas where an especially high environmental benefit can be expected. The greater ability to differentiate and inspect measures compared with conditional direct payments means the desired aims are achieved more effectively and efficiently.

33. One disadvantage of this tool is its potentially greater administrative burden. Blanket conditions linked to the receipt of direct payments are mostly easier to monitor for compliance than the complex requirements of voluntary agri-environment-climate measures that may differ between farms and natural conditions. It is the Advisory Board's view that the additional administrative burden may, however, be justified in many cases if there is a greater achievement of objectives (cf. among others Armsworth et al. 2012, Fährmann & Grajewski 2013, Fährmann et al. 2015: 222 et seq.).

34. **Target conditionality at member state level:** A distinction is to be made between cross-compliance of payment at beneficiary level and target conditionality at member state level whereby the European Commission stipulates quantitative requirements for the condition of certain environmental goods at member state level.⁸ There is target conditionality of this kind in the current funding period, for example quantitative preservation of grassland primarily regulated on a national and regional level.

35. The establishment of environmental requirements at member state level would have the advantage of the member state being able to choose efficient methods, for example an appropriate tightening of regulatory law (e.g. with grassland conservation). However, it is conceivable that there could be cases where funding instruments are predominantly used or a combination of funding instruments with regulatory stipulations (e. g. with regard to the protection of carbon-rich soil).

36. Owing to the greater flexibility in the choice of means to achieve objectives, the Advisory Board considers target conditionality at member state level to generally be more effective and efficient than individual farm conditioning of direct payments by means of EU-wide standard management requirements. This particularly applies to measures or conditions where a contribution towards achieving the objective

⁸ Another form of conditionality at member state level comes in the form of "constitutional conditionality". Here the European Commission ties the allocation of CAP resources to individual member states and regions to the existence and functionality of national management and coordination systems. This occurs in the current CAP in the form of specific EU requirements as to how the management system is designed in order to check that payments are legitimate. It is the Advisory Board's view that a development of "constitutional conditionality" is to be welcomed (cf. WBAE 2019 and Section 5.5 of the present report).

does not have to be made by every individual farm (e.g. landscape diversity). The stipulation of quantitative objectives for the condition of certain environmental goods within the context of target conditionality would also have the advantage of limiting the much-feared “race to the bottom” in terms of the ambitiousness of agri-environmental policy within the EU.

37. The term “race to the bottom” is frequently used when making an international comparison of environmental standards or tax rates: there is an incentive for nation states to have the minimum environmental standards or corporate tax rates in order to relocate as much economic activity to their national territory as possible.⁹ A race to the bottom between member states in terms of the ambitiousness of agri-environmental policy could be achieved through incentives to: i) implement the regulatory framework of the EU (the Nitrates Directive, the NERC Directive etc.) with the minimum commitment; ii) implement minimum GAEC standards as basic conditionality; and iii) generate maximum deadweight effects in the promotion of particularly environmentally-friendly production processes. As decoupled direct payments barely offer any production incentives and thus hardly distort the market, from a competitive economic perspective this is only problematic to a limited extent if individual member states continue to tie up high budget shares for these payments. However, high direct payments largely paid unconditionally in some member states could make it harder for others to see off interest groups in the profession and introduce targeted payments because farmers elsewhere “get money more easily”, consequently leading to a generally lower level of ambition.

38. In summary, the Advisory Board reiterates its view that environmental and climate protection at farm level can be achieved much more productively by programming targeted AECM and effective regulatory law than through greater cross-compliance for direct payments. Against this backdrop, in its report on the future of the post-2020 CAP, the Advisory Board has argued for a gradual reduction in direct payments, cross-compliance and greening, and for a reallocation of funding to targeted measures (WBAE 2018). The associated loss of any leverage effect from direct payments in favour of environmental and climate protection must be absorbed by the appropriate development and consistent enforcement of regulatory and specific legislation (development of monitoring systems, adjustment in the level of sanctions etc.). In this context, the Advisory Board believes it sensible for binding, quantitative targets relating to the condition of the agricultural landscape nationally and regionally to be established at European level.

3.2 Financing principles

39. The European Agricultural Fund for Rural Development (EAFRD) is currently the central instrument for funding agri-environment-climate action at EU level because, due to its design, the financially more significant greening only has a small impact on the environment. The EAFRD is used to support measures-based, area-based and investment-based plans for environmental and climate action (alongside other objectives). In Germany, an average of 1.35 billion euros per year is available from the EAFRD (including

⁹ Environmental standards and tax rates are just two of many other factors that determine the relocation of internationally mobile companies. The quality of infrastructure and public services (education, advice, public administration), political stability and social acceptance also play a major role here.

funding transferred from Pillar 1) for the financial period from 2014 to 2020. This is supplemented by national co-financing funds to the tune of around 0.7 billion euros annually (BMEL 2015).

40. **Allocation of the EU agricultural budget** (and consequently also of the EAFRD) to member states has evolved historically. The distribution of direct payments in particular has arisen from historical output per area unit and numbers of livestock, and from the negotiating skills of the member states that joined after 2000. The distribution of EAFRD funds is the result of the importance of agricultural sectors to land areas and employment, as well as to the per capita income in member states, and is also subject to strong country-specific influences (Grethe 2008: 202f.). In Germany the distribution of EAFRD resources to federal states is inversely proportional to the amount of the direct payments per hectare before they were decoupled (2005). This has led to marked differences between federal states.

41. The current funding allocation (both from the EU to member states and within Germany) is therefore only focused to a limited extent on current challenges in the areas of agri-environment-climate protection, animal welfare and other social requirements (WBAE 2018). The Advisory Board is convinced that in the medium to long term, the aim should be to allocate funding between member states in a way that is geared to the tasks required and their added value to Europe (WBAE 2018: 64). Within Germany, from the start of the next funding period, the allocation of funds should be geared much more to the challenges it faces (cf. Conference of Agricultural Ministers, 4 November 2013, agenda item 7).

42. The Advisory Board is aware that it will be hard to achieve political consensus on such extensive reform in the allocation of funding between member states. It recommends that in current and future budget negotiations the Federal Government lobbies hard for a reform of this kind (see Section 5.2). The transition from the principle of funding allocation that has evolved historically, primarily to protect vested rights, towards a principle of informed resource allocation could be undertaken as a phased process over several years. Specific opportunities for this are discussed in Section 3.3.

43. In principle the Advisory Board considers it sensible for all measures to be co-financed nationally. This also comprises direct payments, which are largely granted without conditions being imposed and in the Advisory Board's view should be gradually abolished. If income support through direct payments is so important to a member state that the co-financing funds for it are no longer available to achieve other objectives (education, climate action, social policy etc.), then co-financing reflects the "true" shortages in national funds.

44. The Advisory Board is of the view that the co-financing share should be geared to the measure's added value to Europe and the economic strength of the respective member state. In principle, in the view of the Advisory Board, 100 % EU financing would be justified for climate action and for certain biodiversity programmes (e.g. Natura 2000). Climate action and biodiversity conservation are responsibilities that go across member states and ultimately benefit the European and international community. The financing of a member state's climate action and biodiversity conservation should therefore be guaranteed by the EU (WBAE 2018, WBAE & WBW 2016).

45. One argument against 100 % EU-financed AECM II, however, is the risk that member states could programme less ambitious measures – with the consequence of larger knock-on effects and less successful

achievement of objectives. Against this backdrop, the Advisory Board is of the view that even AECM II, with its clear EU added value for the most part, should be co-financed nationally at a lower rate. This could vary depending on the strength of the member state's economy, e.g. between 5 % and 10 %. For AECM II that are primarily beneficial at a national or regional level, the national co-financing rate should be much higher and differentiated by strength of the member state's economy (WBAE 2018).

46. Another new financing principle that could be established would be to remove funds for certain AECM II with high added value to Europe so that they are not in competition with other uses of funds within the EAFRD (e.g. investment promotion, compensatory allowance, LEADER). This could be done by earmarking budget shares, which is discussed in greater detail below.

3.3 Earmarked budgets for environmental and climate services across member states?

47. Climate action is in the global public interest and should therefore be undertaken in an international cooperation, but implemented to suit local conditions. This gives the EU particular responsibility for organising and financing climate action, while it should be up to the member states and regions to programme protective measures suitable for local conditions. As stated above, in principle the global nature of climate action justifies 100 % financing by the EU. However, a certain level of (low) co-financing would seem appropriate for the above reasons.

48. In its 2016 climate action report, the WBAE and the Scientific Advisory Board on Forest Policy (WBW) proposed earmarking a share of the agricultural budget for the conservation of European moors (WBAE & WBW 2016). The Advisory Board's understanding is that this moor conservation budget is a pilot project that, after a successful trial period, could be extended to other areas of climate action. The budget would be provided with funds from the ceiling of today's Pillar 1. By establishing this kind of earmarked budget, climate action goals would no longer be competing with other policy priorities and could therefore be more reliably achieved. This earmarked budget share at EU level would also lead to a general strengthening of climate action, including in political and public perception.

49. The implementation of an EU-wide budget for moor conservation should be enshrined in a multi-level system, i.e. administered jointly by the EU, the Federal Government and federal states. In Germany a complementary national fund could be established to put up the co-financing shares. Like the Forest Climate Fund, the national fund could be provided from some of the proceeds of selling emission allowances – where applicable supplemented by allocations from tax revenue.

50. A specific challenge in encouraging climate action is that measures should be established for as lengthy a period as possible and often require longer periods of planning and implementation. This particularly applies to moor conservation. Therefore the budget share reserved for this and the national co-financing budget should be designed in such a way that support is given in the first instance to the necessary planning costs and initial investments – e.g. in connection with moor rewetting – and for other measures funding approval can be given over several financing periods. With regard to the rules of the EU's multi-year financial planning, adapted financing models are required. If applicable, the affected member states should

take over guarantees for the respective obligations entered into for after the end of the current EU financial period.

51. To allow for the large differences in abatement costs between individual member states, regions and farms, the Federal Government should support the trialling of a tendering process at EU level as part of a pilot project on moor protection in northern EU member states (WBAE & WBW 2016). In this kind of tendering process, member states and/or regions (e.g. federal states) would apply for EU resources reserved for moor conservation. The application would be made in the form of bids in which the applying territorial entities would state GHG emission savings (in tonnes of CO₂ equivalent) within a certain timeframe, the protective measures planned, and the compensation funds required. The submitted bids would then be ordered by amount and the most competitive bids would receive funding. This would not only be a transition from the principle of historically evolved budget allocation to the objectively justified distribution of funds, but at the same time would play a key role in considerations of efficiency in the allocation of funds.

52. In its early stages a tendering process of this kind would be limited to running a pilot project with a few participating regions or member states to trial the tendering mechanism. If it works well, the tendering process could be extended to all member states with moor sites – linked to increasing budget shares. It is not currently possible to estimate the budget requirement for EU-wide moor conservation. Röthe et al. (2015) estimate the opportunity costs of extensive rewetting of all agricultural moorland in Germany to be between 0.6 billion and 0.8 billion euros per annum (excluding necessary hydraulic engineering costs).¹⁰ In any case with an approach like this, it is conceivable that farmers in the EU are paid for not ameliorating (intensifying) moors that are (still) being used extensively, thus reducing the strong pressure to adapt other already intensively used moor regions with high adjustment costs.

53. An independent financing instrument is also sensible for biodiversity conservation across member states, primarily funded from EU resources and removed from competition with other uses. With the establishment of the Natura 2000 network, the EU has made protection of biodiversity a goal of supranational importance, thus the protection of species and habitat types of special European value is ultimately to be classified as being in the transnational general interest. Therefore, as with moor protection, it seems obvious to arrange the financing of the Natura 2000 network at EU level, leaving member states to programme protective measures suited to local conditions. In concrete terms, member states would request funding to finance appropriate protective measures in the EU-wide Natura 2000 network. To maintain financial discipline, low national co-financing would be planned.

54. With more than 27,000 designated special protection areas occupying one fifth of the area of the EU, Natura 2000 is the world's largest nature conservation network (EEA 2015). From the perspective of the

¹⁰ As detailed in its climate action report (WBAE & WBW 2016), the Advisory Board considers that, in terms of climate protection, it would not be sensible to rewet all agricultural moorland.

SRU and WBW Advisory Boards (2017: 1), the interconnected nature conservation in Europe is “glaringly underfunded”, which has contributed to the continuing loss of biodiversity in agricultural landscapes. The Advisory Boards of the SRU and WBW attribute this underfunding to, among other things, resources for Natura 2000 not being earmarked within the various existing financing instruments¹¹, which means resources are competing with alternative, politico-economically more attractive uses.

55. A budget share reserved for EU-wide protection of species and habitat types would, in the view of the Advisory Board, ensure a minimum funding level for nature conservation in Natura 2000 areas. As with the above-mentioned budget share for moor protection, biodiversity conservation is also about taking the long-term character of the effects properly into consideration. Therefore the budget share for Natura 2000 areas should contain elements that allow funding approvals over several financing periods.

56. The funds should be used both for basic cover in Natura 2000 areas (fairness correction for stricter regulatory stipulations) and nature conservation enhancements attached to this in the form of voluntary measures in nature conservation agreements.

57. Here too member states or their regions could re-apply for reserved EU funds. In contrast to moor conservation, however, a competitive process should be avoided in the allocation of resources. Whereas climate action is not about precisely where greenhouse gas emissions are avoided, thus allowing the most competitive suppliers across the EU to be selected irrespective of their location, with biodiversity conservation a certain geographical penetration is necessary. This is directly due to the geographical distribution of the Natura 2000 areas. Furthermore, there is not just one target figure in biodiversity conservation as there is in climate action (greenhouse gas emissions), but rather hundreds, namely the species and habitats of the relevant regulations. A competitive allocation procedure here could lead to an unwanted concentration of EU funds on a few regions or protected resources, while others miss out. Against this backdrop, an allocation of funds to individual member states according to their respective areas of land devoted to Natura 2000 appears more sensible. In the case of oversubscription at EU level of the reserved funding for biodiversity conservation across member states, selection criteria would have to be determined that could be aligned with their cost-effectiveness.

58. The outlined financing model would have high “political incentive compatibility”. For policy-makers in member states, it would create incentives for designating other areas as part of the Natura 2000 network¹². On the other hand the model creates incentives for nature conservation upgrades of existing Natura 2000 areas through the increased offer of voluntary nature conservation schemes. Policymakers can obtain more EU funds for their region at low co-financing rates through both measures. In the event of the budget being oversubscribed, suitable selection criteria should be developed and implemented.

¹¹ In addition to the EAFRD, these include the European Regional Development Fund (ERDF), the European Social Fund (ESF), the European Maritime and Fisheries Fund (EMFF), the Cohesion Fund (CF) and the EU’s Financial Instrument for the Environment (LIFE).

¹² Formally these incentives relate only to the designation of FFH areas, but not to bird sanctuaries. For the latter, there is a reporting requirement for a certain minimum as a percentage of the total area.

59. There is currently a lack of reliable data on the total costs of implementing European nature conservation goals. There are only initial estimates for expenditure linked to implementing the EU's Habitats Directive. It has been estimated that expenditure of 5.8 billion euros per annum would have been necessary in the EU-27 (without Croatia) for 2011 (COM 2011, Gantioler et al. 2010). For Germany the Federal Government/States Working Group on Nature Conservation, Countryside Preservation and Recovery (LANA) is assuming at least 1.3 billion euros per annum is needed for nature conservation in non-forest areas (Pechan 2016). This roughly corresponds to the EU's current Pillar 2 budget in the CAP in Germany. In view of the many and varied challenges as well in other target areas of Pillar 2 (WBAE 2018), this once again underlines the need for a targeted use of the money spent today in Pillar 1.

3.4 Activity-based or results-based reward for environmental and climate performance?

60. The activity-based design of incentive schemes for environmentally and climate-friendly production methods means that farmers hardly develop a personal financial interest in a good environmental outcome, with personal interests possibly being motivated more intrinsically or by other non-financial aspects (see Section 2). However, due to their excellent knowledge of natural circumstances on site, farmers often have the possibility of optimising the environmental outcome through their own actions.

61. This is why there have been repeated proposals to link farmers' payments to the desired environmental outcome rather than to the implementation of certain measures (Burton & Schwarz 2013, Schilizzi & Latacz-Lohmann 2016). An EU-wide study has shown that under certain preconditions, results-based payment models for biodiversity conservation can make a targeted, easily verifiable and cost-effective contribution to the achievement of objectives (Allen et al. 2014).

62. A results-based approach in nature conservation is still not that widely established, thus there is still no long-term experience of it on a large scale. Nevertheless some projects are underway in Germany in which results-based nature conservation agreements in practice are tested or implemented within the scope of standard support (Sierck 2016). These primarily relate to payment for certain indicator species on grassland. Results are generally determined by walking the longest diagonal lines of the contractual area and counting the desired indicator species in a corridor a few metres wide. Apart from minimum farming requirements, it is mostly at the farmers' discretion to apply the farming methods they consider productive to achieve the desired outcome.

63. Results-based payment can either be proportionate to the measured environmental outcome or binary when a given target value is exceeded. For example in the first case, a fixed price would be paid per indicator species found in the area under contract. This reward model creates an ongoing incentive to continually improve the environmental outcome. With the binary reward model, in the above example a minimum number of indicator species would be established as the target value. Upon achieving or exceeding the target value, a predetermined payment amount would be triggered. In this model there is solely an incentive to achieve the target value, but no incentive to exceed it by taking an active approach. A

combination of both reward models is also conceivable where a basic premium is paid when the target value is achieved, while any environmental outcome above that is rewarded with a price per unit.

64. In Schleswig-Holstein a results-based reward scheme for ground-nesting birds on grassland has been running since 2007. It was developed by farmers and nature conservationists together in the Eider-Treene Depression region and is looked after by the KUNO (“Sustainable Management of Cultural Landscapes”) association in an eligible area that is hugely important to the protection of birds (<https://kuno.jimdo.com/wiesenvogelschutz/>). Participating farmers receive a payment of € 150 to € 350 per ha when lapwings, black-tailed godwits or other grassland birds breed on their land and for a period in which they refrain from or postpone certain farming practices to protect them. The premium of € 150/ha is paid if a clutch of eggs is found in the area covered by the contract. The higher premium applies when two or more clutches of the above-mentioned species of bird are found on their land. Here farmers are only committing themselves for the areas concerned and the current breeding season. As soon as the birds leave the land, it can continue to be farmed again without any conditions attached. This model is more successful if the area of connecting land is large in order to reduce the influence of external disturbance variables (e.g. predators).

65. Voluntary and full-time area monitors play an important role by having an overview of sightings of meadow birds in the areas they supervise. They make agreements with the farmers about management in order to support the birds’ successful breeding. They also decide on the release of funds depending on the breeding success achieved.

66. From the farmers’ perspective, results-based AECM II partly imply greater business flexibility. Farmers are free to choose the farming practices they consider most appropriate for achieving the objective, but can also respond flexibly to changing framework conditions. For example mowing times can be varied if there is a risk of food shortages. However, the agreed outcome must continually be demonstrated over the contractual period.

67. This greater business scope can have a positive impact on farmers’ willingness to participate: in a discrete choice study undertaken by Sierck (2016) on the acceptance of various nature conservation contracts, farmers in Schleswig-Holstein were given the choice of an activity-based nature conservation contract, a results-based contract, or a combination of the two types of contract. Of the 92 farmers surveyed, more than 52 % opted for a results-based contract. The reasons they gave were often related to the business flexibility associated with results-based contracts.

68. In practice, an exclusively results-based payment of environmental and climate action performance soon reaches its limits. There is the difficulty of establishing the environmental outcome unequivocally and with legal certainty as the assessment basis for the payment at a reasonable cost. Furthermore, participating farmers are exposed to greater risk. This can have a negative impact on their willingness to participate or necessitate a risk premium. The increased financial risk arises from the danger that, despite extensive protective measures, the desired environmental outcome is not widely achieved and therefore the incentive bonus cannot or can only partially be accessed. In the above-mentioned KUNO model, risk buffering for example is achieved by farmers even receiving payments if bird clutches registered during the contractual period are disturbed by predators.

69. It should also be borne in mind that the environmental impact of many measures only becomes apparent and produces measurable outcomes after a lengthy period. This particularly applies to ecosystems characterised by long-term processes. It can have a negative impact on farmers' willingness to participate in schemes with results-based reward – particularly if the contracts are of limited duration due to existing funding periods. This issue does not arise where results-based approaches are used to financially support the safeguarding of existing appearances. However, if the funding is aimed at establishing new sightings, the risk for farmers can be minimised by a scheme combining activity-based and results-based payments.

70. The greatest challenge with results-based payment is to establish suitable indicators for verifying the achievement of objectives. The indicators should satisfy the scientific requirements of objectivity, validity and reliability, but should also be practicable. Another challenge is to establish the amount of support. While with activity-based measures the level of support is generally relatively easy to calculate (the amount of the payment corresponds to the costs of complying with the conditions; expense allowance), with results-based measures there is the question of the value of the goods being provided and thus of reward for the benefits they bring.¹³

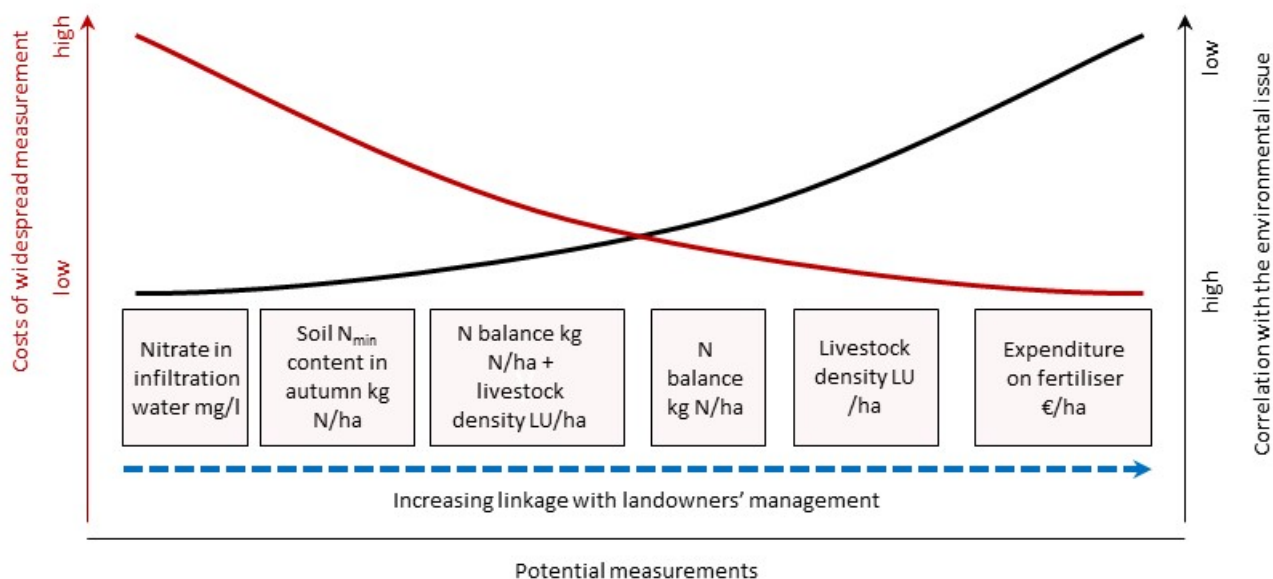
71. When establishing indicators, the following aspects should be borne in mind:

- a) they should be sufficiently close to the protected good that is to be influenced
- b) over and above this they must be acceptable and comprehensible for farmers. Farmers will only participate in a measure with a results-based payment if they are certain of being able to influence the target figure to some extent through their management measures, and thus be highly likely to achieve the target values. However, many environmental and animal welfare parameters are co-determined by external influences (e.g. climate, disease, predators, neighbours). Many biodiversity parameters also exhibit strong natural fluctuations. With such indicators farmers face a large financial risk because they might not achieve a given objective despite their efforts
- c) ultimately in terms of administration, it is important that the costs of administering the measures are as low as possible. This presupposes that the indicator values are ascertained simply in a legally robust way and thus are easy to monitor. Controllability then proves to be simple if there is an easily ascertained outcome at a defined point in time.

Existing conflicting goals when establishing suitable indicators are shown in Figure 2 using indicators for the issue of nitrate pollution in groundwater.

¹³ Depending on the location and operational prerequisites, very different measures can lead to the desired result. When establishing the premium amount, the costs of these various measures could also provide guidance for results-based support.

Figure 2: Conflicting goals in the selection of indicators – diagram using the example of nitrate pollution in groundwater



Source: Own illustration.

72. In summary, the two AECM II models described (activity-based versus results-based) represent the extremes on a spectrum of possible contractual arrangements. Within these limits, there are different contract options and incentive mechanisms that are more results-based than the current standard activity-based agreements, but avoid the problems of purely activity-based contractual arrangements. The results-based payment of environmental performance has the potential to efficiently achieve certain environmental objectives. However, the results-based approach is only suitable for environmental goods that farmers can definitively and safely influence through their own action and where their change of state can be ascertained with legal certainty at a reasonable cost. This may greatly limit the scope for results-based measures. Therefore measures with a results-based payment will only bolster, but cannot replace, activity-oriented measures in subareas. Nevertheless the Advisory Board considers it important to continue to develop existing measures to reward outcomes and provide incentives for the creation of new measures, for instance in the form of pilot projects. Consideration will need to be given to how new digital technologies can be used to help determine the outcome.

3.5 Boosting spatial coordination

73. Efficiency gains in nature conservation agreements can often be achieved by coordinating nature conservation activities spatially. This is particularly the case when the required habitats have to be of a certain minimum size to protect certain species effectively. However, spatial coordination can also mean deliberately steering conservation activities in areas where the greatest environmental benefits are to be expected. Classic examples include voluntarily awarding protection status to land with networks of

biotopes, or implementing extensification measures in targeted eligible areas of the Water Framework Directive. Spatial steering can be achieved by restricting appropriate agri-environment-climate measures to an eligible area, applying selection criteria, or differentiating geographically between premium amounts (for instance in the form of bonuses). While the first instruments (eligible areas and selection criteria) have been applied in practice, this is not yet the case for bonuses. Four different bonuses for improved spatial steering of the implementation of measures are discussed below: a conservation area bonus, a favoured location bonus, an agglomeration bonus and a collective bonus.

74. **Conservation area bonus:** A conservation area bonus is an additional payment made as part of an activity-based agreement when a farmer provides areas under contract that are within a designated conservation area (e.g. an FFH area, a bird sanctuary or in the target area of the Water Framework Directive). Many schemes are already specifically tailored to the conservation area's objectives and are only offered in eligible areas. However, it is understood that agri-environmental measures offered in the normal landscape (such as the promotion of organic farming, edges or flowering areas) also produce greater environmental benefits when they are implemented in designated special conservation areas. The conservation area bonus serves to make participation within established conservation areas more attractive. A conservation area bonus would be relatively simple to manage since the only additional information required would be to show the location of the land in a conservation area.

75. As the conservation area bonus is geared to expected environmental benefits and not to the costs of participation, its introduction would imply a relaxation of the principle of cost-based payment. One problem with this could be that the baseline for calculating the basic premium in special conservation areas generally turns out to be higher due to stricter regulatory requirements. The consequence of this is that the payments in target areas for nature conservation and environmental protection would actually often have to be lower. At this juncture the two principles of cost efficiency and results orientation are suppressed.

76. **Prime location bonus:** A prime location bonus is an additional payment offered exclusively to prime locations for agricultural production. This bonus addresses the criticism that farmers' willingness to participate is often very low in profitable locations and processing regions, and therefore voluntary agri-environment-climate measures do not adequately "reach" prime locations. This criticism has partly been mitigated in recent years through the introduction of a variety of special schemes for profitable agricultural locations (e.g. flower strip schemes). The prime location bonus could contribute to further mitigation by offsetting the higher costs of participation for farmers in highly productive locations.

77. Smooth administrative implementation of this bonus requires prime locations to be clearly defined and demarcated. In the simplest case, the eligible area for the compensatory allowance (CA) could be used as a negative eligible area. However, that would be too crude and also not particularly appropriate as many highly productive areas are also in areas that are eligible for the CA. A better alternative for implementing the prime location bonus would be to link the premium amount to the areas' yield index or average regional output, e.g. from cereals. From the EU's perspective, the federal states are free to subtly stagger payments for agri-environment-climate measures as they wish, and are also encouraged to do so by the European Commission. However, most federal states shy away from the associated extra cost in programming, control and, above all, communication. A prototype of the favoured location bonus has been around for some time

in Bavaria. As part of a funding scheme to establish flowering strips (Measure B48), additional payments are made here that are linked to the yield index of the areas covered by contracts.¹⁴

78. **Agglomeration bonus:** An agglomeration bonus is an additional payment made when areas adjacent to one or more farmers are combined to an appreciable extent into an agri-environmental programme. The objective is to mobilise synergy effects (particularly in the area of biodiversity) by placing larger connected areas under protection. A special form of the agglomeration bonus is the networking bonus. This is paid when areas turned into conservation areas are connected by one or more farmers, for instance so that they provide a corridor for the migration of wild animals. This would enable flowering strips to be linked together at landscape level for example. Connecting areas covered by nature conservation agreements or flowering strips with compensation areas created as part of the intervention regulation or certain ecological focus areas is also conceivable.

79. Although the agglomeration bonus is conceptually geared to environmental benefits (and less to participation costs), it could be argued that the bonus covers the costs of coordination between farmers. When landscape management associations or local nature conservation authorities are also involved in selecting land, as is the case with some agri-environmental measures in Lower Saxony, additional costs can be incurred by participating farmers for making larger, better cut or more productive land available than would have been the case if the choice of land had been unrestricted.

80. There have been numerous research projects on the agglomeration bonus. Using a laboratory experiment and a coordination game in the USA, Parkhurst et al. (2002) investigated how with an agglomeration bonus can reunite habitats that have been fragmented between private landowners as effectively as possible. They established that without an agglomeration bonus, landowners maintained an inefficient, fragmented habitat pattern, while an agglomeration bonus mostly led to the best possible habitat patterns from the perspective of environmental protection. Where communication between farmers was allowed, in 92 % of the game's decisions landowners selected the best possible habitat pattern that could be expected.

81. In another laboratory experiment, Banerjee et al. (2014) investigated the performance of the agglomeration bonus in achieving the socially optimal land management configuration in a local network environment where the information available to subjects varied and the strategic setting was unfavourable for efficient coordination. The experiments indicated that if the subjects were informed about the actions of both their direct and indirect neighbours, they were more likely to produce the socially optimal configuration.

82. Krämer and Wätzold (2018) evaluated the Swiss network bonus scheme that exhibits strong features of the agglomeration bonus idea. In a qualitative and explorative study, they evaluated the criteria of

¹⁴ Cf. http://www.stmelf.bayern.de/mam/cms01/agrarpolitik/dateien/massnahmenuebersicht_kulap.pdf.

ecological effectiveness, monitoring and enforcement, cost-effectiveness and dynamic incentive effects. Their results showed that the network bonus increased the area of land involved and in the process – in comparison with increasing the basic premium – areas of greater nature conservation value were placed under contract. By networking participating farmers and through cooperation between farmers, nature conservation experts and the administration, farmers' awareness of biodiversity was raised. These positive experiences led to a positive change in farmers' attitudes to conserving biodiversity. Overall, according to the authors, the Swiss network bonus system is more expensive than traditional nature conservation agreements, but the additional costs are accompanied by much better environmental outcomes.

83. **Collective bonus:** A collective bonus is a premium awarded to all participating farmers on top of the activity-based payment when a certain participation rate is exceeded. For example if more than 25 % of farmers who are entitled to participate (or 25 % of the land in a certain eligible area) sign up to an agri-environmental or climate action scheme, all the participants receive a bonus payment. "Collective conditionality", as Kuhfuss et al. (2016) call the collective bonus, encourages a sense of community and may motivate some farmers to encourage their neighbours to participate as well. In fact the collective bonus increases the social pressure to "join in".

84. A collective bonus was discussed for the first time by Dupraz et al. (2007). A bonus of this kind can prove particularly useful with environmental impacts that are only apparent from a certain threshold. In practice, a collective bonus has so far been used in agri-environmental schemes that target the rewilding of riparian strips along watercourses. For example in the French department of Ille-et-Vilaine, a collective bonus is paid when at least 60 % of the riparian strip is under contract. In the USA the Conservation Reserve Enhancement Program offers participating farmers a cumulative impact incentive bonus when certain erosion-reducing riparian vegetation is established on at least half of the waterside areas within a five-mile section (Kuhfuss et al. 2016).

85. From a decision-making theory perspective, a collective bonus should be considered as a "nudge" towards environmentally-oriented action. Kuhfuss et al. (2016) tested the effectiveness of a collective bonus in a choice experiment with French winegrowers. The experiment concerned the voluntary reduction in herbicide use in wine growing. In a contract variant that winegrowers could select, they were offered a bonus at the end of the five-year commitment period if 50 % of the eligible land was under contract by then. The results showed that the bonus not only increased the scheme's effectiveness (willingness to participate), but its efficiency as well. When a community success bonus was offered, the total payment per hectare of contracted land (consisting of the basic payment and the collective bonus) was lower than the payment from the standard contract without a bonus (but higher basic payment).

86. For the administrative implementation of the collective bonus, a precise definition and communication of the trigger level is needed beforehand. This requires the establishment of eligible areas (i.e. the spatial unit making up a collective) and the minimum portion of the area that has to be enrolled in the scheme by a defined point in time. The issue of imposing penalties for infringements may be trickier. For example, suppose that enough area under contract has been accumulated to trigger the bonus payment but that subsequent on-site checks establish that some areas do not meet the criteria and the region falls back below the triggering threshold. In that case the question arises of who should pay back what portion of the collective bonus.

87. As in the case of the conservation area bonus, the collective bonus also means moving away from the legal stipulation currently in force that only the costs of participation in agri-environment-climate measures in Pillar 2 (AECM II) may be offset, but the bonus will be interpreted as compensation for higher transactions costs.

88. In summary, it can be concluded that there have been some initial approaches to the spatial coordination of nature conservation activities. However, these are currently only being discussed in the academic literature. In their practical application, they have so far only been investigated or trialed to a limited extent. A prerequisite for the broad application of measures requiring coordination between farmers (the agglomeration and collective bonuses) could be the expansion of willingness to cooperate (see Section 4.4.6).

3.6 Individual versus collective AECM II

89. While AECM II agreements in Germany are concluded with individual farmers, in the Netherlands they have switched to concluding contracts with agricultural cooperatives. Since 2016 AECM II in the area of meadow bird conservation and water management are handled exclusively through cooperations known as “Collectieve” (Freese 2017).

90. The idea behind this is that particular environmental objectives, especially in the areas of species and water protection, are achieved more effectively at landscape or conservation area level than at individual farm level. Over and above this, there is the hope of being able to greatly reduce the cost of public administration by the cooperatives grouping together individual farmers’ applications, thus reducing the number of individual applications to be processed. However, for an overall picture of the administrative costs, those incurred between cooperatives and farmers also need to be taken into account.

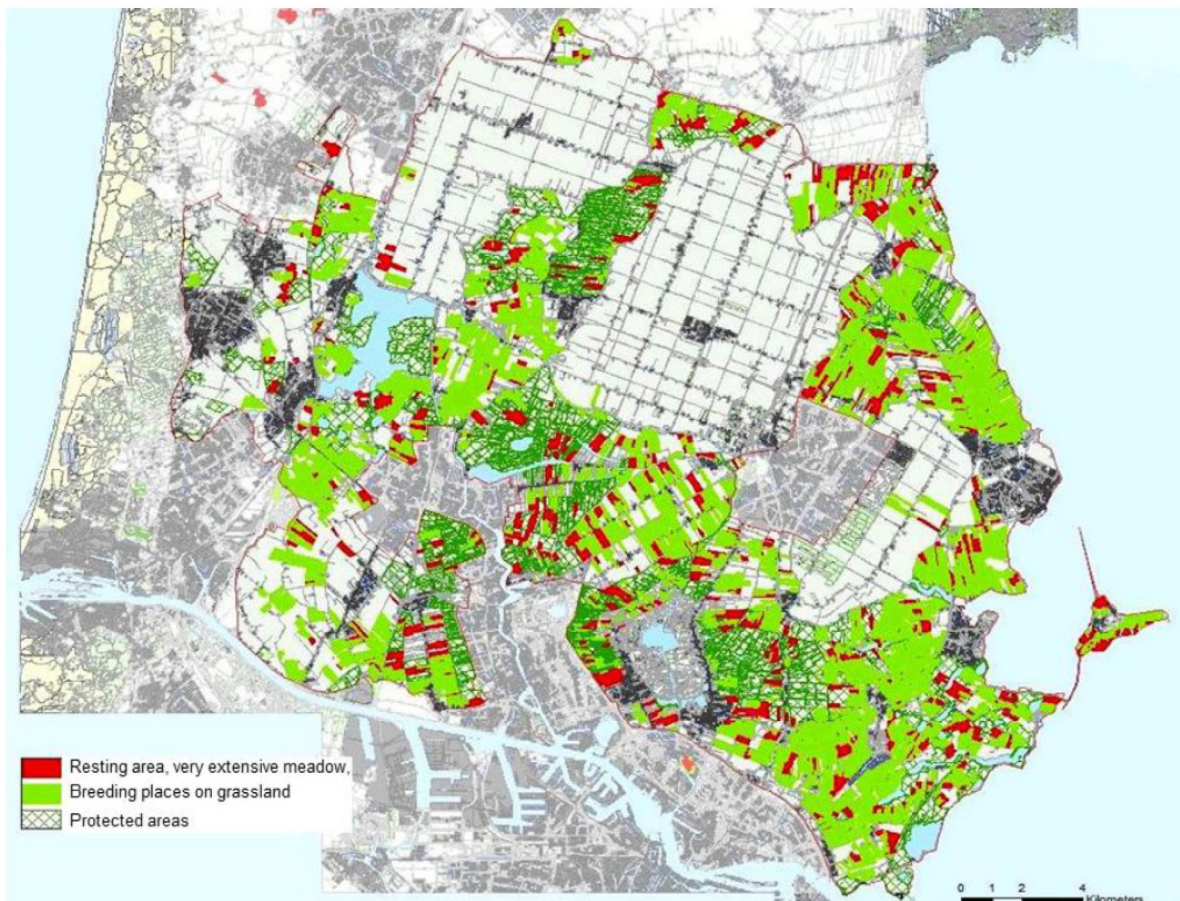
91. For over 20 years, Dutch farmers who are closely involved with environmental protection have been grouping themselves into agricultural nature associations (“Agrarische Natuurverenigingen”). Since 2013 around 150 such nature associations have merged to form around 40 area cooperatives. As new regional institutions with their own legal form, these state-certified Collectieve are responsible for approaching farmers and supporting them with implementation of AECM II.

92. The Collectieve negotiate regional environmental objectives with provincial governments (similar to Germany’s state governments). They agree a six-year management plan and conclude agreements on the minimum and maximum areas covered and the average subsidy amount per hectare. The cooperatives select the measures to be implemented in their area from a national list in the Dutch rural development scheme.¹⁵ These are also recorded in the management plan. The Collectieve then recruit farmers to take

¹⁵ In principle this is comparable with the approach in Germany, except that in Germany it is the individual farmer who chooses.

part and conclude private-law contracts with them on the measures to be implemented and the amount of remuneration (back door). At the front door, as the official applicant, the Collectieve contact the provincial authorities to request participation in AECM II for the area they have obtained from farmers. This makes the Collectieve the beneficiary. Figure 3 shows an excerpt from a management plan showing the selected area and the type of measures to be implemented.

Figure 3: Excerpt from the management plan of a Dutch area cooperative



Source: Terwan et al. (2016).

93. For the state authorities involved in implementation, the number of contracts has gone down from around 13,500 authorisations before to 40 authorisations for the Collectieve. Under EAFRD guidelines, the latter must operate in conformity with the EU and thus operate measures and inspection databases. Training courses have been offered by the state to employees in the local cooperations since 2014 in order to fulfil the high quality requirements on staffing, management processes and EDP systems (Freese 2017).

94. As with individual contracts, for the group contract the conditions for state inspections under EU guidelines apply and the EU's system of penalties remains valid. There is a two-tier approach to inspections. If a sanctionable deviation is ascertained in an individual area, the land could cease to be eligible. With the Collectieve as the beneficiary, the land can then no longer contribute to the agreed land targets. This failure

to reach the agreed area size has financial consequences for the Collectieve as the beneficiary (Freese 2017). However, the farmer responsible is not directly penalised, but where applicable is penalised indirectly in line with the governance mechanism that applies within the Collectieve. This is an integral part of the private-law contracts between farmers and the Collectieve.

95. It is up to the Collectieve whether and how they carry out their own inspections, how they deal with errors and deviations by farmers, and who bears the costs if penalties are applied. Furthermore, it is incumbent upon the Collectieve to speak to farmers and establish the payment per hectare.

96. As with the inspection standard for AECM II, EU authorities carry out inspections during spot checks of individual areas and individual beneficiaries. With reference to the size of the allotted area, at least 5 % of beneficiaries are randomly selected whose approved areas correspond to at least 5 % of the area under the scheme in the Netherlands. For the selected beneficiaries, at least 50 % of the contracted land area is measured. With the help of a random or a risk-based approach, another 5 % of all areas in the scheme in the Netherlands is selected and checked for compliance with content-related conditions (Terwan et al. 2016).

97. Under Article 28 of the EAFRD Regulation, there is the possibility of providing a transaction cost surcharge of up to 30 % on top of national fixed funding rates for the measures to finance area cooperatives. Thus administrative costs can primarily be paid out of EU funds rather instead of out of national resources in the case of individual contracts (however, under the EAFRD Regulation a transaction cost surcharge of 20 % may also be applied for individual contracts).

98. Since the collective approach (within the meaning of Article 28 of the EAFRD Regulation) was only introduced in the Netherlands in 2016 and it is the only EU member state to have done so, as yet there are no evaluation results. Terwan et al. (2016) estimate that the administrative burden for state implementing bodies is just one third of that for the administration of individual contracts. However, their assumption is that the administrative burden overall has not reduced significantly; the bulk of the administrative costs are simply passed on to area cooperatives.

99. According to Franks (2011), collective approaches can contribute to a change in participants' values so that they are more in line with the objectives of state intervention. For example this can lead to a reduction in monitoring and inspection costs through greater self-monitoring and social monitoring. Another positive effect of successful collective approaches is that a sense of community develops and the social capital built up as part of this collective can also be used in other farming activities (Mills et al. 2008).

100. Article 28 is not used in Germany. Instead in some federal states there is funding of partnerships under Article 35 of the EAFRD Regulation. Article 35 provides for actors to be financed who approach land managers, support them in the selection of land, offer advice with applications and support inspections. However, individual land managers continue to apply for a management measure. This approach is important, particularly in drinking water protection (drinking water cooperation projects in Lower Saxony), landscape management (biostations and landscape management associations) and the implementation of concepts to protect species and habitats in narrowly defined spaces (e.g. Wilster Marsh). Even if only networking structures are required, the advantages are clear: farmers are applying for more land to be

included in the scheme (particularly with high-quality measures), the quality of the application documents is higher, fewer infringements are picked up during inspections, and communication has improved, particularly between nature conservation authorities and farmers (Bathke 2016).

101. In summary, collective approaches to nature conservation agreements are already possible in the current programming period under EU law (group applications), but have only been implemented on a large scale in the Netherlands since 2016. Collective approaches offer huge potential for increasing the effectiveness of certain agri-environment-climate measures. Against this backdrop, it is important to verify the extent to which implementation structures have to be developed for their implementation in Germany. First this concerns organisation structures – it is conceivable that water and soil associations, machinery rings, landscape management associations, rural associations, compensation agencies, hunting associations or local action groups (LEADER) could carry out important coordination functions – and second it requires a greater willingness among farmers to cooperate if environmental benefits are to be provided over a larger contiguous area (see Section 4.4.6).

3.7 Standard measures or a farm-specific green funding policy?

102. While collective models of contractual nature conservation appear particularly suitable in agricultural landscapes with a large number of small farms, in regions with an agricultural structure of predominantly large farms the question arises of whether support measures tailored to individual farms might not have the edge over the standard measures currently applied. A prerequisite for this would be a farm-specific plan, under which the farmer in collaboration with an AESC advisor ascertains comprehensive environmental or climate measures tailored to the individual farm. For example individual farms could decide what measures to implement in order to reduce ammonia emissions on the farm, which land appears sensible for measures designed for the biotope, or which grassland is going to be mowed late to protect ground-nesting birds. The farmer receives a payment for the selected package of measures agreed for the individual farm and negotiated with the AESC advisor under certain guidelines. The measures to be implemented and the payment are contractually fixed with the responsible administrative authority.

103. Within the scope of the EAFRD, for more than a decade England's "Higher Level Environmental Stewardship Scheme" has stipulated the compulsory preparation of a "farm environment plan" if the farm wishes to participate in measures in the "Higher Level Stewardship Scheme" (Natural England 2013a). The farmer produces this plan with a representative from the environmental authority.

104. Compared to standard measures that apply equally to all farms, the farm-specific approach has the advantage that measures can be tailored to a farm's individual situation, taking operational prerequisites and natural site conditions into account. For example it is conceivable arrangements are made with a farmer to implement measures to create biotopes primarily along watercourses and minimise erosion on overlying farmland to avoid the input of harmful substances.

105. Another potential advantage of individual farm approaches is being able to design these adaptively, i.e. adapting them over time to changing conditions. For example if it is ascertained that the desired environmental effect does not materialise or only does so inadequately, the measures are subsequently adjusted in consultation with the farmer. Similarly measures that have proved to be ineffective or too expensive in their implementation on the farm could be dropped from the plan.

106. To ensure transparency in the allocation of resources, the individual measures would have to be selected according to certain criteria from a pre-set catalogue of measures. AESC advisors and farm managers would consult one another and reach an understanding on an individual farm's action plan compiled from various individual measures in the catalogue. For farm-specific implementation of the action plan, there would be a degree of discretion to take farm circumstances appropriately into account. Each individual measure in the catalogue would carry a price (or price band), which would be used to calculate the total payment for the farm.

107. The role of AESC advisors would primarily be to support the farm in the selection and combination of suitable measures. In doing so they make trade-offs between the effectiveness of the action plan and the economic interests of the farmer. Ultimately the AESC advisor confirms the plan and makes a financing recommendation to the relevant administrative authority. This means the AESC advisor would have a similar role to an investment advisor who is required to confirm the economic feasibility of investment plans as a prerequisite for support from the Agricultural Investment Funding Programme (AFP).

108. The weighing up of interests in combination with the cooperative approach (the farmer co-determines which measures are to be carried out and to what extent) and the great flexibility offered (counterproductive measures can be dropped from the plan) could raise the acceptance of voluntary agri-environment-climate measures.

109. Whether the farm-specific approach is associated with higher administrative costs than the administration of standard measures cannot be assessed ex ante. It is highly likely that the joint development of individual farm AESC plans is more time-consuming than the application of standard measures. This is therefore presumably only possible at reasonable administrative costs if a high volume of support is agreed for a farm. The higher expenditure is offset by the advantages of greater accuracy (cf. among others Armsworth et al. 2012, Fährmann & Grajewski 2013, Fährmann et al. 2015) and – presumably – greater compliance by farmers. Ultimately it is also apparent that farmers under contract area able to identify with the measures' goals and consider the individual measures agreed in their AESC plans to be sensible, constructive and feasible.

3.8 Introducing competition into the provision of environmental and climate services

110. The "purchase" of environmental services by the state under agri-environment-climate measures is broadly similar to the main features of the general state procurement policy. For instance if a school needs new furniture, this is supplied by private companies that have to apply through a tendering process. The bidder offering the best value for money is awarded the contract.

111. Scientists have repeatedly proposed applying this competition mechanism to the “procurement” of environmental and climate services as well. In communal environmental services (for instance green waste on streets or winter services), a tendering process has been used for some time. Similarly construction projects are contracted out in a tender process, for example in capital expenditure-related nature conservation and environmental consultancy measures. In the area-based AECM II, however, there is still a system of administered prices supplemented by selection criteria, resulting in no price competition between suppliers.

112. As already outlined in Section 3.3 with regard to moor conservation, as part of tendering for agri-environment-climate protection, farmers submit bids in which they state the compensation they require to implement a given contract. The tendering authorities put the bids in amount order and the lowest bids or those offering the best value for money receive the premium in ascending order until the scheme’s budget is spent or the scope of the scheme has been attained (e.g. a minimum contractual area).

113. Tendering processes have several advantages over the standard model practised in the EU of premium amounts allocated by the state. Their main purpose is to introduce competition between potential suppliers for a limited number of contracts. This competition leads to a differentiation in premium requirements that are geared to the individual costs of participation.

114. Various experimental economic investigations have consistently shown that this can increase cost efficiency by around 30 % (Schilizzi & Latacz-Lohmann 2007, CJC Consulting 2004, Latacz-Lohmann & van der Hamsvoort 1997). Thus a given environmental objective can be achieved at 30 % lower budgeted costs than is the case with a standard payment for all participants. However, this only applies with one-off tenders. With identical repetition of the tender, the efficiency advantage quickly reduces and in extreme cases is completely eroded when the identical tender is frequently repeated (Schilizzi & Latacz-Lohmann 2007). However, with tenders to promote renewable energies, the opposite effect has been found: after being repeated several times the price comes close to marginal costs. The causes of this variable bidding behaviour are currently being researched.

115. Theoretically another advantage is that the pricing comes from the supplier. In their bids as environmental and climate protection service providers, farmers make the first move in the pricing of the service to be performed for which there is no market price and consequently great uncertainty regarding what an appropriate price might be. Through the tendering procedure, local information on individual environmental and production relationships are brought to bear in pricing. In their bids the farmers reveal their individual costs and in doing so give state authorities useful information that is not available in the standard model of administered premium amounts.

116. The argument of greater budget cost efficiency goes hand in hand with higher administration costs for public authorities and farmers. Higher transaction costs (for obtaining information, calculating the bid price and submitting the bid) could have a negative impact on farmers’ willingness to participate (Rolfe et al. 2018). Many farmers may not expect the expenditure associated with the tendering procedure, particularly if they only want to include a small area of land in the scheme. On top of this there is the considerable time the process takes until the selection is made and the contract awarded.

117. There are expectations of budgetary efficiency gains in tendering procedures, especially when a large number of homogeneous contracts are to be given to farmers with heterogeneous participation costs. The greater the differences in participation costs, the more the bids vary and the better opportunities there are to select the most competitive supplier.

118. However, tendering processes are not suited to the award of contracts where there are only a few bidders. There is a risk of the bidders making secret deals that could ultimately lead to local monopolies. This issue primarily arises in the award of contracts in target nature conservation areas or if extensive penetration is desired.

119. Tendering processes have hardly been used in the EU to date in the area of agri-environmental policy. They are only used on a large scale in the USA. For example contracts for the Conservation Reserve Program have been awarded by tendering process since 1986. This process has also been transferred to numerous other agri-environmental measures in the USA. In the EU, tendering processes are only being trialled for agri-environment services within individual research projects. In Australia tendering processes have been trialled in numerous pilot projects. Following generally positive experiences, tenders are increasingly and routinely being used there, but with relatively low participation rates (Rolfe et al. 2018).

120. In summary, in view of the issues outlined (higher transaction costs, expectation of less willingness to participate, shrinking efficiency benefits with multiple repetitions), the Advisory Board believes that it is not currently advisable to use tenders to award area-based contracts for agri-environment-climate protection. As outlined in Section 3.3, the Advisory Board recommends that the Federal Government “should support the trialling of a tendering process at EU level as part of a pilot project on moor protection in northern and north-eastern EU member states. If it works well, the package of climate protection measures where payments are made could gradually be expanded over time and the tendering process extended to all member states” (WBAE & WBW 2016: xvii).

4 Observations on the design of the CAP’s “green architecture” as part of the “new delivery model”

121. In June 2018 the European Commission submitted three draft regulations for the future CAP:

- a) a proposal for a regulation about the CAP strategic plan that in future is to be drawn up by member states and approved by the European Commission (COM 2018a)
- b) a proposal for a regulation on the financing, managing and monitoring the CAP (COM 2018b)
- c) a proposal for the organisation of markets to change the relevant regulations for the current funding period (COM 2018c).

Guidelines on the design of the CAP’s green architecture are contained in the first two draft regulations.

122. Viewed overall, the legislative proposals have the potential to bring about a paradigm shift in the CAP. On the one hand, the European Commission wants the governance structure of the CAP to be fundamentally changed (“new delivery model”), while on the other the legislative proposals comprise new objectives and guidelines for new interventions (including a new “green architecture”). The two most important changes in the governance structure concern the “decentralisation” and greater “results orientation” of the CAP.

123. “**Decentralisation**” means that member states are given more responsibility in the design, inspection and monitoring of CAP measures. Core elements of the new governance structure are the strategic plan to be drawn up by each member state, and a system of administration and coordination to be designed by member states (including the inspection system) combined with a fundamentally reformed system of reporting by member states to the European Commission.

124. “**Results orientation**” implies the rejection of the system of a CAP with detailed specifications set by the EU on interventions, support rates and inspections for member states, in favour of a system in which the achieved outcomes (in the form of achievement of objectives = supported projects, farms or area) should play a crucial role.

125. With regard to the new delivery model and the design of the green architecture, the legislative proposals contain numerous specifications and frameworks that are examined more closely in Sections 4.1 and 4.2 below. These define the leeway available to member states in the design of agri-environment-climate protection within the scope of the CAP. In comparison with the current (not yet termed as such) green architecture of the CAP, the European Commission is giving member states much more leeway to design ambitious and efficient agri-environment-climate measures. However, so far it has also left the scope for its design so wide open that it could ultimately lead to member states not being particularly ambitious in their implementation. In the sections below, there is a presentation and critical review of the funding regulation framework proposed by the European Commission (Section 4.1 to 4.3), followed by a presentation of possible design options of the CAP’s green architecture and a discussion of their pros and cons (Section 4.4).

4.1 The CAP’s “new delivery model”

4.1.1 Provisions in the legislative proposals

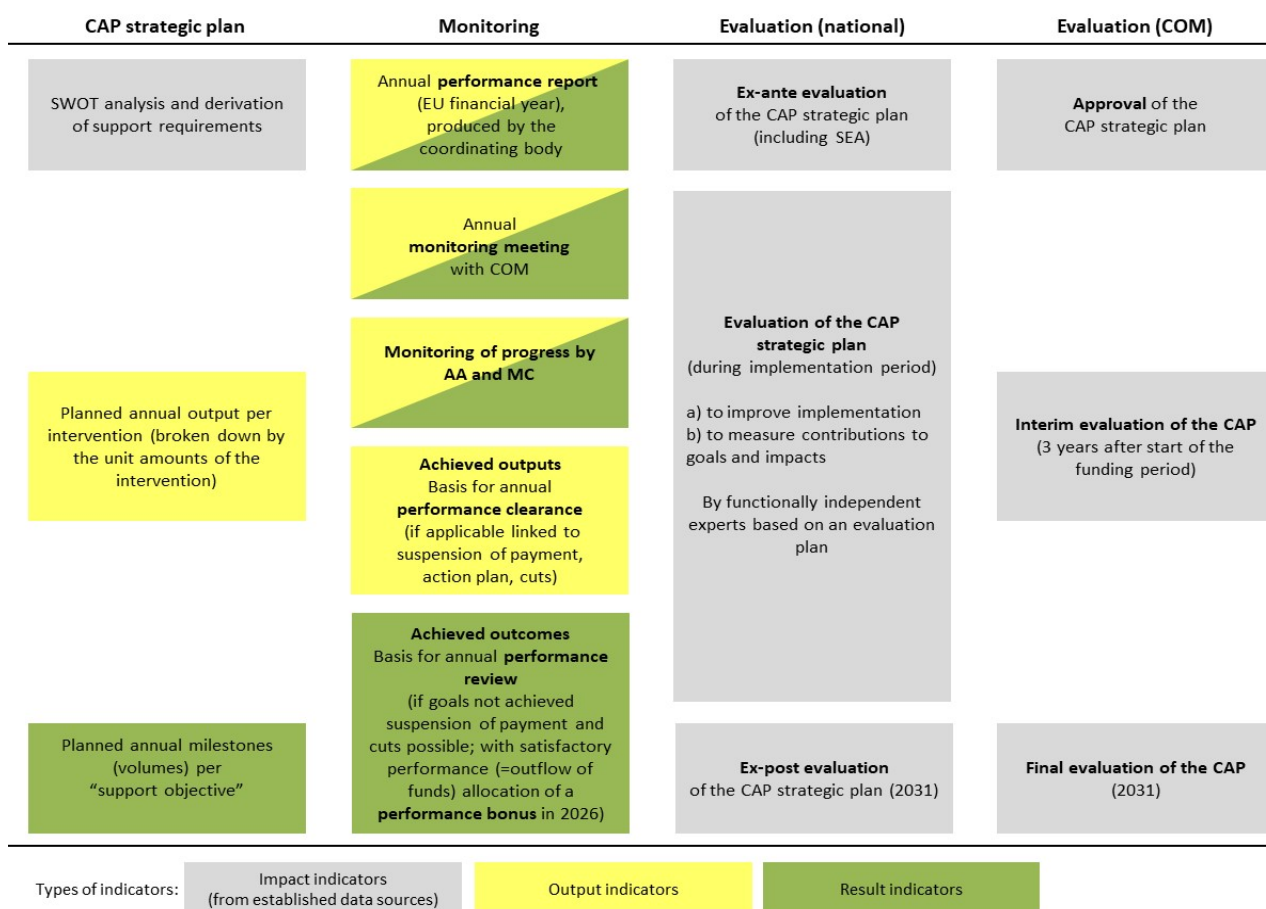
126. The draft regulation on the CAP strategic plan specifies that each member state is to produce a single CAP strategic plan (see “CAP strategic plan” column in Fig. 4) for its entire territory containing Pillar 1 and Pillar 2. This strategic plan may contain regional components but many detailed regulations are currently still unclear.

127. In terms of the environment and climate, the first important point is that in their assessment of the starting point for specific environmental and climate goals, member states have to incorporate national environmental and climate plans into their national strategic plan. These come from the twelve regulations and directives (such as the Habitats Directive, the Water Framework Directive and the Nitrates Directive) detailed in Annex XI of the draft CAP strategic plan regulation. With consistent interpretation of this regulation, the national strategic plan should state national environmental and climate goals and the specific contribution the CAP should make towards achieving them.

128. The most important changes in the governance structure of the CAP concern greater decentralisation and results orientation. Decentralisation means that a) the European Commission only provides the framework for the management and coordination system and moves away from a meta-inspection in member states, and b) Pillar 2 comprises just a few types of interventions that have much fewer detailed regulations on a European level than in the current funding period. This leads to a greater degree of freedom for member states in designing and implementing their measures. Under the legislative proposals, in its financial clearance procedure the European Commission no longer checks the legality and correctness of the specific expenditure, thus whether the beneficiary is complying with all eligibility conditions. However, this does not mean that member states no longer have to inspect beneficiaries themselves.

129. Thus a “constitutional conditionality” is created at member state level in the legislative proposals on the CAP strategic plan. This involves strengthening national management and coordination systems such that the European Commission’s allocation of CAP resources to individual member states is tied to a fully functioning management and coordination system. In their national strategic plans, member states would have to provide verifiable detail of their coordination system. The European Commission checks the system “during operation” for its functionality through spot checks of its administration. If a coordination system does not meet the requirements or spot checks reveal considerable shortcomings in a system, the European Commission can demand that improvements be made or, in extreme cases, it can withhold financial resources until the shortcomings are addressed (Fährmann et al. 2018, Fährmann & Grajewski 2018a).

130. The core element of the new delivery model is what is known as the performance framework. This is defined in Article 115 et seq. of the draft strategic plan regulation and forms the foundation both for monitoring and evaluating activities and for the incentive scheme related to member states (Fig. 4). The member state submits a performance report each year containing data on the outgoings transacted and the achieved outputs and outcomes. On the basis of this, the European Commission undertakes an annual performance clearance and annual performance review (see “Monitoring” column in Fig 4; for a definition of the relevant terms, see Table 1).

Figure 4: Key elements of the performance framework

The colour of the box shows the context in which individual indicator types play an essential role.

MC= Monitoring Committee, COM = European Commission, SEA = Strategic Environmental Assessment, AA= Administrative Authority.

Source: Amended from Fährmann et al. (2018: 15).

131. In the annual performance clearance, the European Commission evaluates the congruence between expenditure incurred and the use of certain CAP interventions (“outputs”) by means of so-called “output indicators” (see “indicators” column and the fields in red in Fig. 4). If there is no match between expenditure and “outputs”, the member state must give transparent reasons for the deviations. If the European Commission does not find the justification convincing, it can suspend or curtail EU participation.

132. The European Commission’s annual performance review serves to compare outgoings and “results” (result indicators, see “indicators” column and the fields in green in Fig. 4) in terms of the achievement of the goals set in the CAP strategic plan. If this performance review identifies a considerable difference between the quantitative goals in the CAP strategic plan and what is actually achieved, the European Commission can impose remedial actions and/or suspend or cut the payments to the member state (Fährmann et al. 2018).

133. The draft CAP strategic plan regulation (Article 123) also provides for a performance bonus of 5 % of the indicative allocation of the amount per member state for Pillar 2 for 2027. These funds are only paid to member states if, according to their result indicators, they have achieved their objectives for 2026.

Table 1: Key definitions of terms in the context of the new delivery model under the draft strategic plan regulation

Term	Definition	Example
Objectives	The CAP’s nine specific objectives are conclusively defined in Article 6.1)	Support for the sustainable development and efficient management of natural resources such as water, soil and air.
Intervention category	Generic term combining various interventions. Types of interventions are conclusively defined in Articles 14, 39 and 64.2)	Payments for management commitments (environmental and climate action, genetic resources, animal protection).
Intervention	An intervention is a support instrument based on one of the intervention categories under the strategic plan regulation with a range of eligibility criteria ascertained by member states in the CAP strategic plan (Article 3).	Payments for organic farming.
Output indicator	An output indicator relates to the achieved output of an individual intervention (Art. 7 (1) A).	O.13: Number of (agricultural) hectares (output) covered by environment/climate commitments that exceed mandatory requirements (Intervention: payment for management commitments).
Result indicators	A result indicator relates to a specific objective that can be triggered by various interventions. In the CAP strategic plans, result indicators quantify the milestones and targets in relation to those specific objectives (Article 7 (1) b).3)	R.27: Preserving habitats and species: share of agricultural land under management commitments supporting biodiversity conservation or restoration.
Impact indicators	Impact indicators relate to general and specific objectives and are used in the context of the CAP strategic plans (Article 7 (1) c).	I.18: Increasing farmland bird populations: Farmland Bird Index.
Unit amount	Planned amount in euros per supported unit (e.g. ha, LU, investment projects, promoted associations). If different unit amounts are planned in an intervention, for each unit amount the notified outputs and funding allocations are to be recorded separately in the strategic plan (Article 88) and reported as part of the performance statement.	

1) For the performance clearance and performance report, these objectives are supplemented by the cross-cutting objective set out in Article 5 of “fostering and sharing of knowledge, innovation and digitalisation in agriculture and rural areas, and encouraging their uptake”. 2) For the performance clearance and performance report, the types of interventions are grouped into 13 “broad intervention categories”. 3) Indicators that refer to specific environmental and climate objectives can also refer to interventions contained in corresponding national environmental and climate planning instruments and that have arisen on the basis of EU law. Examples of these are the specifications in the Habitats or Nitrates Directives.

Source: Amended from Birkenstock and Röder (2018: 20).

134. Financial volumes, so-called unit amounts (support rates) and outputs (e.g. subsidised area, number of projects) are to be established for each intervention (see Table 1) for each EU financial year. Taking a (hypothetical) example as an illustration, an AECM II measure to improve biodiversity is allocated a support rate of 200 euros/ha and every year 100,000 ha are to be supported. This results in an indicative financial allocation of 20 million euros per year.

135. If a member state intends to grant different premium levels (unit amounts) within an intervention, planning and reporting for each premium level have to be done separately. The administrative challenge involved can be highlighted using the example of support for organic farming. Assuming that the premium is still distinguished by conversion and retention on the one hand and grassland, arable land and special crops on the other, at least six different values would have to be planned and reported for the CAP strategic plan and performance report. Any deviations from the respective plan would have to be justified to the European Commission. If the premium amount corresponding to local conditions¹⁶ is just distinguished in three levels, this already means 18 (2 x 3 x 3) values.¹⁷ Similarly for investment support measures, a unit amount per project has to be ascertained, for which it is much harder to establish unit amounts and annual instalments than it is with area-based measures owing to the heterogeneity of the projects and it being harder to predict timescales around their implementation.

136. In the national strategic plan, individual interventions have to be assigned to (one or more) CAP objective(s), and result indicators are attributed to the CAP objectives for the performance report and performance review. The Annex of the draft CAP strategic plan regulation conclusively establishes which result indicators are assigned to which CAP objective. The result indicators are mostly output-based and relate the number of planned units to the main unit. With reference to the above example, biodiversity measures would increase the value of indicator R.27 (preserving habitats and species) by the value of 100,000 ha divided by the utilised agricultural area (UAA) in Germany.¹⁸ The result indicators are to be quantified with milestones in the CAP strategic plan. In contrast to the present system in Pillar 2, these milestones are set annually.¹⁹ Both output and result indicators essentially describe the outflow of funds and coverage of the support policies, e.g. the supported area's share of the UAA or the share of supported farms out of all agricultural holdings (cf. Table 1). In contrast, impact indicators describe the condition of the target system that is to be changed by the intervention (e.g. greenhouse gas emissions from agriculture).

¹⁶ These differences are one reason for the different premium amounts between federal states.

¹⁷ The lower the financial volume of an intervention and the more interventions offered, the greater the probability – solely for statistical reasons – of this leading to individual interventions with high percentage variations between reality and the plan. In other words, the more differentiated and therefore hopefully more targeted a strategic plan is, the greater the subsequent administrative burden related to documentation and justification.

¹⁸ This applies under the simplifying assumption that no other biodiversity-supporting measures are taking place on the 100,000 ha. Otherwise, in the calculation, the 100,000 ha would have to be reduced by those areas on which other biodiversity-supporting measures are being carried out at the same time because hectares cannot be included several times in the calculation of an individual result indicator (double counting not permitted).

¹⁹ In the 2014-2020 funding period, only milestones for 2018 and target values for 2023 were to be set.

137. The aim of the evaluation is to quantify the contribution of the CAP strategic plan to the change in impact indicators. The legislative proposals provide the framework for the evaluation of the CAP (see “Evaluation (national)” and “Evaluation (COM)” columns in Fig. 4). The strategic plan is subject to an ex-ante evaluation by the member state. This also features a strategic environmental assessment. Within a year of the strategic plan being approved, the member states have to submit an evaluation plan to independent experts outlining the basis for awarding the evaluation. In terms of content, the evaluation plan describes when, to what extent, with which data and, if applicable, by which methods the contributions to CAP objectives are to be evaluated. By 2031 the member state must submit an ex-post evaluation of the CAP strategic plan to the European Commission. By the end of the third year after the CAP strategic plans start to be implemented, the European Commission conducts an interim evaluation of the CAP and an ex-post evaluation of it by 2031.

4.1.2 Evaluation of the “new delivery model”

138. In the Advisory Board’s opinion, the greater decentralisation of the CAP desired by the European Commission is generally to be welcomed. In many areas it corresponds to the subsidiarity principle and is consistent with regard to the heterogeneous issues and preferences of member states (WBAE 2019). It has the potential to create a policy that meets targeted regional conditions and requirements and therefore achieve greater social acceptance of the CAP (WBAE 2018). To make this decentralisation happen, the European Commission is proposing a “new delivery model”. Whether or with what readjustments the new delivery model actually has the potential to produce a more effective design of the CAP’s agri-environment-climate policy is judged by the Advisory Board as follows:

139. The need for a CAP strategic plan presents considerable challenges for the implementation structures that have evolved in Germany. Pillar 1 has been and will continue in future to be regulated by a federal law; this also applies to the conditionalities, the established definitions under Article 4 of the draft CAP strategic plan regulation²⁰ and the eco-schemes to be developed. Pillar 2 remains the responsibility of the federal states. Looking at measures related to the environment, up to now the parameters for some of the range of measures have been established by the Joint Task for the Improvement of Agriculture and Coastal Protection (GAK) because (except for a few measures) it operates as a national framework under the EAFRD regulation. However, a major proportion of investment-related, advisory, planning and area-based measures have been conceived and financed by the federal states. There are no established coordination and exchange structures for these measures between the Federal Government and the federal states. Nevertheless this range of measures, even if it is “only” described in the regional parts of the CAP strategic plan, must be added consistently to the overall architecture of the CAP strategic plan and the future green architecture.

²⁰ These concern the terms “agricultural activity”, “agricultural area”, “eligible hectare”, “genuine farmer” and “young farmer”.

140. The Advisory Board welcomes the requirement in the CAP strategic plan to state what contribution the CAP is to make to the achievement of national climate and environmental objectives.

141. The Advisory Board considers the European Commission’s emphasis on the CAP’s new “results orientation” to be misleading: on the one hand, according to the strategic plan regulation, results should essentially be measured by output indicators, but the emphasis of the term suggests that up to now CAP support has not been aligned with results (Fährmann et al. 2018).

142. In principle the Advisory Board considers the use of a sliding indicator system for policy design and steering and for reporting to the public to be sensible. However, the annual system provided for in the legislative proposals is only of limited suitability and requires a fundamental readjustment. Financial and output indicators and unit amounts (see Table 1) originate from the mentality of simply programmed area-based measures with annual approaches. This system is impracticable for investment measures.

143. If result indicators on policy steering and evaluation are to be useful, they should be coordinated in their entirety with chains of effects and intervention logics underlying the support measures. This is only possible against the backdrop of the respective CAP strategic plan. The result indicators should fulfil two conditions in particular:

- completeness: all interventions chosen to address an objective are to be taken fully into consideration
- informative value: every intervention is entered into the result indicator in accordance with its contribution to objectives.

144. Neither of these conditions is included in the legislative proposals:

- With regard to “*completeness*”, the result indicators relating to the environment are primarily geared to area-based measures and ignore investment measures or measures to boost the human capital in this area (e.g. advice, training, collaboration). Consequently under this system these measures are not accompanied by performance (results), i.e. the result indicators are incomplete.
- Furthermore, the “*informative value*” of the indicators is very limited because all area-based measures are treated the same, even though they differ greatly in their area effectiveness. For example according to the draft regulation for the CAP strategic plan, in terms of climate action one hectare of intercropping would make the same contribution to results as the rewetting of one hectare of organic soil (result indicator R.12). Furthermore, with R.12, the physical area of all support measures is reported as a share of UAA so that member states offering eco-schemes or AECM II over a large area that are much less ambitious can demonstrate “good results”, while those member states with more ambitious measures and high target contributions can boast fewer “good” results.

145. Like the European Court of Auditors (ECA 2019), the Advisory Board is also of the view that the indicator system approach chosen is unable to contribute to more effective and more targeted policymaking. In particular a chance is being missed to qualify the result indicators more. The objective should be to make the result indicators actually usable for policymaking and steering (and deliver more information than targeted budgeting, which could be done with less effort) and provide a suitable

foundation for the mandatory evaluation. As has been the case up to now, only impact indicators taken from official statistics or environmental reporting are actually provided for the evaluation. Many of these impact indicators are influenced by factors that are outside policy, such as weather, price fluctuations, technological advances, demographic change etc. and/or react to an amended support policy with a considerable time lag. Estimating the impact contribution of CAP interventions first and foremost requires knowledge of the impacts of measures. The result indicators should actually give the first indications of this, but the envisaged indicators are unable to do this.

146. Therefore no substantial added value is apparent from the proposed system of result indicators compared to the current system, either to justify expenditure or steer the CAP’s contents. Instead, for the annual reporting and justification of payments to the European Parliament and European Court of Auditors, there should be a system that, at least with regard to the main effect, draws on a clear categorisation of all interventions, i.e. expenditure for all interventions is shown in full and clearly by the indicators. This categorisation of expenditure should comprise the intended main objective (e.g. water protection), if applicable differentiated into subgoals (e.g. preservation of groundwater reserves, reduction in the nutrient concentration in surface water, decrease in nutrient loads, improvement in the structure of water courses), intervention category (e.g. eco-schemes, advice, cooperation, investment, AECM II), steering approach (e.g. eligible area yes/no), selection process (yes/no), if applicable spatial relationship (e.g. field, grassland, special crops), the measure’s starting point (e.g. across farms, individual farm, farm activity, single area) and the categorised depth of intervention²¹. An approach like this can be implemented without difficulty with the paying agencies’ current system (e.g. in the form of product codes). When a standard categorisation scheme is given, it is possible with little effort to compare the direction of different schemes for various aspects and aggregate the figures across Europe. In addition to the main impact, member states could retain the possibility of designating secondary effects, as has been the case up to now in the EAFRD. However, it is hard to see any added value from planning the outflow of funds at such a detailed level (see paragraph 150).

147. With regard to output indicators, the Advisory Board is of the view that these should be reduced to the direct outputs of individual interventions. The Commission’s proposals for handing advances and interim payments are appropriate, even though they merely lead to results being open to interpretation in observations over several years. It should be ensured that the system can be illustrated effectively in a database system with reporting attached to it. The intersections intended by the Commission for ascertaining unique numbers should be abandoned at output level²². A clear identifier for each area, each project and each beneficiary is very probably intended in the underlying system, as has hitherto been the case, so that an appropriate, more in-depth analysis of the range of support can be performed during the evaluations.

148. In principle it would seem useful to distinguish more clearly between the different addressees and different purposes of reporting: at EU level one purpose of the indicator system is the reporting and

²¹ High intervention depth e.g. true position of multi-year flowering strips with certified regio seed; low intervention depth e.g. environmentally-friendly slurry spreading.

²² This means the supported area, supported beneficiary or supported project (without double payments).

justification of expenditure to the European Parliament and European Court of Auditors. Data must also be provided annually and be capable of being aggregated across member states. In the constellation of the European Commission and member states (regions), the indicators are used for control purposes, i.e. to verify whether in terms of their content the schemes are pursuing the planned priorities and achieving the expected objectives. Based on the results of this control process, adjustments can be made as required.

149. With regard to the justification of expenditure, the control should focus primarily on financial data with differentiated content rather than on physical variables (supported project, supported area, beneficiary) as is the case with the output and result indicators in the draft strategic plan regulation. The study of physical variables should be a core part of the evaluations. The physical units in different interventions are generally not directly comparable in terms of their impact. A differentiated consideration and evaluation are required here that takes into account the local context as well as the specific interplay with other interventions within and beyond the CAP. A standardised comparison or aggregation of physical indicators is equivalent, at least on a European level, to the proverbial comparison of apples and pears.

150. It is the Advisory Board’s view that for the planning of the outflow of funds, it is sufficient if this is done solely at intervention category level. Instead of the detailed planning currently required by the European Commission, in the planning phase only budget approaches (and not physical ranges of measures) should be specified and binding with regard to the intended objectives and intervention categories. A list of objectives could be used here that are slightly more differentiated than in Article 6 of the draft CAP strategic plan regulation. With regard to the subject matter of the present opinion, the following separate categories could be used: climate protection, climate change adaptation, protection of air quality, water protection, soil protection, species and biotope protection and natural scenery. In terms of these budget objectives, during the scheme’s implementation phase the European Commission should review whether member states are achieving the stated objectives. If they are unable to give plausible reasons for deviations from the plan, the unspent funds should be returned to the EU budget. In the Advisory Board’s view, a system like this is sufficient to guarantee adequate congruence between the planning and implementation of CAP strategic plans.

151. With regard to the regular reporting cycle, the Advisory Board believes it would be sufficient for member states to produce more detailed reports every two years. The reports should give explanations as to why these deviations from plan have arisen and what is to be done about it. These reports should not have sanctions attached to them, but should provide the starting point for a bilateral discussion process to increase the CAP’s effectiveness in relation to objectives. It is the Advisory Board’s view that if there were a threat of penalties, there would be a risk of member states primarily relying on measures where they can accurately estimate the outflow of funds for several years in advance and plan the extent of measures that in all probability they will achieve.²³ In the Advisory Board’s view, conservative

²³ From this perspective, the planned steering of output and result indicators provided for in the CAP strategic plan regulation is to be evaluated in a similar way to the Pillar 2 performance framework and performance reserve system in the current funding period: looking at current developments in relation to the performance framework in the 2014 to 2020 funding period, it is clear that it is ostensibly about ensuring the outflow of funds. In 2018, the European Commission therefore spontaneously changed the definition principles of what monitoring should take into consideration so that milestones are achieved. In the meantime projects that have started, and not just finished ones,

planning like this leads to time being unnecessarily lost in terms of the required conversion of the agricultural sector.

152. The performance bonus and the concept of unit amount should be dropped and not replaced. Both instruments lead to massive disincentives because they encourage member states to rely primarily on simple, less differentiated and very predictable measures. Apart from this, in the Advisory Board’s view, they have no discernible positive steering effect.

153. The new system of performance reporting and review is the prerequisite for being able to minimise, where applicable, the issues with the implementation system, aptly described in the EAFRD reset paper of the Saxony Ministry of the Environment and Agriculture (SMUL 2016), by having more appropriate regulations (Fährmann & Grajewski 2018b). For example, nature conservation agreements are currently suffering from the “imposition” of regulations from the Pillar 1 “integrated administration and control system” (IACS): e.g. definition of permanent grassland, precise square-metre area check, creation of sub-plots with continuously required amendment notices.²⁴ Furthermore, in the current funding period 100 % of all conditions are to be investigated over the entire commitment period. As part of the strategic plan, member states can develop an appropriate national management and coordination system. However, this system is excluded from European Commission approval. The actors in the implementation system remain the same as before. This carries the risk that the actors remain attached to the current system, which they have got used to over several decades, and do not fully exploit the opportunities presented by the new delivery model.

154. With regard to the ambitiousness of the objectives formulated in the CAP strategic plan, it remains unclear how much of an impact the European Commission will have on the achievement of environmental and climate-specific objectives in member states through the approval of member states’ strategic plans or delegated legal acts. From the perspective of environmental and climate action, greater opportunities for action open up more opportunities for member states to achieve their objectives. At the same time, it is noticeable that in Germany itself the opportunities currently available for greater orientation towards objectives in the allocation of resources have not been exploited nearly enough.

155. It is hard to estimate how much to fear a “race to the bottom” with regard to the ambitiousness of environmental and climate protection within the EU if the European Commission does not lay down any binding requirements for member states. However, there are strong political groupings (parties and NGOs), particularly in northern member states, who are pushing in the political process to prioritise environmental and climate objectives within the scope of the CAP. In contrast, member states that see more of a catching-

should be taken into consideration. Over and above this, it is not only payments up to 31.12.2018 that are taken into account, but payments up to the second quarter of 2019 as well.

²⁴ Nature conservation agreements often apply to small or irregular areas, which are often also distinguished by having several structural elements, being located on difficult terrain and having a fluid transition to unused areas. Consequently it often takes considerable effort to clearly define, mark out and locate the eligible area in the terrain. The adoption of existing specifications from Pillar 1 implies a considerable administrative burden for farmers and administration, and a high risk of penalties for farmers. By itself, the lateral (sideward) growth of bushes between the reference photograph for the application and an on-site inspection can lead to the eligible area changing to an extent that involves penalties, even though environmental objectives are achieved.

up process with regard to competitiveness and productivity in their agricultural sector could end up with the minimum level of resources being geared to the environmental objectives set by the European Commission. In Germany too, a similar effect became apparent after the introduction of the greening measures: when designing measures, the Federal Government made use of its flexibility to minimise the strain on farmers and on management and inspection authorities. From an environmental perspective, the result is a less demanding and largely ineffective greening design.

156. Apart from a few frameworks (e.g. certain interventions that have to be offered or minimum funding), it is still unclear under which criteria the European Commission will investigate national strategic plans and which minimum requirements have to be met for approval to be given. This applies primarily to the level of detail in the content of the strategic plan and its possible regionalisation, which is of particular importance to a federal state like Germany. So far, interventions are to be described on a rather abstract level (which is hardly compatible with the one-window-approach).²⁵ The more abstract the descriptions of interventions and the more detail ultimately stipulated in directives, the harder it will be for the European Commission (and, before that, for the accompanying ex-ante evaluation, including the strategic environmental assessment) to actually evaluate the quality and appropriateness of a strategic plan. Clarifications and substantiation on this are needed soon.

157. The Advisory Board welcomes the fact that the responsible environmental and climate authorities in the respective member state are effectively involved in working out the environmental and climate aspects of the CAP strategic plan. It also welcomes the involvement (“partnership”) of other responsible authorities, business and social partners, and institutions representing civil society in the preparation of the strategic plan.

158. At the same time the Advisory Board is concerned that the preparation of the CAP strategic plan and the envisaged involvement of partners will suffer during its development from time pressure. It is clear that the given date of 01.01.2020 in the regulation proposal for the submission of the CAP strategic plan to the European Commission is no longer feasible. The dates of 01.01.2021 and 01.01.2022 (European Parliament 2018) are currently under discussion. The Advisory Board restates its recommendation that all legal provisions should be available in good time before the start of a new funding period (WBAE 2019). To create transparency, the Advisory Board believes it important for each member state to make its draft strategic plan publicly accessible perhaps two to three months before submitting it to the Commission, and for the European Commission to publish all submitted strategic plans immediately. In order to have greater transparency and encourage mutual learning from individual CAP strategic plans, approved strategic plans should be translated promptly into English by the European Commission and the English version also made publicly accessible.

159. In summary, the planned decentralisation of decision-making and responsibility for design and the desire for greater “results orientation” within the scope of the CAP’s new delivery model offer member states new opportunities for developing and implementing targeted and results-based environmental and climate protection measures in the agricultural sector. At the same time, the leeway member states are

²⁵ One-window approach: approval of the strategic plan comes with approval for state aid at the same time. However this requires a sufficiently precise description of the aid.

being given in their design is being left so wide open that it might bring about a less ambitious implementation of the CAP. In order to ensure a minimum level of ambition in EU-wide agri-environment-climate policy within the scope of the new delivery model, the Advisory Board believes it particularly necessary to have a staged system of constitutional conditionality and binding quantitative specifications from the European Commission with regard to the desired environmental objectives. Over and above this, the described shortcomings in the indicator system and reporting should be addressed. The indicators should be aligned more to European environmental objectives and fit better with the respective intervention logic. Reporting should be simplified and a greater differentiation made between addressees and purposes. The concepts of unit amounts and performance bonus should be removed and not replaced because they offer no discernible added value with steering and represent a significant obstacle to having a differentiated, targeted and ambitious design of the support system.

4.2 Specific stipulations for the “green architecture”

160. Article 5 of the draft regulation for the CAP strategic plan (COM 2018a) states the general objectives of the CAP as follows:

- (1) to foster a smart, resilient and diversified agricultural sector ensuring food security
- (2) to bolster environmental care and climate action and to contribute to the environmental- and climate-related objectives of the Union
- (3) to strengthen the socio-economic fabric of rural areas.

All in all, environmental and climate protection occupies a more prominent position in the list of CAP objectives in the legislative proposals than it does in the current funding period.²⁶

161. To firmly establish these general objectives, Article 6 lists nine specific objectives, of which three are directly related to environmental and climate protection:

“... ”

- (d) contribute to climate change mitigation and adaptation, as well as sustainable energy
- (e) foster sustainable development and efficient management of natural resources such as water, soil and air
- (f) contribute to the protection of biodiversity, enhance ecosystem services and preserve habitats and landscapes.”

Based on these general and specific objectives, each member state must describe the current status and come up with a CAP strategic plan (see Section 4.1.1). Under Article 92, member states must endeavour to make a greater overall contribution to the achievement of environmental and climate-related objectives through the CAP in the new funding period than has been the case in the current funding period.

²⁶ For a more detailed discussion of the CAP’s objectives, see WBAE (2018).

162. With regard to the green architecture in the narrower sense, the legislative proposals stipulate three policy instruments: individual farm conditionality, eco-schemes, and agri-environment-climate support measures from Pillar 2 (“environmental, climate and other management commitments”, AECM II). These are presented below.

163. **Individual farm conditionality:** Within the scope of individual farm conditionality, recipients of direct payments and recipients of payments for AECM II, natural or other area-specific disadvantages (compensatory allowance) or area-based disadvantages (Water Framework Directive, Natura 2000) must meet “statutory management requirements” and keep their areas in a “good agricultural and environmental condition” (GAEC) under Articles 11 and 12 of the draft regulation. Responsibility for the specific design of GAEC obligations lies more in the hands of member states than has hitherto been the case.

164. In Annex III of the draft regulation, the European Commission defines 16 specific basic requirements of farm management and 10 GAEC standards for the strategic plan. Compared to the standards of cross-compliance and greening currently in force, farmers who receive direct payments must fulfil other requirements in future. The new GAEC obligations include (COM 2018a):

- GAEC 2: “Appropriate protection of wetland and peatland” (objective: protection of carbon-rich soils)
- GAEC 4: “Establishment of buffer strips along water courses” (objective: protection of river courses against pollution and run-off)
- GAEC 5: “Use of farm sustainability tool for nutrients” (objective: sustainable management of nutrients).

165. The requirements of GAEC 1 (maintenance of permanent grassland), GAEC 8 (crop rotation) and GAEC 9 (minimum share of agricultural area devoted to non-productive features or areas, retention of landscape features, ban on cutting hedges and trees during the bird breeding and rearing season, with the option of measures for avoiding invasive plant species) correspond or are similar to those in the current greening in Pillar 1.²⁷ However, greater specification of these through delegated legal acts by the European Commission and/or by member states in the national strategic plans is still outstanding.

166. **Eco-schemes (“Schemes for the climate and the environment”, Article 28):** Eco-schemes are a new instrument in agri-environment-climate policy. According to the wording of the draft regulation, within the scope of this intervention category, member states support “genuine farmers who make commitments to observe on eligible hectares agricultural practices beneficial for the climate and the environment”.²⁸ In

²⁷ Other GAEC standards not mentioned here have been adopted unchanged.

²⁸ Under Article 4 (1)d, the term “genuine farmer” is to be defined by the member state “in a way to ensure that no support is granted to those whose agricultural activity forms only an insignificant part of their overall economic activities or whose principal business activity is not agricultural, while not precluding from support pluri-active farmers.” While the first part of the stipulation suggests that part-time farms would therefore not be “genuine farms”, the second part of the stipulation suggests that part-time farms may not be precluded in the first place. In 2016 in Germany, 46 % of all agricultural holdings were part-time farms, and these farmed 18 % of the UAA (Federal Statistical Office 2017). Exclusion of part-time farms from participation in eco-schemes would not be justified under environmental or climate policy. In the current funding period, direct payments are only given to “active farmers”. Article 9 of the direct payment regulation (Regulation (EU) No 1307/2013) for example establishes that no direct

contrast to current Pillar 2 agri-environment-climate measures (AECM II), support comes from Pillar 1 funds. As part of their national strategic plans, member states are asked to produce a list of the eligible agricultural practices in this intervention category. Such measures are only eligible if they exceed the requirements of EU and national regulatory law and conditionality. As AECM II also need to be distinguished from eco-schemes, the design of eco-schemes influences how AECM II may be designed, and vice versa. Farmers participating in eco-schemes receive an annual payment per eligible hectare. The commitment period is one year and there is a legal right to the payment. The amount of the hectare payment can be established as an additional payment on top of the so-called “basic income support for sustainability” (basic premium) or, like the premium for AECM II, defined as compensation for all or part of the additional costs and loss of income arising from these obligations.

167. Eco-schemes in Pillar 1 generally differ from AECM II in that they do not require co-financing from member states. If they are implemented as an additional payment to “basic income support for sustainability” (Article 28 (6)a), the eco-schemes are not subject to the stipulation of only reimbursing the costs and loss of income incurred by these obligations. This is also a one-year measure that is easier to manage than multi-year measures (see Table 2). These features make the use of this instrument generally of interest for member states. On the one hand environmental and climate objectives can be achieved in their countries without using national co-financing – this also applies, however, to AECM II where these are financed from direct payment funds reallocated to Pillar 2. Nevertheless, it can create a greater financial incentive for farmers to use environmentally and climate-friendly processes. Member states are largely free to set the amount of the premium (upwards and downwards).

payments shall be made to those who operate airports or permanent sport and recreational grounds. Member states can add to the list of exclusions in accordance with the criteria given in Article 9.

Table 2: Differences and similarities between eco-schemes (Pillar 1) and agri-environment-climate measures (Pillar 2)

Aspect	Eco-schemes (in Pillar 1, Article 28)	Agri-environment-climate measures in Pillar 2 (Art. 65)
Duration/commitment period	One year (calendar year) ¹⁾	Five to seven calendar years (extension also possible where justified)
Beneficiaries	Genuine farmer	Farmer ²⁾ , collective contracts possible
Modes of payment calculation	Payment on top of basic income support, i.e. payment as a standard amount per hectare of land, for which direct payments are made (Art. 28 (6) a) or payment as in AECM II (Art. 65, see right-hand column) (Art. 28 (6) b)	Compensation for costs and loss of income incurred (transaction costs taken into consideration where applicable)
Funding areas	Agricultural practices that benefit the climate and environment	Environmental, climate and other management commitments
Reference figure	Hectare	Hectare, number of animals, trees etc.
Allowable against the 30 % budget allowance for environmental and climate protection in the EAFRD (Article 86 paragraph 2)	No	Yes
Link with consultancy services (AKIS ³⁾ system)	Applies only to the general reference to advisory services in Article 13	Beneficiaries must be allowed access to the knowledge and information they need to implement the scheme
Delegated legal acts by the European Commission possible	Yes	Yes
Financial volume	Not ascertained	At least 30 % of EAFRD budget committed to measures addressing objectives in Article 6 d-f
Participation by farmers/other land managers	Application, legal right to payment upon fulfilment of formal prerequisites (see paragraph 170)	Application, approval depending on availability of budget funds, additional selection criteria if oversubscribed
Time of application	With the main request (15 May of the commitment year)	Initial application before the first commitment year

¹⁾ Annual renewal/extension possible, ultimately leading to a duration of up to seven years. ²⁾ If this does not involve a “genuine” farmer (see footnote 27), land managers do not receive payments from Pillar 1 for their areas. ³⁾ Agricultural Knowledge and Information System.

Source: Adapted from Fährmann et al. (2018: 28).

168. **“Environmental, climate and other management commitments” (Article 65):** In the draft regulation, as with eco-schemes, AECM II must go beyond the requirements of the EU and national regulatory law and conditionality. Identical management conditions may not be supported twice by AECM II and eco-schemes. For AECM II, the principle also applies of the cost-oriented determination of compensation payments, i.e. compensation may only be paid for costs incurred and loss of income from commitments (if applicable)

supplemented by a transaction cost surcharge). Voluntary participation in AECM II is generally for a commitment period of five to seven years (in contrast to the one-year commitment period for eco-schemes). If oversubscribed, selection criteria can be used, i.e. there is no legal entitlement to the payments on application.

169. Included in the green architecture in the wider sense are:

- **possibilities of transferring financial resources between the two pillars (Article 90).** Member states are given the option of transferring up to 15 % of direct payments to Pillar 2 and vice versa. Each member state can also transfer up to a further 15 % of direct payments to Pillar 2 if these funds are used for environmental and climate objectives. Up to a further 2 % of direct payments can be transferred to Pillar 2 if these resources are spent on installing young farmers. Thus altogether, up to 32 % of the premium ceiling of Pillar 1 can be transferred to Pillar 2;
- **the possibility of financial compensation for area-specific disadvantages resulting from certain mandatory requirements (Article 67).** This essentially covers compensation payments for regulatory management requirements in Natura 2000 areas and other demarcated nature conservation areas, as well as for conditions in watershed management plans;
- **investments under Article 68 to support objectives under Article 6 paragraphs d, e, f (climate and environmental protection).** Eligible investments include the acquisition of land to preserve the environment and afforestation, and non-productive investments associated with specific environmental and climate-related objectives;
- **support for cooperation (Article 71) and support for knowledge exchange and information (Article 72).** Examples of supporting human capital in environmental and climate action could be supporting producer groups with the spatial coordination of nature conservation activities or farm advisory services related to environmental and climate action;
- **coupled direct payments (Article 29 et seq.).** The appropriate design of funding conditions can allow coupled direct payments to contribute to the achievement of environmental and climate-related objectives. This requires a strict focus on the performance of narrowly defined general interest services and assessing the level of support in relation to the costs of performing these general interest services (e.g. premiums for extensive grazing).

170. Furthermore, the design of the green architecture is greatly influenced by the definition of the group of eligible beneficiaries and of the eligible area.

- **Eligible beneficiaries:** The draft regulation has a general tendency to extend existing differences between the two pillars in the demarcation of the circle of eligible beneficiaries. Therefore under Article 4, only so-called “genuine farmers” (see footnote 27, p42) receive direct payments or benefit from the compensatory allowance. In contrast, the circle of possible beneficiaries of area-related agri-environment payments under the EAFRD (Article 65) or for the compensation of area-specific conditions arising from European funding regulations (Article 67) is much more broadly defined. The compulsory exclusion of part-time farmers or non-classic actors involved in maintaining the landscape (e.g. associations) from support within the scope of Pillar 1 is much more open to interpretation in this legislative proposal (for a discussion on this, see Section 4.3).

- **Eligible area:** Within the scope of Pillar 1, under Article 4 all agricultural areas on which an agricultural activity is carried out annually are eligible. Furthermore, areas are eligible that used to be eligible (2007) but lost this status due to the implementation of European nature conservation and water protection directives. In the course of the legislative proposals, member states receive additional authority for defining the terms “agricultural land”, “agricultural activity” and “eligible area”.

171. With regard to the **funding** of this policy area, there is the stipulation that at least 30 % of EAFRD funds (before transfer) have to be used for climate and environmental measures²⁹. On the basis of plan figures in federal states’ rural development programmes for the current funding period, this stipulation has already been achieved in nearly all Germany’s federal states (Röder et al. 2018: 32 et seq.).³⁰ Furthermore, at least 40 % of all CAP funds are to contribute to climate action or support adaptation to climate change. Owing to weighting factors that in part are technically incomprehensible and disproportionately high³¹ (see ECA 2016) and the technically unjustified contraction of climate action and climate adaptation, this stipulation has no steering effect.

172. The various elements of the green architecture are critically reviewed in Section 4.3 below and the resulting design options are discussed in Section 4.4.

4.3 Critical appraisal of legislative proposals on the “green architecture”

4.3.1 Individual farm conditionality

173. It is perfectly understandable from a politico-economic perspective that the Commission is tying the receipt of direct payments to compliance with regulatory law (in the form of “statutory management requirements”) so that public money is only being given to farmers who comply with the law.³² From the perspective of payment recipients, “statutory management requirements” induce meticulous compliance with regulatory specifications since infringements not only have regulatory or criminal penalties, but over and above this result in a cut in direct payments. From the perspective of management and inspection authorities, “statutory management requirements” consequently imply the need to control compliance with regulatory law, reinforcement of implementation of regulatory law, but also an increase in the administrative burden.

²⁹ This means measures assigned to climate and environmental objectives without payments for disadvantaged areas.

³⁰ The compensatory allowance was not taken into consideration here.

³¹ The weighting factor is 40 % each for basic income support for sustainability, supplementary redistributive income support for sustainability, and the compensatory allowance for disadvantaged areas, and 100 % each for eco-schemes and AECM.

³² Conditionality also applies to recipients of AECM II payments, the compensatory allowance, and Natura 2000 and WFD payments.

174. In part, the GAEC standards go beyond the statutory minimum standard and consequently constitute additional funding regulation stipulations. From a technical and administrative perspective, the GAEC specifications can be reviewed critically. For example, compliance with GAEC 2 (objective: protection of carbon-rich soils) might lead to costs and incomes losses on most farms above direct payments if the conditions are designed effectively (e.g. rewetting of moorland). Effective specifications to protect organic soils might therefore be hard to implement with conditionality. The same might be true of the stipulation of annual crop rotation (GAEC 8) on intensive forage cropping farms. The stipulation on crop rotation can also prevent multi-annual arable fodder cropping (e.g. clover grass), which is to be welcomed from an environmental perspective.

175. In its report on the current CAP reform, the Advisory Board has criticised the implementation of assistance in regulatory law by means of the conditionalisation of direct payments, and recommended to the Federal Government that direct payments be phased out over the long term. The resources freed up by this should be transferred to targeted measures in Pillar 2, greening and cross-compliance should be abolished, and ensuing regulatory gaps filled through the appropriate development and consistent enforcement of regulatory law (WBAE 2018).

176. Individual farm conditionality carries the risk not least that it is used strategically by advocates of direct payments as a justification for having as a high a budget share as possible for what is called “basic income support for sustainability”. As these direct payment components involve an acreage subsidy, a considerable number of landowners benefit from this if the conditions are not proportionate to the amount of the payment. If the individual farm conditionality now being discussed is to be based on similar conditions, such as today’s cross-compliance and greening, the term “basic income support for sustainability” would be misleading.

177. The Advisory Board considers ambitious conditionality that goes way beyond the basic requirements of farm management only to be sensible as a second-best solution if a member state selects a policy model that offers just a few or less ambitious AECM in Pillars 1 and 2. In such cases, a steering effect could be expected from conditioned direct payments that goes beyond regulatory law, but is still far behind that of the targeted measures under Pillars 1 and 2. It is also to be anticipated that with strong farm-specific conditionality, primarily intensive dairy and livestock farms as well as farms in high-yielding locations forego direct payments entirely. In that case, the direct payments endowed with conditionality would lose their intended impact on environmental and climate protection. It is therefore desirable to expand regulatory law with GAEC standards and improve their enforcement (cf. Section 4.4.2).

4.3.2 Eco-schemes

178. The Advisory Board welcomes the ability to programme agri-environment-climate measures within the context of eco-schemes in Pillar 1 in future. This provides an opportunity to mobilise funding to achieve social objectives that are currently tied to direct payments without any appreciable steering effect. However, the legislative proposals offer member states so much leeway that the eco-schemes can be made less targeted and less ambitious. There is a risk that, like greening, they will become a largely ineffective policy instrument in terms of the objectives listed in Article 28 (4).

179. In member states such as Germany that have regional rural development programmes, eco-schemes can offer an advantage over Pillar 2 in that national measures can be designed more coherently because the federal states have less responsibility (see “Division of competencies between the Federal Government and federal states in agri-environmental policy” text box). Therefore in Germany, under eco-schemes the Federal Government could, for example, implement the coherent promotion of organic farming or national promotion of pastoral stockfarming. In contrast the Federal Government has limited opportunity to influence the distribution of funds in the agricultural policy’s Pillar 2. These are limited to setting financial incentives within the scope of the GAK, such as earmarking funds to encourage broadband supply in rural areas or the establishment of special frameworks, for instance following the role model of the special “preventive flood protection” framework established in 2015.

Division of competencies between the Federal Government and federal states in agri-environmental policy

There is as little comprehensive, uniform regulation of legislative powers for agri-environmental protection as there is for environmental protection as such. Competencies are divided inconsistently today due to the persistent medium-based approach in German environmental law on the basis of the relevant environmental medium. A core competence can be identified in the Federal Government because in all relevant environmental areas it is entitled to competing legislative competence. The exercise of the federal state’s competing legislative competence is limited to individual cases mentioned in the Basic Law (BL) through the clause on necessity under Article 72 (2) of the BL and competence for divergent state legislation under Article 72 (3) of the BL:

- Under the clause on necessity, the Federal Government may only make use of its legislative power if it expressly states the necessity for a regulation based on federal law by reference to the criteria mentioned in it. In particular the necessity clause covers the areas of animal welfare, seed, food law and plant health legislation.
- Under divergent state legislation, the federal states are authorised to adopt regulations that deviate from federal law. This includes the areas of water balance, nature protection and landscape conservation as well as spatial planning. Important areas are exempt from this however (for example substance and installation-related regulations in the water balance).

Waste and air quality management are not subject to limits, therefore the Federal Government can regulate these freely. Over and above this, important areas of environmental protection are not taken into consideration in the list of competencies currently in force. Here the Federal Government relies on appropriate, but nevertheless jurisdictional provisions external to the environment. Thus various regulations relating to environmental protection, particularly in the area of renewable energies, climate action, chemical safety and protection against non-ionising radiation, have been underpinned by the competing legislative power provided for in Article 74 (1) (11) BL for the “law relating to economic matters”, to which the above necessity clause also applies.

180. From the perspective of farmers, eco-schemes have a number of advantages over Pillar 2 measures:
- a) there is a legal right to payments from eco-schemes, while Pillar 2 measures have to be reviewed and authorised and, if oversubscribed, are subject to a selection process
 - b) the one-year commitment period gives participants the opportunity to “try out” environmentally-friendly processes on their farms without having to commit themselves for five or seven years. In addition there is the later application date (15 May) and earlier payment date compared to Pillar 2 measures. The short commitment period increases business flexibility and in all probability will have a positive impact on farmers’ willingness to participate
 - c) furthermore, in a regulation within the scope of Pillar 1, the “early start to a measure” infringement ceases to apply. This opens up new opportunities, particularly for biotic resource protection in agriculture³³
 - d) from the perspective of farmers, eco-schemes offer a further advantage in that payments under the “payments additional to the basic income support” implementation version (Article 28 (6)a) may contain incentive elements, while the AECM II premiums may only compensate for additional costs and loss of income associated with the measure.³⁴ An incentive element also allows farmers to establish environmental and climate action as a farm activity with profit opportunities. It is conceivable that this why farmers who up to now have not participated in AECM II for economic reasons are being drawn to environmental and climate protection. However, it should be borne in mind that member states already also have considerable leeway in the premium calculation for AECM II now (see “Bogus debate on incentive elements” text box).

³³ Under German budgetary law, as part of Pillar 2 flowery areas can only be created in the spring of the first year of the measure, although from a nature conservation and agronomic perspective their establishment in the autumn of the previous year would often be more sensible. Planting in autumn constitutes an early start to the measure. This infringement ceases to apply if planting of flowery areas is supported under the eco-schemes of Pillar 1.

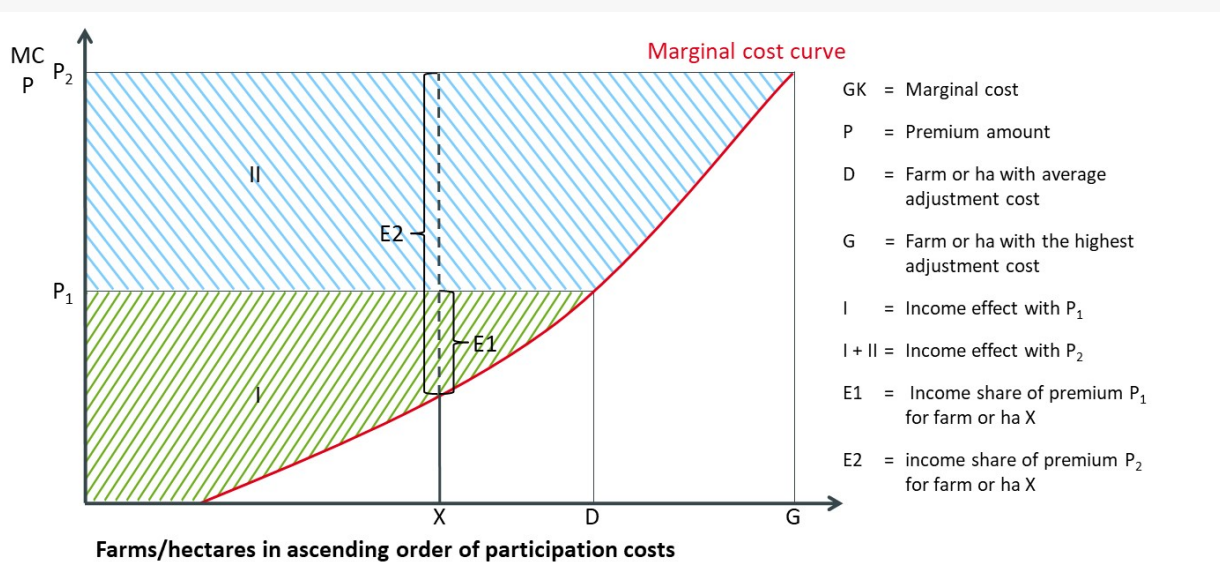
³⁴ As the majority of premiums are calculated using average values, for those farmers who produce comparatively cheaply, the premiums contain an “incentive element”.

Bogus debate on incentive elements

Agri-environment-climate measures in Pillar 2 have to satisfy the stipulation that their premiums are solely to compensate all or part of the additional costs and loss of income incurred by beneficiaries as a result of the commitments made. If need be, they may also cover transaction costs up to a value of 20 % of the premium (30 % for groups of farmers). In political discussions, this stipulation is often presented as a barrier to farmers' willingness to participate. However, arguments of this kind are not well-founded.

In practice, with a large number of the measures, owing to the heterogeneity of costs on participating farms, there will always be some where a standard premium results in a larger or smaller share of the profit. In extreme cases, when the measures do not necessitate adjustments to farming operations, the premium is up to 100 % profitable. Therefore with a standard premium, the stipulation of a cost-based premium calculation for each individual farm cannot be met. With an average calculation across all (participating and non-participating) farms, owing to cost heterogeneity it is also not possible to calculate the premiums so that on average no significant profits are generated on all participating farms (see diagram). On farm or hectare X, the premium has an income portion of E1 if the premium amount corresponds to the average participation cost of all farms (D), and E2 if the premium amount is geared to marginal providers (G) in relation to all farms.

Illustration: Income effects of an agri-environment premium with different participation costs (diagram)



Source: Own illustration.

Federal states have great leeway in establishing the premium amount:

- the premium calculations can presume different desired participation rates and accordingly arise at different points along the marginal cost curve
- individual cost parameters can be selected within a wide scope. Thus the wage rate, for example, can be geared to agricultural workers' gross pay of ca. € 20 an hour, or to the much higher salaries of skilled freelancers.
- Different assumptions with regard to farm and region-specific features (e.g. fertile/less fertile location, dairy farm or cattle-fattening farms, densities of livestock and land use intensities) lead to different calculated costs and consequently premiums of different amounts.

Occasionally the lack of compatibility with WTO is raised as an argument against awarding an incentive element in agri-environmental measures: this means payments are no longer “green box compliant”. This argument is not convincing for two reasons: first in most cases, agri-environmental payments tend to lead to a decrease rather than to an increase in classic agricultural production. It is therefore unlikely that they will be the subject of a dispute under a dispute settlement procedure within the WTO. Second in the area of distorting support, the EU has considerable scope with regard to its committed upper limit. Thus trade-distorting domestic support notified to the WTO by the EU for 2015 amounted in total to only around € 7 billion compared to a permitted maximum of € 70 billion (Matthews 2018). Therefore it would not be an issue to say that some agri-environmental measures are “trade-distorting” if that were actually necessary.

The possibility of granting an incentive element within the scope of eco-schemes should therefore not be exaggerated or highlighted as a unique selling point of eco-schemes.

181. In terms of political feasibility, eco-schemes have the advantage of payments only being made to agricultural holdings. In contrast to this, uncommitted funds that are reallocated to Pillar 2 can also go to other actors in rural areas. Consequently a shift of funds away from today’s direct payments to eco-schemes within agriculture could be more acceptable than a shift to Pillar 2. To achieve environmental objectives, however, it is sensible that not just agricultural holdings, but land managers too can generally be recipients of payments (see Section 4.3.5).

182. From the perspective of achieving environmental and climate objectives, the Advisory Board is fairly critical of eco-scheme measures being for a one-year period. It means measures have to be reapplied for every year (deadline currently 15 May). Therefore one measure can be implemented on the same area for several consecutive years, but farmers can also “deselect” measures already implemented the following year. From an environmental perspective this is problematic if eco-schemes are targeting the long-term safeguarding of protected goods. It therefore makes little sense to support the creation of habitats through measures that can be deselected every year that are no longer available to target populations the following year. Therefore environmental objectives that can only be achieved by giving long-term protection to the same areas should not be driven by eco-schemes.

183. There are also misgivings that eco-schemes can be adapted annually as one-year measures within the scope of changes to the strategic plan. This can affect both the design of content and the level of support. In extreme cases, measures are cancelled. Consequently from the perspective of farmers, eco-schemes would be associated with less planning certainty than Pillar 2 payments. However, this kind of coordination process between the federal government and federal states is complex and associated with legal changes, therefore short-term adaptations cannot be expected.

184. With the newly created possibility of granting an incentive element as part of the eco-schemes, in principle the Advisory Board does not see environmental and income objectives being confused. It depends much more on the design of the eco-schemes whether it is the environmental objective that is being controlled or the income objective. In principle the Advisory Board believes that the appropriate design of eco-schemes has great potential in the opportunity to fund environmental and climate protection out of Pillar 1.

185. A sensible design of measures and appropriate funding are crucial to successful steering of environmental objectives. The European Commission’s legislative proposal only stipulates that each member state must offer eco-schemes, but makes no technical requirements concerning the ambitiousness of the measures and does not specify a minimum budget share for this policy instrument. This carries the risk that member states that place high value on the income objective are inclined to allocate a high proportion of the national premium ceiling of basic income support or complementary redistributive income support by limiting the offer of eco-schemes measures to the minimum accepted by the European Commission, or in terms of environmental policy offer less ambitious eco-schemes with a high hectare premium. The Advisory Board considers there to be a risk that a “free premium calculation” without further specifications could be used by some member states as a route towards pure income support.

186. In the legislative proposals, therefore, the Advisory Board considers it essential that the national strategic plans provide for a minimum funding level for payments that address environmental objectives under Article 6. This minimum funding level should relate to the total volume of the CAP (Pillars 1 and 2).

187. Furthermore, at EU level, minimum requirements should be specified for the level of aspiration of the measures programmed within eco-schemes. A minimum budget and minimum requirements should be criteria for the European Commission’s approval of strategic plans. If this does not happen, it is the Advisory Board’s opinion that the credibility of eco-schemes will be threatened from the outset, just as it was with greening.

188. The Advisory Board is also of the view that, contrary to the stipulation in the legislative proposal, payments made under eco-schemes should not be subject to capping and degression otherwise there is a risk that farms affected by this would only have a small incentive to engage in this intervention category.³⁵

189. In principle eco-schemes offer the possibility of using funding from Pillar 1 of the CAP intended for objectives serving the public good in the areas of environmental and climate protection. However, there is largely a lack of opportunity to direct resources towards achieving animal welfare objectives as well. One exception to this is the pasture premium (as an area-based premium). The need for a greater focus on animal welfare presents huge challenges to livestock farming in Germany. The annual costs associated with this are on average around 13-23 % of production costs in Germany today (WBA 2015). Against this backdrop, the Advisory Board recommends that eco-schemes be opened up to measures targeting improvements in animal welfare for the following reasons:

- a) the WBA (2015) estimates the costs of making the required improvements to animal husbandry in Germany to be € 3-5 billion per annum. In principle there are various financing options available: higher consumer prices for products identified as being particularly related to animal welfare, levy models such as Germany’s private sector Animal Welfare Initiative, a national meat duty/tax, and the award of state animal welfare premiums outside levy models. With widespread private sector husbandry labelling, great progress has been made in giving consumers transparency. However, this alone cannot be expected to be sufficient to achieve the required conversion of husbandry systems nationwide. This requires complementary financing instruments. With the Animal Welfare Initiative’s current budget of around € 130 million a year and national animal welfare payments under Pillar 2 (Article 33 EAFRD regulation) of currently around € 34 million per annum, the funds provided are not proportionate to the size of the challenge: animal welfare is underfunded
- b) the significance of animal welfare is defined at national level in Germany through its constitutional status and the Animal Welfare Act. At the same time, unlike most environmental dimensions, animal welfare requires no regional differentiation in the design and implementation of measures because it does not have a specific regional bearing. It is therefore appropriate to design financing instruments coherently at national level. This would at least be simpler within eco-schemes than within Pillar 2, which is the responsibility of federal states

³⁵ At this point the Advisory Board asserts that in principle it does not consider capping and degression to be sensible (see WBAE 2018). It also points out that the consideration of paid wages and calculated costs for unpaid working relatives provided for in the legislative proposals would lead to a considerable additional administrative burden, but to virtually no cuts in direct payments.

- c) animal welfare is not only an important issue in Germany, but in other European countries as well (Grethe 2017). In this respect adding animal welfare to the list of eco-schemes’ objectives could be attainable in current negotiations on the future design of the CAP.

190. The legislative proposals provide for payments under eco-schemes to be made only for performance above statutory requirements. This is also the case if national legal specifications are above the EU level. This will make it harder for individual member states to proceed with regulations much more quickly than on average is the case in the EU. They would therefore lose competitiveness and would be unable to make up for this disadvantage through compensating premiums. It could lead to livestock breeding migrating abroad where animal welfare standards are lower.³⁶ Therefore in animal welfare, there should be the possibility of different regulatory speeds. Against this backdrop, the Advisory Board is of the view that payments under eco-schemes should also be permitted in selected cases for services that correspond to national statutory standards if these are clearly above the EU level.

4.3.3 Agri-environment-climate payments (AECM II)

191. The Advisory Board welcomes the explicit stipulation in Article 65 of the legislative proposal that environmental, climate and other management commitments (AECM II) must go beyond the requirements of the EU and national regulatory law and conditionality. When developing national strategic plans, clarification is required about differentiating appropriately between AECM II and eco-schemes. Specific proposals on this are made in Section 4.4.4.

192. In the view of the Advisory Board, over and above this it is sensible for the costs and loss of income incurred by undertaking commitments (if applicable, supplemented by a transaction cost surcharge) continue to be used as a starting point for the premium calculation. With regard to the desired geographical penetration of certain measures, however, the Advisory Board believes it important for federal states to use the opportunities for premium differentiation in AECM II programming. For a more efficient achievement of objectives, the principle of a cost-based premium calculation should be associated with the use of innovative incentive mechanisms, for example bonuses for the spatial coordination of nature conservation activities (see Section 3.5) or collective approaches to nature conservation (see Section 3.6)

³⁶ This effect is much lower in arable farming (where conditions are considerably above the EU average) because arable farming is tied to the position and location and is therefore harder to transfer.

4.3.4 Budget stipulations

193. The legislative proposal makes the stipulation that at least 30 % of EAFRD funding (before reallocation) has to be used for climate and environmental measures. This stipulation has already been achieved in virtually all federal states today (Röder et al. 2018: 32 et seq.). Furthermore, at least 40 % of all CAP funding is to contribute to climate action. Due to the partly incomprehensible and unreasonably high weighting factors, this stipulation has no steering effect. It should therefore not to be assumed that the European Commission’s funding stipulations contribute to appreciably better funding or achievement of agri-environment-climate policy objectives. Given the existing financing requirements, the Advisory Board believes that the stated funding is too low.

194. As outlined in Section 3.3, the Federal Government/States Working Group Nature Protection, Landscape Conservation and Recovery (LANA) estimates that at least 1.3 billion euros are needed each year for nature protection in Germany’s non-forest areas (Pechan 2016). This roughly corresponds to the current EU budget in Pillar 2 of the CAP in Germany. For the extensive rewetting of farmed moorland in Germany, Röthe et al. estimate (2015) opportunity costs of 0.6 to 0.8 billion euros per annum. This does not include the costs of any hydro-engineering measures required. In view of the many and varied challenges in other target areas of Pillar 2 as well (WBAE 2018, WBA 2015), these figures underline the need for funding of the agri-environment-climate policy area above the minimum specified by the European Commission.

195. In the current funding period there is already an entitlement to spend 30 % of direct payments on achieving agri-environment-climate objectives. However, implementation in the form of the greening premium has proven to be largely ineffective (Nitsch et al. 2017, Hart et al. 2017). The Advisory Board is of the view that funding of the agri-environment-climate policy in Pillars 1 and 2 in the upcoming funding period should not be below the 30 % threshold with regard to the amount of the CAP budget for direct payments and the EAFRD. It should be noted here that in contrast to greening, the funds for targeted and efficient measures are being spent.

196. With the appropriate design of eco-schemes, the Advisory Board sees huge potential in the possibility of financing environmental and climate action from Pillar 1. The Advisory Board is equally positive in its evaluation of the possibility of reallocating just under one third of direct payment resources to Pillar 2. Additional resources that are currently in direct payments but have no appreciable steering effect can be mobilised through this for environmental and climate protection.

197. While there are no targets for the AECM share of the total CAP budget, the Advisory Board is critical of there only being a quantitative stipulation for financial allocation to environmental and climate objectives in Pillar 2 (before reallocation). In view of this, the Advisory Board considers it absolutely necessary to establish a minimum budget for eco-scheme funding.

4.3.5 Beneficiaries and eligible areas

198. The Advisory Board considers the narrowing of the circle of **beneficiaries** in Pillar 1 to “genuine farmers” (see paragraph 170) to be unsuitable for a number of reasons:

- firstly, the Advisory Board reasserts its opinion that direct payments are not generally a suitable instrument for addressing sociopolitical issues (WBAE 2018: subsection 53 et seq.);
- secondly, the Advisory Board is of the view that it should be left to the business calculations of the farm operators and their families as to what extent and how they engage inside and outside agriculture, thus spreading the risk, for example, or with agricultural activities serving to spread the risk from their other activities;
- thirdly, the demarcation of “genuine farmers” implies a considerable additional administrative burden, and the Advisory Board does not currently see how a practicable, appropriate and legally valid demarcation is to be made, particularly with legal persons, or how a difference in the treatment of legal and natural persons can be prevented;
- fourthly, if the performance of environmental services is to be paid for more with the CAP and particularly with Pillar 1, in the Advisory Board’s opinion the extent to which services are performed rather than how the service provider is commercially structured should be crucial in determining the amount of the payment. This is particularly true against the backdrop of part-time farms and non-classic farms in many cases being very significant for continuing farming in marginal locations or high-value areas in terms of nature conservation.

199. The definition of **eligible area** for the current funding period is particularly associated with negative effects for climate action and species and biotope protection. In the Advisory Board’s view, the following aspects are particularly problematic:

- Many dry and structurally diverse meadows receive no support under Pillar 1 or the support is associated with a high outlay for everyone involved and a risk of sanctions. The reason for this is that on this land, which for the most part is very valuable for nature conservation, structural elements that are in part abundant (e.g. field copses, open soil) currently have to be individually and accurately recorded and maintained. This contradicts the dynamic structure of elements in systems like this. Over and above this, in quite a few cases a good conservation status of biotopes allocated for agricultural use generally requires either eligibility criteria not to be breached (e.g. vegetation cover too small), or plant species dominate that are not generally considered eligible fodder crops in Germany, even though they are eaten by farm animals in extensive systems (e.g. sedge and meadowsweet).
- As EU law stands, arable land becomes grassland when vegetation cover on it is not extensively disturbed for five years. As the value of arable land is much greater than that of grassland, field forage holdings are regularly ploughed before the deadline. This is often not necessary either agronomically or on the basis of adaptations to the farm’s production programme. Disturbance of vegetation cover is mostly associated with a significant release of nitrogen and greenhouse gases.

- Currently the criteria for demarcation of eligible land prevent paludiculture³⁷ from being more widespread. Paludiculture can make a considerable contribution to reducing high greenhouse gas emissions from the agricultural use of moors. However, the cultivation of some types of paludiculture (e.g. rushes, bulrushes and sedges) does not come under the term agricultural activity. Furthermore, the establishment of paludiculture on moor grassland mostly constitutes grassland conversion that has to be approved and compensated.

200. In principle under the legislative proposals, it is possible that under Pillar 2 land management is supported by actors who do not meet the definition of “genuine farmers”. It is equally possible that the cultivation of land is supported that is not part of the eligible area in Pillar 1. However, direct payments partly cover the fixed costs of cultivation (e.g. land tax, professional association, observance of cross-compliance) that are not normally included in the calculation of AECM II subsidies. Particularly in marginal locations, it is often the case that good enough outcomes cannot be achieved from normal agricultural activity. If the above-mentioned actors are important for the management of these locations, they would have to be awarded a higher rate of assistance than “genuine farmers” for the same measures to at least offset some of the direct payments. The same applies when the management of non-eligible areas is necessary for the delivery of environmental benefits through agriculture or even the fulfilment of international obligations (preservation of FFH habitat types). In the Advisory Board’s view, this additional differentiation required in the support amounts in Pillar 2 would increase the administrative burden unnecessarily.

4.4 Design options for core elements of the green architecture (conditionality, eco-schemes and AECM II)

4.4.1 General considerations

201. There is a general challenge comes in the huge freedom the legislative proposal gives member states in the design of the green architecture within national CAP strategic plans. This freedom gives member states the leeway to design very different policy models:

- a) **“Strong Pillar 2 with a strong environmental and climate focus” policy model:** The agri-environment-climate policy is organised first and foremost through targeted programmes in Pillar 2. Thirty per cent of resources in Pillar 1 are transferred to Pillar 2 to create a broad and attractive range of individual measures and offer advice, training and networking offers for farmers. This may be accompanied by lower requirements in terms of conditionality and a minimum range of measures under eco-schemes.

³⁷ Paludiculture is agricultural and forestry use of wet and rewetted upland and low-lying moors. Paludiculture uses the biomass growing or cultivated on moors with simultaneous peat formation or at least the preservation of the peat body (Wichtmann et al. 2016: 1). Paludiculture is designed to look after the peat and the climate, and consequently allows sustainable management of organic soils. Typical species suited to paludiculture are peat moss cultivation on upland moors, as well as reeds, bulrushes and reed canary grasses, or sedges and alders on low-lying moors.

- b) **“Strong Pillar 2 with a weak environmental and climate focus” policy model:** 15 % of the Pillar 1 premium ceiling is transferred to Pillar 2 to be used for objectives other than environmental and climate policy (e.g. agricultural structure or regional policy objectives); AECM II in Pillar 2 only meet the minimum budget share stipulated.
- c) **“Strong conditionality” policy model:** Conditionalities including national regulatory law are increased and farmers compensated by means of direct payments. In extreme cases a policy model is conceivable that broadly positions the national regulatory standard clearly above the EU average and compensates farmers by means of flat-rate direct payments.
- d) **“Strong eco-schemes” policy model:** Agri-environment-climate objectives are predominantly driven by strong and well-funded eco-schemes in Pillar 1, while the range of AECM II is limited to the minimum accepted by the European Commission. In this case, the conditionality requirements stated thus far in the legislative proposals would probably have to be relaxed in order to avoid any overlap with eco-schemes.
- e) **“Strong income-oriented Pillar 1” policy model:** Less ambitious agri-environment-climate policy. Funds are transferred from Pillar 2 to Pillar 1, eco-schemes and conditionalities are limited to the minimum accepted by the European Commission (or alternatively eco-schemes with a high income component), and in Pillar 2 the minimum budget share is almost exclusively fulfilled with “light green” AECM II.

202. The various policy models follow different politico-economic rationales and are all covered by the European Commission’s legislative proposal. Therefore it does not seem improbable that member states that have issues with funding national co-financing shares or shun the higher administrative burden with especially complex AECM II (e.g. nature conservation agreements) will choose the route of a well-funded and (more or less) heavily conditioned Pillar 1. In contrast, protagonists of a targeted agri-environment-climate policy could also be inclined to select the “strong Pillar 2 with a strong environmental and climate focus” or “strong eco-schemes” policy models. The latter could be a move towards the objective of allowing direct payments in their previous form to be phased out slowly and funds transferred in the long term into payments for general interest services.

203. For specific policy-making at national level, the above policy models are certainly “convenient” as they each prioritise a green architecture instrument and consequently take complex interactions between the instruments into account. The considerations below explicitly explore the interplay of instruments in a “narrow policy space”. There is always a narrow policy arena when the programming of an intervention category has direct or indirect impacts on the effectiveness of other intervention categories.

204. In the formulation of the national CAP strategic plan, the question arises of the specific contents that should be assigned to the three central policy instruments (conditionality, eco-schemes and Pillar 2 measures), how the respective interfaces should be programmed, and what the financial architecture (direct

payment funds for eco-schemes, transfer from Pillar 1 to Pillar 2) should look like if the set objectives are to be achieved efficiently and the administrative burden contained within appropriate limits. Clarification is also needed about which government level (Federal Government, federal states) is responsible for programming the respective measures. The European Commission makes the stipulation of receiving just **one** national strategic plan from each member state for its entire territory, which may contain regions. To that effect it could be interpreted that there should only be **one** central administrative authority that is accountable to Brussels and negotiates with the European Commission (Fährmann et al. 2018).

205. As a federal country, in Germany the question arises of coordination between the Federal Government and federal states. Therefore the previous unambiguous allocation of responsibilities (the Federal Government programmes Pillar 1 and federal states programme Pillar 2) might no longer be sustainable in its pure form in future because Pillar 1 and Pillar 2 in the strategic plan have to be programmed and coordinated together. This implies the Federal Government having a larger role in programming measures. Each shift in competencies towards the Federal Government will presumably be accompanied by criticism from the federal states. In legal terms, a strengthening of the Federal Government’s competencies in nature protection and landscape conservation is limited. These are the responsibility of the federal states (Article 74 (1) no 29 in conjunction with Article 72 (3) no 2 BL, cf. also “Division of competencies between the Federal Government and federal states in agri-environmental policy”, p.47 in Section 4.3.2).³⁸ This could have an impact on the programming of nature conservation measures under eco-schemes, which is the responsibility of the Federal Government. Against this backdrop, there needs to be new cooperation at national and state level.

4.4.2 Options for the design of conditionality

206. With regard to the design of conditionality under the national strategic plan, two key questions emerge. First, should conditionality be set at individual farm level or across several farms? Second, how ambitious should it be? The advantages and disadvantages of both are discussed below.

207. **Conditionality at individual farm level or across several farms?**

- a) The draft strategic plan regulation only regulates farm-specific conditionality related to the minimum requirements of “statutory management requirements” and the GAEC standards farmers have to observe (see paragraph 163 et seq.). As already outlined in Section 4.3.1, the Advisory Board believes blanket cross-compliance with direct payments at individual farm level in principle to be less sensible, and has recommended its removal through a gradual reduction in direct payments.
- b) The approach across several farms would not focus on the individual agricultural operation, but provide targets for the environmental status in a region (e.g. in a federal state or the entire Federal Republic), as is already the case in the current funding period with the preservation of grassland at federal state or national level. This model can be transferred to individual GAEC standards such as the provision of non-productive areas. To implement cross-farm conditionality, one option would be to

³⁸ However, since the amendment of the 2016 GAK Act, measures for nature conservation agreements and landscape conservation can be supported by the GAK.

formulate quantitative conditions at individual farm level for the receipt of direct payments first and then enable these to be traded between farms. Trading conditions would have the advantage that the desired environmental goods could be provided at lower costs (loss of income) than in the case of farm-specific specifications. Thus non-productive areas would predominantly be provided in locations with a low level of earnings. However, this would be at the expense of uniform geographical penetration: farmers in high-yield locations would “buy their way out” of the obligation to provide non-productive areas by paying colleagues in low-profit locations to take over the obligation. This kind of market has existed in some federal states for several years with regional grassland conservation in the form of a trade in “grassland conversion rights”.

- c) The alternative option could be for the Federal Government or states to guarantee fulfilment of area targets by launching appropriate support schemes. With GAEC 2 in particular, against the backdrop of the objective of the “preservation of carbon-rich soils”, supporting the farming of land with high groundwater levels or the rewetting of moors would be much more effective than a blanket farming requirement.
- d) Other GAEC standards such as GAEC 7 (“No bare soil in most sensitive period(s)”) explicitly target blanket implementation and therefore require application at individual farm level. The statutory management requirements constitute the regulatory law to be observed and must therefore also be satisfied by each farm.

208. **Desired level of ambition (strong or weak conditionality)?**

- a) Under the legislative proposals, member states are free to exceed the minimum regulatory requirements with GAEC standards. It is also conceivable that the list of GAEC requirements is relaxed in ongoing negotiations at EU level. This raises the question of weak or strong conditionality.
- b) Strong individual farm conditionality can be implemented in different ways. GAEC standards for individual farms could be raised considerably and the associated loss of income compensated for by a direct payment that is the same for all farms. The consequence of reducing direct payments can be that more and more farms voluntarily forgo direct payments in order to be released from the restrictions of GAEC standards. This might primarily concern farms with a high stocking density, intensive arable farms, special crop farms and farms in moor locations. Politico-economically, there is a risk with this delivery model that direct payments become a permanent fixture, along the lines that if direct payments are reduced or abolished, then the associated environmental benefits dwindle away as well. However, strong individual farm conditionality could be implemented by raising regulatory standards (and consequently statutory management requirements). There is no risk of farmers breaking ranks because regulatory standards have to be met by all farms. This approach would give farmers flat-rate compensation for higher standards than in other countries (and thus not account for the different degrees to which they are affected).

- c) Another option for implementing strong conditionality is to establish ambitious objectives for the condition of certain environmental goods at a regional level (cross-farm conditionality). It would be conceivable, for example, to have a higher share of non-productive areas on the agricultural land of a federal state or a district – with the consequence of unequal spatial penetration mentioned above. The more equally spatial penetration is sought, the smaller the territorial unit should be on which the desired environmental good is reported.
- d) A weak form of conditionality could be implemented through awareness-raising measures (with the weakening of GAEC standards). Specifically, beneficiary farms could be instructed to submit to certain checks and make use of advice or receive training on environmental and climate protection. A package of conditionality measures could comprise a farm sustainability check, compulsory advice on fertilisers, and various training courses on environmental and climate matters. Such measures could be offered by state-accredited private rural adult education providers, advice providers or organisations close to professional associations, as well as state authorities. Alongside eliminating obvious errors in the farm management areas concerned, the measures would aim to raise farmers’ awareness of socially relevant issues and consequently indirectly contribute to improving farm management. Psychological research has shown that awareness-raising measures can serve as effective “nudges” and therefore have a knock-on effect with extensive coverage (cf. Kuhfuss et al. 2016, Thaler & Sunstein 2008).

209. Weighing up the advantages and disadvantages of the implementation options discussed, the Advisory Board concludes that, at farm level, weak conditionality is preferable to strong conditionality. This is the case provided that the decision is also taken to establish ambitious eco-schemes and AECM II in national policy. The Advisory Board considers ambitious conditionality for individual farms that far exceeds statutory management requirements at most to be a second-best solution if a member state chooses the “strong income-oriented Pillar 1” policy model (cf. paragraph 201) where only a few or less demanding agri-environment-climate-oriented measures are offered in Pillar 1 and Pillar 2.

210. For the implementation of weak conditionality outlined above in the form of mandatory awareness-raising measures, the list of GAEC in the legislative proposals would have to be expanded by a relevant category. Awareness-raising measures such as sustainability checks, animal welfare checks, energy checks etc. would have to be introduced gradually as it would take some time for appropriate advice and training capacities to be put in place. Specific design options are discussed in Section 4.4.6.

211. Over and above this, the Advisory Board considers target and constitutional conditionality prescribed by the European Commission at member state level to be sensible (cf. Section 4.1.2). The stipulation of quantitative objectives relating to the condition of certain environmental goods within the context of target conditionality can on the one hand counteract the much feared “race to the bottom” in relation to the ambitiousness of agri-environmental policy within the EU. On the other, setting environmental requirements at member state level opens up the possibility for national policymakers to select efficient instruments and consequently achieve the environmental goal at the lowest possible cost.

212. This argument of flexibility and cost also applies to breaking down the requirements set by the EU within the member state as part of the national strategic plan. For environmental goods that are not tied to specific areas and can be balanced sensibly within a region (e.g. quantitative grassland conservation or provision of non-productive areas), the Advisory Board therefore considers implementation of conditionality at regional level to be more efficient than implementation at individual farm level. For the protection of carbon-rich soils, for example, a regional approach is unsuitable since protective measures are tied to specific areas. Furthermore, the administrative burden should be noted: the trade in obligations between farms needs to be overseen and registers kept, showing in real time which farm is contributing what share to regional obligations. This works relatively well in grassland conservation with the area register. This could be more burdensome for the trade between farms in commitments to provide non-productive areas because, unlike grassland, non-productive areas are at least partly integrated into crop rotation and consequently their location changes every year.

4.4.3 Options for the design of eco-schemes

213. There needs to be a high degree of caution when programming eco-schemes because they are a new intervention category. In eco-schemes an instrument is being created that in conceptual terms closely resembles AECM II (rewarding general interest services), but at the same time could be designed as an extended form of conditionality for part of the direct payments. Thus policymakers are moving within a narrow policy space, which requires a distinction of eco-schemes downwards (to conditionality) and upwards (to AECM II). Against this backdrop, Table 3 offers an overview of the decisions to be made when programming eco-schemes.

Table 3: Decision variables in the programming of eco-schemes

		Establishing the premium amount	
		Freely established (Art. 28 (6) a)	Geared to costs associated with implementation (Art. 28 (6) b)
Starting point of the support measure	Farm	Basic model BI	B IV
	Farm activity	B II	B V
	Single area	B III	B VI
Spatial steering (SS) of implementation of measures			
SS I	Different premium amounts by location/region		
SS II	Eligible measures		
SS III	Federal list with selection options/design scope for federal states (selection of aid)		
Steering the scope of individual farm execution (E)			
E I	Premium amount and definition of threshold values (minimum/maximum shares) that are to be observed (e.g. at least 5 % of arable land fallow; no crop on more than 33 % of arable land)		
E II	Premium amount and limit of the area required per measure (e.g. a maximum of 5 ha or 5 % of arable land per farm as flower pastures is supported, but farmers can also select a lower value)		
E III	Design of premium amount depending on the scope of measures implemented (e.g. degressive design depending on scope of measures)		

Source: Own illustration.

214. There are therefore four policy design variables (shown in bold in Table 3) on which decisions have to be made concerning the design of eco-schemes:

- **starting point of the support measure:** individual measures can be implemented on agricultural holdings at different levels: whole-farm level (e.g. support for organic farming), farm-activity level (e.g. diverse range of fruit types in arable farming) or individual parcel level (e.g. flowering strips). As is clear from these examples, the best starting point is determined by the type of individual measure being implemented;
- **establishing the premium amount:** The draft strategic plan regulation provides two different options here: (1) free establishment under Art. 28 (6) a, and (2) gearing the payment amount to the costs associated with implementing the measure (Art. 28 (6) b). In the first option, member states can award payments for eco-scheme measures on top of the “basic income support for sustainability” (corresponding to the current funding period’s basic premium). This means that the payments may have the effect of maintaining income. In the second option, the amount of the payments must be geared to the costs or loss of income incurred by farmers, as is the case with AECM II. The combination of the starting point of the measure and the payment mode produces six different basic models (B I – VI in Table 3);

- **spatial steering (SS) of the implementation of measures:** Targeted spatial management of measures (e.g. in locations where a particularly high environmental benefit can be expected) can greatly increase the effectiveness of eco-schemes. Spatial steering can be incentive-based by location or with a regional differentiation of premium amounts. Alternatively it can be physically controlled by restricting the measures to certain eligible areas. Another possibility of spatial steering consists of the Federal Government producing a full list with the aid allowed, from which federal states select measures that suit their locations;
- **steering the scope of individual farm execution:** Steering the implementation of eco-schemes on an individual farm is helpful to counter and pre-empt the undersubscription or oversubscription of measures at federal level. In principle steering can be incentive-based (i.e. through the premium amount) or physical (e.g. by stipulating minimum or maximum shares for certain measures). One opportunity to counter an impending oversubscription of certain measures would be to set a quantitative limit of the measure’s scope for each farm. This can be done either by establishing quantitative upper limits (e.g. maximum of 5 % of the farm’s arable land as flowery areas) or developing qualitative specifications for certain measures (e.g. no flowering strips more than 20 metres wide, no flowery areas). Also conceivable, but associated with a greater administrative burden, is a degressive staggering of the premium amount with farm use. Undersubscription could be prevented by lower quantitative limits at farm level (e.g. those participating in eco-schemes must commit at least x % of their land).

215. There are different implementation variants for eco-schemes. These differ in terms of the decision variables shown in Table 3. Basic implementation variants are listed in Table 4.

Table 4: Basic implementation variants of eco-schemes

	Greening model	Modified greening model	Ecopoints model with trigger threshold and/or upper limits	Ecopoints model without thresholds	AECM II model
Description	Given package of measures (yes/no-decision for farmer)	Several packages of defined measures (discreet choice for farmer)	Individual measures awarded points (freely selectable and combinable); farmer receives payment if minimum points achieved; possibly no additional points above an upper points limit	Individual measures awarded points (freely selectable and combinable); farmer receives payment +/- proportional to the scope of the achieved points ¹⁾	Individual measures (cf. current AECM II)
Establishing the premium amount	Free establishment (B I – II)	Free establishment (B I – II)	Free establishment (B I – III) or cost-oriented (B IV – Vi)	Free establishment (B I – III ²⁾) or cost-oriented (B IV – VI)	Cost-oriented (B IV – VI)
Spatial steering³⁾	-	(SS II, SS III)	SS I – SS III	SS I – SS III	SS I – SS III
Scope on individual farm¹⁾	E I	E I	E I, (E II)	E I – III	E I - II

B = basic model, SS = spatial steering of implementation of measures, S = steering the scope of individual farm execution (cf. Table 3 on p.59). ¹⁾ Potentially coupled with degressive elements. ²⁾ Individual elements at least, for example extent of flowery areas and landscape components, must be developed in accordance with B I. ³⁾ Not every option for steering the scope of measures has to be used for each support measure in the respective model. For individual support measures, only certain combinations are sensible (objective: support of crop diversity: variant 1: all models // B II, B V // SS I – SS III / E I; variant 2: ecopoints model, AECM II model // B II, B V // SS I – SS III / E 3)).

Source: Own illustration.

216. **“Greening model”**: Probably the simplest implementation option to administer is for all participating farms to have to meet a standard set of stipulations (a given package of requirements) and in return to receive a standard premium per hectare UAA on the farm. This model essentially corresponds to the current greening model if options to fulfil the “ecological focus areas” stipulation are abandoned. The extent to which farmers participate in an eco-scheme designed like this depends on the design of the stipulations and the payment amount. The stipulations combined in the greening model can be applied to individual areas, farm activities or the entire farm. Spatial steering is not possible in the greening model as there are blanket

stipulations and premium amounts nationwide. Individual farm use can be controlled by establishing the national premium amount and through specifications of minimum and maximum shares on an individual farm, as is the case now with greening (at least 5 % ecologically sensitive area, no crop on more than 70 % of the arable land). The application of the greening model implies the free establishment of the payment amount under Article 28 (6) a.

217. **“Modified greening model”**: This implementation variant only differs from the pure “greening model” by offering several fixed packages of stipulations and then the farmer choosing one (or none) of the packages. One advantage this model has over the pure greening model is that a certain spatial steering of the implementation of measures is possible (by limiting eligible areas or offering a nationwide list with options for federal states). Fundamentally, in terms of the conditionality and implementation variants (greening and modified greening model) of eco-schemes, it concerns the same policy model: namely a flat-rate payment per hectare for blanket stipulations. The difference is solely in the differing levels of ambition of the conditions: conditionality and eco-schemes may not support the same situations, i.e. eco-scheme conditions must go beyond the scope of specifications concerning conditionality.

218. **“Ecopoints model”**: With this implementation variant, eco-schemes are organised through a points system, as is currently largely the case with ecological focus areas (to ascertain the share of ecological focus areas, the different individual measures are roughly weighted with points based on their nature conservation value). In principle it would also be possible to have a rating based on respective expenditure, as has been the case with the MEKA scheme in Baden Württemberg³⁹. Farmers could combine different measures on their land and consequently fill up their points account. A model like this could be geared to the “public interest premium” suggested by the German Association for Landcare (DVL) (Neumann & Dierking 2014, Dierking & Neumann 2016, Neumann et al. 2017). As a first step this kind of implementation would lead to farmers being paid for the measures they are in any case already implementing on their farms. Therefore in the first instance only the status quo of the farm’s environmental situation will be assured by safeguarding basic management processes.

219. In this context the design of the detail is important: namely whether a minimum number of points per hectare has to be achieved (trigger threshold) to receive payments and whether there is an upper limit for the number of points per hectare (and consequently for the payment amount per hectare). A trigger threshold has the advantage of each farmer having to achieve a certain level of ambition for environmental and climate protection to receive payment. The stipulation of a trigger threshold also makes budgetary planning and an indicative financial allocation in the CAP strategic plan easier. If a trigger threshold is rejected and numerous farmers select only a few measures or less ambitious ones, there is a risk that eco-schemes turn out to be a blunt instrument for achieving environmental and climate objectives. Like the trigger value, the stipulation of an upper limit for the number of points per hectare also makes the indicative financial allocation easier. However, the upper limit has the disadvantage of eco-schemes offering no marginal incentive for environmental improvements beyond this upper limit.

³⁹ Marktentlastungs- und Kulturlandschaftsausgleichprogramm (MEKA) (reduction in market pressures and protection of the farmed landscape = Baden-Württemberg’s agri-environmental programme (https://mlr.baden-wuerttemberg.de/fileadmin/redaktion/m-mlr/intern/dateien/publikationen/Broschuere_MEKA_III.pdf).

220. One example of a scheme that combines a trigger threshold and an upper limit is the Entry Level Stewardship Scheme in England (Natural England 2013b). Under this scheme a fixed payment of 30 pounds sterling per hectare (GBP/ha) is awarded if a certain minimum number of points (30 points per hectare of agricultural land) is achieved. The payment increases when measures totalling more than 30 points/ha are selected. The trigger threshold and upper limit consequently coincide. This means individual farmers have no incentive to do more than achieve the exact minimum number of points, which could restrict the effectiveness of this model design. The DVL’s public interest premium model prevents this by the individual farm payment continually rising with the number of ecopoints generated on the farm, thereby producing a continual marginal incentive effect. By using the ecopoints model, the free establishment of the payment amount under Article 28 (6) a may be easier to apply than gearing the payment to the costs associated with the implementation of the selected package of measures (Art. 28 (6) b). In the Entry Level Stewardship Scheme, this is done with a flat-rate area payment of 30 GBP/ha; in the proposal for the DVL’s model, the “price” per ecopoint is based on available funds and the ecopoints generated overall (Neumann et al. 2017, DVL no date).

221. **“AECM II model”**: Farmers choose the eco-scheme measures and the extent to which they will be implemented, and then receive an area-based payment for each individual measure. This model essentially corresponds to the model of agri-environment-climate measures in Pillar 2 (AECM II). In both models, farmers select measures from a given list. The fundamental difference is that the premium amount in the ecopoints model can also be freely determined (Art. 28 (6) a), while in the AECM II model they must be geared to the costs and loss of income that ensue from implementing the measures (Art. 28 (6) b). In practice, however, high incentives can be set with both models for the majority of farms (see “Bogus debate on incentive elements” text box in Section 4.3.2). One possible implementation of the AECM II model could be to offer regionally differentiated measures and premium amounts.

222. The different implementation variants have their own advantages and disadvantages with regard to their steering effect (effect on farmers’ environmental performance), impact on income, and manageability. In turn, these affect how efficiently the objectives are achieved and social acceptance of the CAP. Table 5 summarises these dimensions of the various implementation variants and provides the basis for the discussion below.

Table 5: Performance characteristics of the various basic implementation variants of eco-schemes

	Greening model	Modified greening model	Ecopoints model with trigger threshold and/or upper limit	Ecopoints model without thresholds	AECM II model
Steering effect (marginal incentive effect)	No incentive to go beyond the required package of measures	No incentive to go beyond the selected package of measures	Fixed payment for achieving a minimum number of points: no marginal incentive effect Variable payment: incentive effect until upper limit is achieved	Marginal incentive effect according to individual farm calculation	Marginal incentive effect according to individual farm calculation
Income effect	Dependent on premium amount and design of requirements	Dependent on premium amount and design of requirements Higher than in the pure greening model due to choice	Tends to be higher than in the greening model as farmers have more choice	Depends heavily on the measures selected (payment for status quo vs. additional cost-effective measures)	Theoretically limited to transaction costs, but effectively available (cf. “Bogus debate on incentive elements” text box (p.49)
Manageability	Easy to manage (blanket specifications and standard payment amount)	Slightly more time-consuming than the pure greening model	Funds (control rather difficult due to combinations of measures that differ greatly between individual farms)	Funds (control rather difficult due to combinations of measures that differ greatly between individual farms)	Funds (between area-based payment and AECM II, similar to the ecopoints model)
Target orientation	+	++	+++	++++	++++

Source: Own illustration.

223. In its current design, the **greening model** has proven to be largely ineffective at achieving the desired environmental objectives (Nitsch et al. 2017). This is primarily due to the less ambitious design and lack of spatial differentiation in the greening specifications, resulting in a limited focus and high impact on income of the greening premium. Another disadvantage of the greening model is the lack of marginal incentive effect: there is no incentive for farmers to do more than is necessary to fulfil the package of requirements. The instruments’ environmental effectiveness could be increased if the specifications were more ambitious.

224. However, the more ambitious design of specifications is accompanied by a fall in farmers’ willingness to participate due to the associated higher cost but unchanged premium amount. It is therefore to be assumed that an ambitiously designed eco-scheme based on the greening model is achieved by a given premium amount for penetration that differs by geography and type of farm. It would then be necessary to consider a geographical differentiation in greening specifications according to local relationships, environmental problem areas and dominant farm types in the region. This produces the **modified greening model**, which in comparison with the pure greening model is more accurate and whose differentiation in premiums tends to counteract the decline in the willingness to participate. However, these advantages carry a greater administrative burden.

225. The **ecopoints model** would have the potential to improve the focus of the CAP and thus also its social acceptance since the largely flat-rate area-based payments in the current CAP would at least partially be replaced by a system that measures payments to farms according to criteria of individual farms’ environmental performance. In the Advisory Board’s view, the ecopoints model should be implemented without limiting the number of points per hectare. While this makes budgetary planning difficult (and consequently the indicative financial allocation in the CAP strategic plan), it does ensure a high marginal incentive effect in that farmers select additional measures according to the individual farm cost-benefit calculation.

226. Another strength of the ecopoints model is that it creates similar market conditions for agriculture’s performance of environmental services. In the DVL’s model, the award of points is not geared to the costs of providing certain environmental benefits, but to the nature conservation value of the individual measures farmers are implementing on their land. Therefore it involves an output-oriented rather than input-oriented payment, similar to that on agricultural product markets. This creates incentives to prioritise especially valuable nature conservation measures and increases focus. Through a farm-scale degressive award of points to individual measures, consideration is given to the decreasing marginal ecological utility of the respective measure while preventing an extreme concentration on certain measures on an individual farm. The income effect of the ecopoints model may differ from farm to farm, and may primarily depend on whether a farm predominantly chooses measures that are already being implemented on farmland anyway, and thus maintains the status quo, or implements additional costly measures.

227. What to do if the budget is oversubscribed has not yet been determined. Should the monetary point value be reduced, the basic premium cut or the scope of the measure (and consequently the overall number of points per farm) restricted? The various options for dealing with oversubscription and under-subscription are discussed in detail in paragraph 230 below. The DVL’s public interest premium provides a variation in the monetary point value.⁴⁰ This is dependent on the available overall budget and the number of points registered by farms. In principle a fluctuating monetary value from year to year makes it harder for farmers to plan ahead. Clarification is needed on the issue of the extent to which an annually fluctuating monetary points value is compatible with the free establishment of payment amount provided for in the legislative proposal. Under Article 28 (6) a, the member state sets the premium as an additional premium to basic income support, to which each participant then has a legal entitlement.

⁴⁰ Cf.: https://schleswig-holstein.lpv.de/fileadmin/user_upload/PP_Gemeinwohlpraemie_FIN_DE.pdf.

228. In the view of Neumann et al. (2017), the DVL’s ecopoints model in Germany can be administered within existing administrative structures. As the input parameters are based on data from the number of applications from individual farms in the IACS and central specifications of agri-environment-climate measures are used, the DVL is assuming that the points system can be introduced without any greater administrative burden than that of the current administration costs of Pillars 1 and 2. However, a greater administrative burden is to be expected with inspections: owing to the brevity of the commitment period, inspections must be planned and carried out in a narrower timeframe than with AECM II. This does not just apply to the ecopoints model specifically, but also to the other eco-scheme implementation models.

- In an ecopoints model with a fixed points value and trigger threshold and/or upper limit, there is a fundamental administrative challenge that very different interfaces are produced on individual farms between the eco-schemes and AECM II. Individual farms will implement different individual measures and combinations of measures of eco-schemes with the consequence that AECM II have basic “inputs” that differ between individual farms. If the eco-schemes pay for some of the AECM II stipulations, then the corresponding premium share coming out of the eco-schemes is to be offset against the AECM II premium. This is exacerbated by the fact that the farm manager’s choice of eco-scheme measures can change from year to year. Consequently checks need to be made on individual farms every year to identify which stipulations are already being compensated through eco-schemes. Therefore, in the design and execution of the AECM II with an upper limit for all land on which AECM II are to be implemented, the authorities cannot make a blanket assumption that farm managers are able to make use of such support under the eco-schemes. This is made clear in the following example. Assume that the upper limit for eco-schemes is 30 points per ha and that there are two eco-schemes – a) care and preservation of landscape components, and b) a sweeping extensification in fodder crops (e.g. stocking density ≤ 1.4 RCAU per ha main forage area). Through its landscape components, a farm achieves an average of 28 points and also manages its grassland extensively, according to the specifications of the second eco-scheme, thus producing another 10 points. However, only 2 points are credited for the eco-schemes. Now assume that the farm implements further grassland extensification under AECM II (e.g. mowing 30 % of grassland after 15 June with a farm stocking density of up to 1.4 RCAU per ha main forage area). In this case, the calculation of the AECM II payment is based on two different reference levels (AECM II with and without eco-schemes) and proportionately offset for each farm based on its decisions. Even if a points model with a trigger threshold is chosen, for similar reasons two premium levels must be calculated when certain AECM II target areas are on farms where it can safely be said that that the trigger threshold for eco-schemes will not be reached. In both cases, challenges for the federal states particularly arise with regard to financial management in Pillar 2 as the AECM II payments represent the residual figure in this calculation process.⁴¹
- However, if a points model is chosen with a fixed points value and without a trigger threshold and upper limit, this premium differentiation and proportional reduction in AECM II can be rejected as every farm can participate in the eco-schemes to the extent desired, and the administration can

⁴¹ Paid out AECM II = AECM II support (without simultaneous implementation of eco-schemes on the same land) minus the proportionate premium for stipulations that have already been paid for through eco-schemes.

therefore assume that this will not be detrimental to the achievement of objectives. The federal state can also design AECM II in such a way that they only recompense the top-up to the eco-scheme.

- When opting for a points model with a variable monetary point value, the administrative challenge increases. A model like this implies that a decision has been made in favour of support under Article 28 (6) a, i.e. a flat-rate payment with a possible incentive element. AECM II premiums cannot then be adjusted through flat-rate correction factors irrespective of the year, as happens in the current funding period with the demarcation between greening and AECM II. The amount of the reduction would have to take the year-specific points value into account.⁴² This makes financial management in Pillar 2 even harder. This administrative dilemma can only be avoided if eco-schemes and AECM II cannot be implemented on the same land at the same time. The different options for the demarcation of eco-schemes and AECM II are discussed in Section 4.4.4.

229. With the appropriate design of conditions (apply through the main application, simple to implement, easy to inspect), the **AECM II model** may be easier to deal with administratively than the more complex design of AECM II, which often requires administrative steering and on-site inspection. However, its administration may be more complex than with simple area-based premiums as each farm will combine different individual measures on its agricultural land. This also applies to the ecopoints model.

230. Administrative challenges can present themselves in all the model implementations mentioned if there is a possible oversubscription or undersubscription of eco-schemes. A distinction should be made between an ex-ante and ex-post view. The ex-ante view concerns countering the possible oversubscription or undersubscription of certain measures in advance. The options available for this are discussed in paragraph 214 in connection with steering individual farms' use of eco-scheme measures. In principle ex-ante steering can be incentive-based (i.e. through the premium) or physical (e.g. by stipulating minimum or maximum shares for certain measures).

231. The ex-post view concerns how to subsequently deal with an established oversubscription or undersubscription of eco-schemes. The legislative proposal gives no indications about this. One obvious possibility would be a proportional reduction in premiums. If the legislative authority wishes to give planning security to farmers who wish to provide public services through eco-schemes, the cuts should not be to eco-scheme premiums, but to the remaining direct payments. This demands an appropriate political commitment regarding the financing priority, as is already the case with the young farmer premium in the current CAP.⁴³ This would therefore mean that the basic premium can only be paid when eco-schemes are controlled and cleared. This can lead to a delay in payment of the basic premium, which can be mitigated

⁴² In the current funding period, AECM II premiums are reduced at a flat rate when greening obligations (e.g. ecological focus areas) are also fulfilled on land on which AECM II (e.g. flowery areas, diverse crop rotation) are implemented.

⁴³ In the current programming period, preference is given to paying the young farmer premium so that oversubscription brings about a proportional reduction in the remaining direct payments.

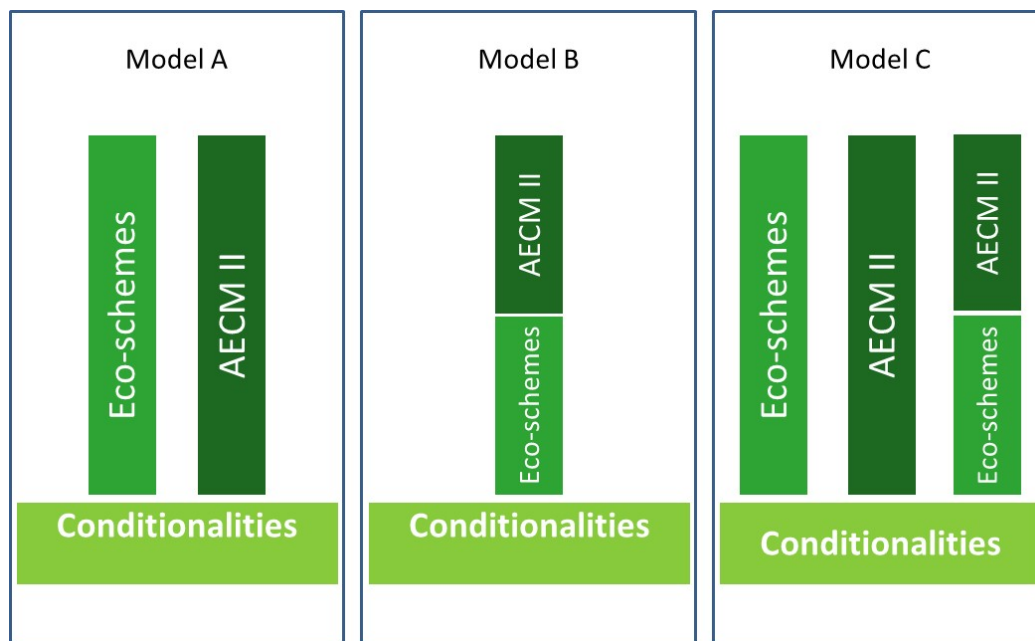
by payments on account. When an undersubscription of eco-schemes is established, in the view of the Advisory Board it would be desirable to transfer unspent funds to Pillar 2. This would require the legislative proposal to be amended accordingly.

4.4.4 Differentiating between eco-schemes and AECM II

232. With the joint programming of Pillar 1 and Pillar 2 under the national strategic plans, the question arises of how to differentiate between eco-schemes and AECM II. The principle to be observed here is to avoid an overlap in the content of the individual measures being programmed in the two intervention categories. Each overlap can result in double payments that require administratively burdensome payment corrections to be made.

233. In principle, three distinctions are possible (cf. Fig. 5): (1) parallel programming of eco-schemes and AECM II without fundamental interdependencies (model A), (2) programming of AECM II as an upgrade of eco-schemes with maximum interdependency (model B), and (3) a combination of these two models (model C).

- (1) Model A requires the parallel programming of different, strictly separate individual measures. In this model, eco-scheme and AECM II measures may not be implemented at the same time on the same land. Farmers must also decide where they are implementing eco-scheme measures and where they are implementing AECM II measures. This kind of spatial differentiation ensures that the measures in the two intervention categories do not overlap and rules out duplicate funding of the same activity. Whether an individual measure is assigned to eco-schemes or to AECM II depends less on whether it is a “light green” or “dark green” measure, but more on other criteria discussed below (paragraph 235 et seq.).
- (2) In model B AECM II are attached to eco-schemes by enhancing the latter in terms of the desired environmental objective. For example, under the eco-schemes there can be a reward for fallow agricultural land being enhanced ecologically as bee pasture through AECM II. In contrast to model A, there is spatial integration of both intervention categories that combines complementary individual measures on the same land. In model B the eco-schemes form the entry level (and consequently the prerequisite) for certain dark green AECM II. A consequence of this is that, under the legislative proposal, only “genuine farmers” and only land covered by the entry level would have access to these AECM II. This implies that “non-farmers” and farmers who do not participate in eco-schemes are still prohibited from participating in these AECM II. By coupling both intervention categories, the success of AECM II would depend on the acceptance of eco-schemes. This is compounded by any income element granted under eco-schemes in model B effectively being rescinded again by the requirement for it to be offset in AECM II.
- (3) Model C is a combination of models A and B. Specifically this means that on some land only eco-scheme measures are implemented, on other land only AECM II measures, and on other land again a combination of eco-scheme and AECM II measures.

Figure 5: Options for the joint programming of eco-schemes and AECM II

Source: Röder and Reiter (2019).

234. On balance, in the Advisory Board’s opinion, model C offers the greatest advantages. While it requires the most administrative effort of all the above-mentioned models, it gives farmers the greatest flexibility. In the view of the Advisory Board, the administrative burden can be contained by giving the differentiated variants (eco-schemes and attached AECM II) a limited number of discrete, complementary combinations of measures – for example fallow arable land (eco-scheme) plus flower mix (AECM II), or pastoral stock farming premium (eco-scheme) plus abandoning fertiliser (AECM II).

235. Apart from these discrete combinations of measures geared to producing a complementary effect, the general question arises about the criteria for allocating individual measures to the two intervention categories. One possible way of differentiating between eco-schemes and AECM II could involve the following criteria. Measures to be programmed under eco-schemes should:

- be fully effective at protecting the environment and climate, including with one-year implementation, largely independently of specific and natural local conditions, and be valued nationwide (e.g. areas in arable farming taken out of production, crop diversity);
- as an alternative to the previous point, implicitly last for several years, i.e. circumstances are supported that make short-term entry and withdrawal unlikely (e.g. organic farming, support of extensively managed grassland based on farm stocking density);
- also have an impact on environmental and climate protection without administrative fine-tuning on site;

- be tied to eligible areas in a meaningful way since payments for eco-schemes must be area-based;
- be implemented by the majority of farmers with a low error rate and be easy to inspect by the responsible administrative authorities;
- assign inspection dates for aid stipulations within a timeframe of early June to early October;
- relatively safely expect a certain volume to avoid larger discrepancies between the quantitative output objectives of the CAP strategic plan and the current status of achievement of objectives in the annual performance review.

236. Against the backdrop of implicit multi-annuality, consideration is to be given to the fact that the one-year period relates to financing and not to the nature of the measure. Applications for eco-scheme measures must be made annually (deadline currently 15 May), but to all intents and purposes can be implemented for several years (e.g. multi-annual flowering strips, diverse crop rotation). However, the one-year period also means that farmers annually “deselect” measures already implemented. As already mentioned in Section 4.3.2, this is problematic from an environmental perspective if eco-schemes are targeting to safeguard protected resources in the long term. It therefore makes little sense to support the creation of habitats through measures that can be deselected every year so that they are no longer available to target populations in the following year. Environmental objectives that are only to be achieved by offering long-term protection to the same land should therefore continue to be targeted by eco-schemes.

237. The same applies to measures with very early or very late inspection dates, such as the application of mulch and zero tillage in agriculture, the abandonment of rolling and levelling of grassland in early spring, and the environmentally-friendly production of liquid farmyard manure. Here the inspection dates are generally outside an inspection period that is practicable for eco-schemes (early June to early October), making it impossible to monitor compliance with obligations effectively. Measures for nutrient management or the abandonment of plant protection products are less suitable because there is a considerable risk that a one-year restriction of use is offset by increased use in the previous or following year(s).

238. Further guidance in the selection of suitable eco-schemes could come from measures currently offered by many federal states. These include support for organic farming, strip measures in arable farming, late cutting of grassland strips, pastoral stockfarming premiums, extensive grassland farming, diverse crop range (crop diversity) as well as support for small types of operation or fallow with spring ploughing. Furthermore, measures to diversify cultivation of energy crops could also be supported under eco-schemes.

239. It is unlikely that any of the measures listed will fully meet all the differentiation criteria mentioned in paragraph 235. Thus a diverse range of crops on sites at risk of erosion is potentially counterproductive if it features summer grazing and no winter greening. This measure consequently only fulfils to a limited extent the criterion of having a positive impact on the environment irrespective of natural site conditions. Similarly the feasibility and manageability of the above-mentioned measures largely depend on requirements for precision and opportunities of offsetting on the farm.

240. Measures should be programmed as AECM II (and not as an eco-scheme) if:

- the measure needs to be carried out for several years on the same land to have a sufficient impact;
- the measure’s success depends on it being embedded in the local context;
- the desire is for a measure to also be open to farmers other than “genuine farmers”, and it should also be implemented outside the eligible area (e.g. supporting extensive grazing for landscape conservation);
- effective inspection is not feasible or expedient if the measure only lasts for one year (e.g. stopping using fertiliser);
- the late registration of measures (15 May of the year of implementation) with eco-schemes is expected to lead to large deadweight effects or low environmental effects or makes inspection harder (e.g. stopping rolling and levelling of grassland in spring; environmentally-friendly land application of liquid manure).

241. Alongside measures that fulfil at least one of these criteria, any measure that cannot be tied effectively to an area should be programmed under Pillar 2. This includes support for investment measures linked to environmental and climate activities (Article 68), the support of measures to exchange knowledge and information (Article 72), and measures related to animals (animal welfare, reducing emissions).⁴⁴ Furthermore, in the view of the Advisory Board, environmental research and collaboration between farmers in the provision of environmental benefits (Article 71) should be supported under Pillar 2. Alongside this, the trade-off of area-specific disadvantages arising from certain mandatory requirements (e.g. Natura 2000) (Article 67 of the legislative proposal on the CAP strategic plan) is considered sensible, particularly in order to increase acceptance of these nature and environmental conservation instruments by land managers.

242. By way of example, in the Advisory Board’s view, the following measures should or must (continue to) be programmed under Pillar 2:

- measures to reduce input use (fertiliser and plant protection products)
- investment and operational measures of moor and water conservation
- biotope-creating measures (investment and operational)
- specifically eligible species protection programmes that require on-site care

⁴⁴ With regard to the last point, the Advisory Board advocates the launch of eco-schemes to support animal welfare (see Sections 4.3.2 and 5.9).

- results-based biodiversity conservation programmes
- pilot programmes to support spatial coordination of nature conservation activities
- investment measures to support animal welfare (and also operational animal welfare measures if these are not funded by eco-schemes)
- measures to reduce emissions (ammonia, dust, greenhouse gases) from animal installations
- agri-environmental advice
- support for collaboration between farmers within biodiversity communities (following the role model of Dutch “Collectieve”, see Section 3.6)
- support for cross-regional (ideally national) practice-research networks. In consultation with academics and advisors, farms trial (new) measures in these networks and receive variable compensation for them. The results can subsequently be used to introduce new measures and/or improve existing measures, and hence help boost effectiveness, efficiency and acceptance.

4.4.5 Options for the design of agri-environment-climate measures in Pillar 2

243. Under the European Commission’s legislative proposals, AECM II will remain an important instrument of agri-environment-climate policy in future. In Article 65 of the draft CAP strategic plan regulation it remains compulsory for all member states to offer AECM and include them in their national strategic plans. Measures programmed under Article 65 must go beyond statutory management requirements and standards of good agricultural and environmental condition (GAEC), and must also be distinguished from measures programmed under eco-schemes (Article 28). Payments will be made annually. As before, the commitment period is generally five to seven years, and the principle continues to apply that payments may only cover the costs incurred and loss of income arising from these commitments (possibly supplemented by a transaction cost surcharge). Therefore, overall, there is little change from the current situation. Everything that is possible now will also be possible in the new funding period.

244. At least 30 % of EAFRD funds (prior to reallocation) must be spent on climate and environmental measures. In contrast to the current funding period, the compensatory allowance will no longer count towards this minimum budget share. What is new is that member states “may promote and support collective schemes and result-based payments schemes to encourage farmers to deliver a significant enhancement of the quality of the environment at a larger scale and in a measurable way” (Article 65 (7)). This addresses jointly implemented nature conservation agreements in line with the Dutch role model as well as contract models with results-based reward. Finally, member states must ensure that the beneficiaries who implement measures within the scope of this intervention category have access to the knowledge and information they need to carry out these measures.

245. The Advisory Board welcomes the slightly greater flexibility in the design of AECM II afforded by Article 65 of the draft CAP strategic plan regulation. At the same time it sees the potential of a greater focus increasing the effectiveness and efficiency of AECM II. For this to happen, it is the Advisory Board’s view that greater account needs to be taken of the heterogeneity of natural site conditions and the costs of providing environmental benefits, and that farmers’ business momentum needs to be boosted.

246. To take heterogeneity into account, the Advisory Board believes the following needs to be borne in mind:

- incentive-controlled steering of nature conservation activities towards larger area conglomerates, connecting areas or in locations especially worth protecting can lead to a marked increase in the effectiveness of voluntary AECM II. The agglomeration bonus, collective bonus and special protection area bonus (see Section 3.5) are suitable steering instruments;
- with measures that should be implemented in all regions but lead to reduced production and hence have differing opportunity costs operationally or regionally, the premium amount should be staggered regionally or operationally using suitable indicators (e.g. regional average yield of a dominant crop such as wheat or the yield index of the farm or respective area).

247. To boost business momentum in the provision of environmental benefits, it is appropriate to (further) develop programmes that provide a results-based reward of environmental and climate action services, i.e. tie the payment directly to the environmental outcome achieved (cf. Section 3.4). Owing to the need to establish environmental outcome as an assessment basis for payment unequivocally and legally securely, at present the results-based reward is only possible for a limited number of environmental objectives (particularly the protection of floristic biodiversity). Progress in digitisation and remote sensing will, however, make it easier to determine results, including those of environmental objectives.

248. In the measures mentioned in paragraph 242 et seq. (Section 4.4.4), it is important to weigh up the increase in focus against the greater administrative burden. Fundamentally a greater administrative burden should fundamentally not be used as an argument against implementing more targeted measures. This particularly applies during pilot projects when they help reduce what initially appears to be a disproportionately high administrative burden due to the learning process for administrative authorities and farmers.

249. An especially ambitious type of AECM II comes in the form of adaptive environmental and climate protection plans. As a matter of priority, these should be implemented in biodiversity hotspots and in locations that are particularly worth protecting or have particular need of protection. These plans can be developed and implemented either on individual farms or across farms/communities (see Sections 3.6 and 3.7).

250. In a farm-specific plan, the farmer establishes comprehensive measures of environmental and/or climate protection tailored to the respective farm, as illustrated in Section 3.7, in collaboration with an agri-environment advisor. In a collaborative, regional environmental and climate protection plan, the coordination of protective measures goes beyond individual farm boundaries. In this context, non-governmental organisations such as water and soil associations, machinery syndicates, landscape

management associations, rural associations, compensation agencies, hunting associations or local action groups (LEADER) play a central role as coordination bodies. By involving farmers, these actors often have very good knowledge of local circumstances and can take on tasks in the areas of planning, networking, organisation, communication, management and inspection. With collective implementation, individual payments are agreed either with the overarching actor (as in the case of the Dutch “Collectieve”, see Section 3.6) or with individual farmers, and both performance and remuneration are fixed contractually.

251. Farm-specific or multi-farm (collective) plans are ideally adaptive in nature, i.e. they adapt to changing conditions over time. For example, if it is ascertained that the desired environmental effect has not materialised or only insufficiently so, then the measures to be implemented and associated payments are subsequently adjusted in consultation with everyone involved.

252. This administrative and primarily advice-intensive model of AECM II is primarily offered for farms that require considerable funds for environmental and climate action under Pillars 1 and 2. In the Advisory Board’s view, farm-specific plans primarily come into consideration in regions that predominantly have large farm enterprises, while the collective approach is offered for areas that are particularly worth protecting and for small-scale agriculture.

4.4.6 Increase in “human capital” as a cross-cutting task in a CAP serving the public good

253. Beyond their actual design, the effectiveness and efficiency of “green architecture” measures depend on a number of factors that can be summed up by the term “human capital”. This includes for example farmers’ knowledge of production technology, farm management and the environment, technical advice on the operational implementation of measures, willingness to embark on training, networking and regional collaboration, and also the question of the extent to which farmers are sensitive to agri-environment-climate-related issues. Therefore human capital plays a crucial role. The CAP’s new delivery model also makes new demands on everyone involved. Against this backdrop, the Advisory Board welcomes the measures set out in the legislative proposal to increase human capital, particularly those related to promoting the exchange of knowledge and information (Article 72) and collaboration between farmers (not solely in the provision of environmental benefits) (Article 71).

254. The increase in human capital can occur in various areas. Thus within the scope of “weak conditionality”, as defined in Section 4.4.2, demands for the implementation of an energy check, animal welfare check or a more extensive sustainability check on individual farms are conceivable. These simple checks would first and foremost be based on voluntary disclosure by farmers (based on existing data and their own supplementary surveys). The data could be entered online if applicable and farmers would ideally receive feedback on aspects of the production process that meet requirements and points that require greater attention. These various checks primarily serve to raise awareness and overcome “farm blindness”. However, if weaknesses are identified these should not lead to a cut in direct payments and in this respect there should be no financial consequences. Recommendations are made to farmers only to seek specialist advice. This kind of voluntary assessment must be gradually introduced (e.g. on larger farms first) because initially the necessary capacities will not be available to perform these checks.

255. A second stage in increasing human capital could be for farmers who receive a very high subsidy in a certain support area of the CAP (e.g. in biodiversity conservation) to be obliged to seek advice. For example, if farmers implement measures to promote biodiversity under eco-schemes and AECM II and receive a very high level of support for it (e.g. over € 20,000 per annum), they must discuss their package of measures annually with a state registered agri-environmental advisor and possible improvements must be reviewed. The aim of the advice would be to ensure optimal coordination of the various measures in order to increase the focus on outcomes. This advice should be free of charge to farmers.

256. The Advisory Board believes that this kind of “specific” conditionality is a sensible addition to the statutory management requirements and GAEC standards in the legislative proposals (see Section 4.2). To implement appropriate advice, the various support areas (e.g. biodiversity, climate, water conservation, animal welfare) need to be defined and the individual measures offered in Pillars 1 and 2 assigned to the respective area of support. If an agricultural holding receives more per year than a certain subsidy amount in the respective support area, obtaining relevant advice becomes a prerequisite for the funds to be released.

257. A third level in the development of human capital could consist of supporting the spatial coordination of nature conservation measures beyond the boundaries of individual agricultural holdings. A regional agri-environmental advisor could be funded to do this. In this context, owing to their on-site knowledge and local networking, water and soil associations, landscape management associations, local action groups or volunteers could also play a key role in planning, networking, organisation, communication and management. The state could promote the amalgamation of these kinds of local actors into “biodiversity-producing communities” for instance, creating the institutional prerequisites for collective nature conservation agreements, as is the case in the Netherlands (see Section 3.6).

258. Owing to the central importance of appropriate human capital for the efficient achievement of agri-environmental objectives, the Advisory Board rejects the proposal for support to be limited to a maximum of 75 % for measures concerning the exchange of knowledge and information (Article 72 (3)). Particularly when the exchange of knowledge and information aims to increase the provision of public interest goods, farmers’ willingness to pay for offers of this kind might otherwise be a limiting factor. In such cases it is the Advisory Board’s view that one hundred per cent financing from public funds is appropriate.

5 Recommended actions

259. Based on the preceding analysis, this section contains recommendations for the implementation of the CAP in Germany. These are directed first and foremost at the Federal Government, particularly the BMEL, and at federal states responsible for programming Pillar 2, and essentially relate to the design and financing of the CAP's green architecture and measures to increase the effectiveness and efficiency of agricultural and climate measures in Pillars 1 and 2. These recommendations are based on the legislative proposals that were issued by the European Commission in June 2018. This section also states what the Federal Government should be supporting at European level in ongoing negotiations on the legislative proposals.⁴⁵

5.1 Clearly identify agri-environment-climate policy issues and operationalise objectives

260. Agri-environment-climate protection occupies a prominent place in the CAP's list of objectives. Article 5 of the draft regulation for the CAP strategic plan (COM 2018a) mentions bolstering environmental care and climate action and contributing to the EU's environmental and climate-related objectives as one of the three overarching objectives of the future CAP. Furthermore, Article 92 obliges member states to make a greater overall contribution in the coming funding period to the achievement of specific environmental and climate-related objectives than is the case in the current funding period. In view of the considerable action required around agri-environment-climate policy, this prioritisation is to be welcomed.

261. At the same time, however, the legislative proposals retain direct payments, which are particularly motivated by income policy. This gives rise to a fear that the one-sided focus on the objective formulated in the Treaties of Rome for the agricultural population to have an appropriate standard of living remains the CAP's defining feature. In fact, this target income is currently behind more than 70 % of all CAP expenditure, while existing environmental, climate and animal welfare policy challenges are being neither adequately specified nor addressed (WBAE 2018).

262. Nevertheless, in principle the European Commission's legislative proposals offer an opportunity to correct the existing imbalance. With the planned decentralisation of decision-making and design competencies and the greater results orientation desired, member states are being offered new opportunities to align the CAP more with environmental and climate goals overall and to develop and implement targeted environmental and climate measures in the agricultural sector. Therefore the legislative proposals have the potential to bring about a paradigm shift in the CAP. At the same time, however, the scope for member states has been left so wide open that they also have the possibility of focusing implementation strongly on income support. In this context it depends first and foremost on member states'

⁴⁵ For the discussion of the key issues of a CAP serving the public good and recommendations to this effect, the Advisory Board refers to its report issued in April 2018 (WBAE 2018), and for the "opportunities, starting points and limitations of administrative simplification of the Common Agricultural Policy" to its eponymous report issued in April 2019 (WBAE 2019).

political will to take action (rather than on a lack of design opportunities) as to whether an ambitious, targeted and efficient agri-environment-climate policy is designed or whether member states stick to the status quo of agricultural aid or even restore “old” methods of support (such as coupled direct payments). Germany could already make much greater use today of different design options for aligning the CAP more with the public good.

263. Given these issues and the evidence, the Advisory Board stresses that the ongoing strategic planning process between the Federal Government and federal states presents a huge opportunity to increase the focus on agri-environment-climate policy objectives and the effectiveness of agricultural policy, and focus them appropriately on existing issues in these areas. Even though the negotiations on the Multiannual Financial Framework have stalled and there are consultations on the European Commission’s legislative proposals but as yet no binding legal text for the post-2020 CAP, the Federal Government and federal states’ strategic planning process should be expedited in a process supported by all of them and consistently exploited as an opportunity. The basic requirements for this are to elaborate the issues that need addressing, and thereafter to appropriately define and operationalise the CAP objectives being pursued. In this context, in the ongoing process to develop the CAP strategic plan, the Advisory Board recommends that the Federal Government and state governments:

- identify and clearly state the existing issues and challenges in achieving the agri-environment-climate policy objectives contained in the draft CAP strategic plan regulation and – where sensible – differentiate them by region;
- prioritise objectives arising out of these challenges and operationalise them through interim objectives and timetables and, where possible, provide them with geographically differentiated quantitative requirements;
- set out what contribution the CAP should make to achieving the national environmental and climate plans coming out of the twelve regulations and directives listed in Annex XI of the draft CAP strategic plan regulation (including the Habitats Directive, the Water Framework Directive and the Nitrates Directive for example);
- lobby for the interpretation and implementation of target income in accordance with the case law of the European Court of Justice – thus aligning the CAP to maintaining agriculture’s diverse social functions (cf. WBAE 2018: 26 et seq.) – and hence support greater alignment of European and German funding policy with agri-environment-climate policy and other objectives serving the public good (WBAE 2018).

5.2 Specify and gradually increase the minimum budget shares for agri-environment-climate protection

264. In view of the financing requirements outlined in Sections 4.3.2 and 4.3.4, effective support of environmental and climate protection requires a much greater allocation of funds to measures that will enable these objectives to be achieved than is the case in the current funding period. The Advisory Board considers the European Commission’s stipulation of at least 30 % of funds in Pillar 2 being used for agri-

environment-climate protection objectives (including adapting to climate change) to be insufficient for appropriate financing of this policy area. Thirty per cent of direct payments are already being declared as a greening premium for agri-environment-climate protection objectives, even though greening has proven to be largely ineffective environmentally (Nitsch et al. 2017). The stipulation that at least 40 % of all CAP funds are to contribute to climate action has no steering impact due to the in part technically incomprehensible and unreasonably high weighting factors.

265. More specifically, for the programming of the new funding period the Advisory Board recommends that the Federal Government:

- spends at least 30 % of the sum from direct payments and EAFRD funds on agri-environment-climate objectives;
- gradually increases this share so that after ten years 100 % of the premium ceiling of Pillar 1 is available for ambitious eco-schemes or agri-environment-climate measures in Pillar 2 (AECM II, provided the previous upper limit for reallocation from Pillar 1 to Pillar 2 is increased) and animal welfare (and, where applicable, other public interest objectives).⁴⁶ In view of existing long-term lease agreements, the Advisory Board considers a ten-year period for this process of premium conversion to be appropriate so that rental rates can be adjusted to the change in direct payments (passing on direct payments) and other necessary adaptation processes can take place;
- communicates the premium conversion required in good time so that in the long term farmers and lessors can prepare for the associated gradual reduction to largely unconditional direct payments;
- prioritises financing eco-schemes, when these are oversubscribed, rather than the remaining direct payments. This kind of prioritisation would mean that the amount of the remaining direct payments could only be determined once the eco-schemes were inspected and ultimately cleared. To avoid delays with the payment of funding, farmers should receive payments on account before final clearance.

266. For national implementation of the CAP in the current funding period, the Advisory Board recommends that the Federal Government:

- makes use of the opportunities presented by Article 2 (3) of EU Regulation 2019/288⁴⁷ and in 2019 transfers considerably more funds from Pillar 1 to Pillar 2 for 2020. This is important both as a political signal for the future development of the CAP, and also because the agri-environment-climate protection programmes were already oversubscribed in many federal states in 2016/2017.⁴⁸

⁴⁶ Including measures to continue land management at locations that would otherwise cease to be used for production, but whose preservation is socially desirable.

⁴⁷ REGULATION (EU) 2019/288 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 13 February 2019 amending Regulations (EU) No 1305/2013 and (EU) No 1307/2013 as regards certain rules on direct payments and support for rural development in respect of the years 2019 and 2020.

⁴⁸ Cf. Advanced state implementation reports about the EAFRD.

Consequently many federal states have greatly reduced access to the measures or significantly increased stipulations in the individual measures.

267. Furthermore, the Advisory Board recommends that at EU level the Federal Government supports:

- the gradual abolition of the largely unconditional awards of direct payments over a ten-year period and, while they still remain, giving member states the opportunity for national co-financing or allowing nationally financed top-ups in order to increase acceptance in member states of the withdrawal of direct payments. National co-financing would ensure that pursuit of the target income is competing directly with the achievement of objectives in other policy areas (e.g. education, environmental and climate protection, social policy), thus making the true shortage of national funds visible to taxpayers (WBAE 2018);
- focusing the distribution of funds on current challenges, tasks that need to be addressed and added value in Europe instead of allocating funds as before on the basis of historic codes. This applies for the allocation of funds from the EU to member states (direct payments, EAFRD) and, within Germany, to the federal states (EAFRD, where European added value is not relevant). Part of the transformation process from an historically evolved distribution of funds to an objectively justified one could consist of taking the budgets for certain AECM II with high added value to Europe out of competition with other uses of the funds within the EAFRD (see Section 5.3 and WBAE 2018);
- all member states spending at least 30 % of the money from direct payments and EAFRD expenditure on agri-environment-climate objectives.

5.3 Establish specific budgets at EU level for biodiversity and moor protection across member states

268. The Advisory Board notes with concern that the long-term trend of species loss in the cultivated landscape has not been halted. The Advisory Board's assessment is also critical of the fact that the challenges arising from climate change and international commitments to reduce greenhouse gas emissions have so far been inadequately addressed in German and European agricultural policy. To boost incentives for member states, both in terms of biodiversity conservation across member states and climate action, the Advisory Board recommends established budget shares or separate budgets at EU level for these cross-border protected public resources. This would mean that biodiversity and climate protection objectives would no longer be competing with other political priorities and could therefore be more reliably achieved. Furthermore, earmarking funds would lead to a general strengthening of biodiversity and climate protection, including in political and public perception.

269. For much more effective biodiversity protection across member states, the Advisory Board recommends that the Federal Government supports:

- the establishment of an earmarked EU budget share for the Natura 2000 network, with member states running targeted programmes that can apply for these funds from the European Commission

- the use of additional funds to strengthen the Natura 2000 biotope network in qualitative and quantitative terms;
- keeping the national co-financing share limited to between 5 % and 10 % owing to the importance across the EU of the Natura 2000 network;
- the realisation across the EU of a specified minimum proportion of extensively managed land in the medium term in a sensible geographical context at regional level for species and biotope protection.

270. As with biodiversity conservation, at EU level the Federal Government should support steering agriculture's contribution to climate protection under the CAP in a much more targeted and effective way in future than is the case in the current funding period. For this to happen, the support instruments must be developed further. Specifically the Advisory Board recommends that the Federal Government:

- lobbies in the area of moor protection for the gradual development of a new EU-financed policy area at EU level, under which the European Commission buys greenhouse gas reductions at the lowest possible price through tendering processes (WBAE & WBW 2016). This kind of tendering process should be trialled in a pilot project on moor protection, e.g. in northern and north-eastern EU member states. If it goes well, the package could be expanded to gradually rewarding climate action measures over time and the tendering process extended to all member states;
- as with biodiversity conservation, supports limiting national co-financing to between 5 % and 10 % of total funds owing to the importance of climate action across member states.

5.4 Replace blanket cross-compliance of direct payments with “specific conditionality”

271. The Advisory Board restates its view that environmental and climate protection at farm level can be achieved much more suitably through the programming of targeted AECM, eco-schemes and effective regulatory law than through more stringent cross-compliance requirements for direct payments at farm level. In this context, in its report the Advisory Board argues for the gradual reduction of direct payments, cross-compliance and greening, and for direct payment funds to be reallocated to targeted measures. The regulatory gaps this produces can be filled by expanding and consistently enforcing regulatory law (e.g. further development of inspection systems, adjustments to penalties) (WBAE 2018). Furthermore, for the required development of general interest support measures, it is sensible for individual farm measures to be subject to expert advice and support (“specific conditionality”).

272. Against this backdrop, the Advisory Board recommends that the Federal Government:

- limits individual farm conditionality requirements in the CAP strategic plan to the minimum accepted by the European Commission, and instead programmes ambitious eco-schemes and targeted AECM II. Greater individual farm conditionality is only justifiable as a second-best policy if Germany opts to offer only a few or less ambitious measures in Pillars 1 and 2. In such cases, a steering effect might be expected from conditioned direct payments that goes beyond regulatory law, but remains behind that produced by targeted measures under Pillars 1 and 2;

- enshrines standards for keeping land in a good agricultural and environmental condition (GAEC) in relevant regulations in regulatory law, provided that this is not already being done comprehensively and extensively and that GAEC standards address actions that cause environmental damage that is hard to reverse. For example, this applies to quantitative (GAEC 1) and spatially targeted grassland protection (GAEC 10), but also to the preservation of landscape features (GAEC 9). It should also be the duty of all landowners and users to preserve carbon-rich soils (GAEC 2);
- imposes certain obligations on beneficiaries who receive high subsidy amounts in a certain support area of the CAP (e.g. biodiversity conservation) for the functional optimisation of the measures (“specific conditionality”). Depending on the support area and the subsidy amount, these obligations can relate to the implementation of individual farm checks (e.g. energy check, animal welfare check or a more comprehensive sustainability check) or (with very high subsidy amounts) to mandatory advice. For example, if farmers implement measures to promote biodiversity under eco-schemes and AECM II and receive a very high level of support for this (e.g. over € 20,000 per year), they must discuss their package of measures every year with a state registered agri-environment advisor and be subject to reviews for their optimisation. The advice would be free of charge for farmers if it were financed from EAFRD funds under the offers of advice that have to be included in the CAP strategic plan. The Advisory Board considers this type of “specific” conditionality with the objective of individual farm optimisation of measures to be much more sensible than the blanket cross-compliance of direct payments contained in the legislative proposal (see Section 4.2);
- assigns individual measures offered in Pillars 1 and 2 to the relevant support areas for the implementation of appropriate checks and advice, defines different support areas (e.g. biodiversity, climate, water conservation, animal welfare), and sets a subsidy amount per subsidy recipient, year and support area from which an individual farm check or mandatory advice is required;
- supports greater flexibility in conditionality in negotiations at European level that allows member states to implement a conditionality model that does not dictate blanket GAEC standards to farms, but imposes certain checks and advice on matters of environmental and climate protection or animal welfare. However, the possibility of this kind of flexibility around conditionality should be tied to member states achieving a minimum level of ambition in the area of eco-schemes and/or AECM II. This could be determined using the budget shares allocated to these intervention categories. If this interrelationship is rejected, there is a risk of member states opting for weak conditionality in connection with weak eco-schemes and weak AECM II, resulting in environmental and climate protection not being well served.

5.5 Reinforce constitutional and target conditionality

273. The Advisory Board considers target and constitutional conditionality prescribed by the European Commission at member state level to be sensible (cf. Section 4.2.1). Constitutional conditionality is already laid out in the legislative proposal: the administrative and coordination system is to be described in the CAP strategic plan but is exempt from approval by the European Commission. In the Advisory Board's opinion, however, a comprehensively functioning administrative and coordination system should be a criterion for the European Commission's approval the CAP strategic plans. The Advisory Board recommends that the Federal Government:

- lobbies in negotiations at EU level for a tiered system of constitutional conditionality. In this system the European Commission should reach agreement on a timetable for eliminating shortcomings in member states where functional deficits in administration and inspection of the CAP measures have been ascertained. There would be interim goals and milestones for this. Where there is a clear failure to achieve objectives and milestones, the European Commission should be able to reduce funds to the member states concerned;
- campaigns in EU negotiations for the introduction of EU-wide target conditionality. The stipulation of quantitative objectives for the condition of certain environmental goods as part of target conditionality can counter the much-feared "race to the bottom" in relation to the ambitiousness of agri-environmental policy within the EU. Fixing quantitative environmental requirements at member state level has the added advantage of giving national policymakers the opportunity to select efficient instruments and thus achieve the environmental goal at the lowest possible costs;
- supports the implementation of target conditionality as part of the approval of CAP strategic plans. Objectives should be established in dialogue with the respective member state to take different natural circumstances into account. The Advisory Board does not consider blanket, EU-wide objectives sensible in view of the heterogeneity of natural resource settings, problem areas and cost differences within the EU.

5.6 Overhaul the CAP's performance framework

274. The new delivery model offers numerous opportunities to design the CAP so that it is focused on serving the common good. For this to happen, in the view of the Advisory Board, the relevant actors need to have the courage to embrace these opportunities and deviate from well-trodden, established paths. The Advisory Board welcomes the fact that the legislative proposals require programming of Pillar 1. This forces political actors to explicitly state the CAP objectives they want to pursue with direct payments. The Advisory Board also welcomes the Commission's approach to withdraw from the "contractual" relationship between end recipients and member states and give member states more freedom in the design of their administrative and coordination systems.

275. However, the Advisory Board does not find the proposed reporting system sensible. It is concerned that the output and result indicators and unit amounts (see Section 4.1.1) at the heart of the proposed scheme could make it harder for member states to design an efficient agri-environment-climate policy. The

Advisory Board can see no added value with regard to a greater focus of the CAP on the public good in the intended requirement for planning and inspection of very differentiated values on the level of output and result indicators. The CAP's content should primarily be steered by selecting and designing well thought-out interventions on the basis of a sufficiently differentiated description of the problem area. These interventions should be supported by clear and proven intervention logics and have transparent effects. That is why the Commission's approval of strategic plans is the crux of the CAP's greater focus on the public good.

276. Against this backdrop, the Advisory Board recommends that the Federal Government lobbies at EU level to change the legislative proposals so that:

- output indicators are scaled down to the direct outputs of the individual interventions. It should be ensured that the scheme can be illustrated effectively in a database system with reporting attached. At output level, when establishing "unique numbers" overlaps should be avoided;⁴⁹
- the concepts of unit amounts and performance bonus should be removed without being replaced, as they have no discernible added value in steering and represent a considerable hurdle for a differentiated, targeted and ambitious design of the support scheme;
- there is much clearer separation between the addressees and reporting purposes. One purpose of the indicator system at EU level is the reporting and justification of expenditure to the European Parliament and the European Court of Auditors. Another purpose is the monitoring⁵⁰ that takes place between the European Commission and member states:
 - i. for both purposes, as a matter of priority reliance should be on differentiated financial data in terms of content and not on physical size (supported undertaking, supported area, beneficiary), as is the case with the current output and result indicators. The physical units in different interventions are mostly not directly comparable. This requires a differentiated consideration and evaluation that takes the local context into account as well as the specific interplay with other interventions within and beyond the CAP. A standardised comparison or the aggregation of physical indicators is, at least at European level, like the proverbial comparison of apples and pears;
 - ii. in the planning phase only budget approaches with regard to the intended objectives should be fixed. This requires the use of a list of objectives that is slightly more differentiated than in Article 6 of the draft CAP strategic plan regulation. In terms of these planned budget objectives, during the scheme's implementation phase the Commission should monitor whether member states are achieving the stated objectives. Deviations should be treated in the same way as the process outlined in the legislative proposal for deviations in result indicators;
 - iii. the strategic plan should outline indicative planning of the outflow of funds at intervention category level only. However, deviations from these plans should not result in a reduction if the

⁴⁹ This means supported area, supported beneficiary or supported project (without double payments).

⁵⁰ A review of the extent to which funds are used for the objectives set in the strategic plan.

approaches in the targets' area are achieved, i.e. if the objectives are achieved with other interventions;

- for the annual reporting and justification of payments to the European Parliament and the European Court of Auditors, a system is relied on that, at least with regard to the main effect, draws on a clear categorisation of all interventions. This requires the tasks for all interventions to be depicted fully and unambiguously by the indicators. This categorisation should comprise the intended main objective (e.g. water protection), the intervention category (e.g. eco-schemes), the steering approach (e.g. eligible area yes/no), the use of selection process (yes/no), and if applicable the spatial relationship (e.g. field) and the starting point of the measure (e.g. cross-farm);
- with regard to the steering of the CAP, unlike the one-year regular cycle in the current legislative proposals, member states only have to produce the more detailed reports every two years. These reports should explain why these deviations from the plan came about and what is to be done about them. These reports should not have penalties for member states attached to them, but should provide the starting point for a bilateral discussion process to increase the CAP's effectiveness in terms of its objectives.

5.7 Clearly state the requirements for approval of the CAP strategic plans, thus increasing transparency and planning predictability

277. Under the legislative proposals, the national CAP strategic plan is the central document in which each member state evaluates the starting point for its territory (including a SWOT analysis and strategic environmental assessment), sets out its intervention strategy and describes interventions within the scope of Pillars 1 and 2, establishes target values and a financial plan, and describes the administrative and coordination system. In view of the strategic plan's central importance, it is astonishing that the legislative proposals remain rather vague about the requirements that have to be met for its approval by the European Commission. The legislative proposal on the CAP strategic plan also contains extensive opportunities for the European Commission to regulate further through delegated legal acts, which reduces planning certainty and contributes to an unnecessary administrative burden (see WBAE 2019). The Advisory Board recommends that at EU level the Federal Government supports:

- a clear statement of requirements for approval of the CAP strategic plans. For example this concerns the requirements to evaluate the starting position, e.g. with regard to the achievement of agri-environment-climate policy objectives, and consistency between the programmed interventions and this evaluation;
- specification of minimum requirements on the level of aspiration of environmental and climate policy in the measures programmed as eco-schemes. If this does not happen, the Advisory Board believes there is a risk with the "free premium calculation" variant that eco-schemes could be used by some member states as a route towards pure income support, thus jeopardising eco-schemes' efficiency and credibility, as is the case with greening;
- each member state having to make its design of the strategic plan publicly accessible perhaps two to three months before submitting it to the Commission, and the European Commission having to

publish all submitted strategic plans immediately. In order to have greater transparency and encourage mutual learning from individual CAP strategic plans, approved strategic plans should promptly be translated by the European Commission into English and the English version also made publicly accessible;

- a reduction to the necessary minimum of the European Commission's opportunities for EU implementing provisions in the form of implementing acts and delegated legal acts. The substantiations necessary should already be provided for in the basic legal acts (for example the establishment of the minimum share of agricultural area for non-productive landscape features or areas in GAEC 9). This would create transparency and increase planning certainty (see WBAE 2019).

5.8 Design targeted and efficient eco-schemes

278. The Advisory Board sees an opportunity in the newly created eco-schemes to mobilise funding to achieve social objectives that, at the moment, are tied to direct payments without any notable steering effect. The Advisory Board is of the view that it makes no significant difference whether eco-schemes are implemented in the form of an ecopoints model (see paragraph 218 et seq.) or one that is essentially geared to the model of the Pillar 2 agri-environment-climate protection programme (AECM II model, paragraph 221). In both models, farmers select measures from a given list. The fundamental difference between them is that the premium in the ecopoints model can be freely determined (Article 28 (6) a), while in the AECM II model it must be geared to the costs and loss of income associated with implementing the measures (Article 28 (6) b). In practice, however, strong incentives can be set with both models for the majority of farms (see "Bogus debate on incentive elements" text box in Section 4.3.2). In contrast, the greening model (see paragraph 223 et seq.) should not be considered since it is not particularly targeted, offers no marginal incentive effect, and does not sufficiently take the heterogeneity of natural and economic site conditions into account (cf. Table 5, p. 64).

279. For national implementation, the Advisory Board recommends that the Federal Government should:

- programme measures that are of national interest within eco-schemes and where it has formulated appropriate objectives (for example in the National Biodiversity Strategy): organic farming, strip measures in arable farming and on grassland, diverse crop rotations including legumes, extensive grassland farming and pasture premiums. For a comparison of the classification criteria of eco-schemes and AECM II, see paragraph 235;
- design and remunerate the measures differently by location (e.g. through differentiated premium amounts) in order to increase their precision in achieving stated objectives (see Section 3.5);
- programme the interface between eco-schemes and AECM II in consultation with the states so that only eco-scheme measures can be implemented in some areas of an agricultural holding, only AECM II measures in other areas, and then in other areas again a combination of staggered measures from the eco-schemes and AECM II. In order to contain administrative expenditure, the differentiated variants (eco-schemes and attached AECM II) should remain confined to ecologically sensible combinations of measures that have a complementary effect – for example fallow arable land (eco-

scheme) plus flower mix (AECM II), grazing premium (eco-scheme) plus abandonment of fertilisation (AECM II) or organic farming (eco-scheme) plus flowering strips (AECM II);

- make available at least 30 % of the funds in Pillars 1 and 2 to fund environmental and climate action within the CAP from the first year of the new funding period (see Section 5.2). It is of little importance whether these funds are made available to finance ambitious eco-schemes or AECM II through a transfer to Pillar 2;
- gradually increase this share so that after ten years 100 % of the premium ceiling of Pillar 1 is spent on general interest objectives – either in Pillar 2 or in Pillar 1 as eco-schemes;
- set upper limits for the scope of individual measures per farm (e.g. a maximum share of arable land as flowery areas) in order to prevent eco-schemes being oversubscribed. If there is an oversubscription, however, eco-schemes should be given financing priority over other direct payments;
- slowly extend these upper limits upwards over time (i.e. within the upcoming funding period) in order to gradually be able to finance agri-environment-climate measures more. To guarantee financing, the basic premium must be reduced accordingly.

280. For EU-level negotiations, the Advisory Board recommends that the Federal Government lobbies for:

- no stipulation about capping or degression of direct payments to member states;
- payments under eco-schemes at least being exempt from degression and capping, otherwise the farms affected by this would have only a reduced incentive or no incentive at all to engage in this invention category.

5.9 Open up eco-schemes to animal welfare measures and develop animal welfare funding

281. In view of the major challenges presented by the need for a greater focus on animal welfare in livestock farming in Germany and the high costs associated with this (in Germany around 13-23 % per year on average of today's production costs (WBA 2015)), the Advisory Board considers it desirable to open up eco-schemes to measures to improve animal welfare. This would require animal-related measures to also be eligible alongside area-based measures (e.g. pasture premium). However, only the annual additional costs and reduced income should be financed under eco-schemes, not the investment costs often associated with improvements in animal welfare schemes. Support for investments to improve animal welfare should continue to be confined to investment support for agricultural holdings in Pillar 2. This should be designed with a focus on objectives and adapted accordingly (WBA 2015).

282. The current scope of animal welfare support, which has largely been unchanged since the Advisory Board's report on livestock farming (WBA 2015), is disproportionate to the challenge. In the Advisory Board's judgment, the gap between society's requirements, which in many areas match expert assessments, and the reality in large parts of German livestock farming since 2015 has not narrowed. In contrast, the uncertainty concerning the framework conditions for livestock farming have increased. This growing

uncertainty is due to the hesitant development of regulatory law and support policy and the simultaneous increase in the influence of other actors, for instance on the administration of justice (e.g. Magdeburg gestation crate judgment and the constitutional challenge of the State of Berlin) and the specific requirements set by food retailers. Against this backdrop, the Federal Government and state governments should make use of the opportunities presented by the CAP to support improvements in animal welfare in livestock farming across Germany.

283. The Advisory Board recommends that the Federal Government lobbies at EU level for:

- the creation of an opportunity for member states whose regulatory animal welfare standards are much higher than the EU average to compensate for some of the costs incurred through state payments within the scope of the EAGF (or EAFRD);
- opening up eco-schemes for non-investment animal welfare measures that can be linked more effectively to the number of animals than to the eligible area.

284. For the CAP's national implementation, the Advisory Board recommends the following to the Federal Government and state governments:

- increase the use of funds to promote animal welfare;
- make use of the possibilities to earmark funds for this within the Joint Task for the Improvement of Agricultural Structures and Coastal Protection (GAK) if this is not done under eco-schemes;
- increasingly use animal-related indicators (e.g. animal health indicators such as number of lame animals) to reward animal welfare performance through eco-schemes or measures in Pillar 2, in addition to husbandry-related indicators (e.g. area per animal).

5.10 Increase the focus of agri-environment-climate measures by means of innovative incentive mechanisms

285. The effectiveness of voluntary AECM II can be greatly increased by using incentives to steer agri-environment-climate activities towards larger conglomerated areas, connecting areas or at locations

especially worth protecting. The Advisory Board recommends that state authorities responsible for programming AECM II:

- increasingly test incentive instruments for a better spatial steering of agri-environment-climate activities in practice. Suitable steering instruments are the agglomeration bonus, the favoured location bonus, the collective bonus and the special protection area bonus (see Section 3.5);
- (further) develop programmes that provide for a results-based reward of environmental and climate performance, i.e. link payment directly to the environmental outcome achieved (see Section 3.4);
- do not thwart the transition to a more targeted agri-environment-climate policy using the argument of higher administration costs. For their implementation, effective environmental and climate measures are often dependent on local circumstances and have to be implemented on a small scale. The efficiency gains associated with explicit consideration of local prerequisites in relation to environmental outcome are often considerable, but involve a greater administrative burden and advisory costs (WBAE 2019). Where the additional environmental benefit clearly exceeds the additional expenditure, it is important not to shy away from developing management capacities. In particular, a lack of human resources should not lead to an inefficiently low implementation of effective measures.

5.11 Improve the institutional prerequisites for collectively organised agri-environment-climate protection

286. In comparison with the individual agreements usually found in Germany, the protection of environmental goods by grouping several farms together and through spatial coordination can lead to clear agglomeration and synergy effects in relation to the environmental objectives being pursued, and at the same time simplify their administration. The same could apply to water conservation and moor protection, which is particularly important in northern Germany. There are still no official evaluation reports for the collectively organised nature conservation arrangements that have been operating in the Netherlands since 2016 (cf. Section 3.6). Against this backdrop, the Federal Government and responsible state authorities should:

- closely monitor the development of the extensively implemented models of collective nature conservation agreements in the Netherlands;
- investigate the extent to which elements of the Dutch system can also be applied in Germany if this system proves to be an efficient alternative to individual contracts;
- improve the institutional prerequisites for the implementation of collective models of environmental and climate protection – for instance by supporting actors in non-governmental organisations (e.g. water and soil associations, rural associations, landscape care associations, local action groups or volunteers) who, owing to their local knowledge and local networking, can take on a central role in planning, networking, organisation, communication, management and inspection;

- support the merger of these local actors and farmers into “biodiversity-generating communities”, for example in pilot projects (see Section 4.4.6). These should be launched quickly in order to be able to build on the lessons learned in the new funding period.

5.12 Revise the definition of subsidy beneficiaries and eligible land

287. As outlined in Section 4.3.5, the Advisory Board considers the shrinking of the circle of beneficiaries in Pillar 1 to “genuine farmers” not to be sensible for a number of reasons. It can be assumed that detailed rules concerning the definition of eligible area can have negative effects on the climate and on species and biotope protection. In short, the detail of definitions can hide a great deal that is hugely important to practical environmental and climate protection. The Advisory Board sees a need for a change at EU level, particularly with the definition criteria for “agricultural activities” and “permanent grassland”. Specifically the Federal Government should lobby at EU level so that:

- all land managers are eligible for aid under Pillar 1 provided that they perform agricultural activities. The Advisory Board considers a possible exclusion of part-time farmers or landscape conservation associations through the definition of “genuine farmers” to be counterproductive in terms of the delivery of public goods and services within the scope of the CAP;
- the EU framework for the definition of “agricultural activities” in Article 4 (1) a) of the draft CAP strategic plan regulation around paludiculture (plant species adapted to wet soil conditions such as rushes, bulrushes, sedges, peat moss etc., including in mixes of different plant species) is extended. Only land that has previously been used for agriculture should be eligible. Alternatively the Federal Government should lobby for the introduction of a separate area category of “agricultural areas with outstanding importance for climate action”. The conversion of intensively used grassland to organic soils in paludiculture should not be classified as grassland conversion within the meaning of GAEC 1 or GAEC 10. This should not affect any nature conservation approval required under the Habitats Directive;
- the EU framework for the definition of “permanent grassland” in Article 4 (1) b) iii) is expanded so that member states define “permanent grassland” by imposing a particular qualifying date. The consequence of this would be that only grassland areas that are recorded as permanent grassland in the Integrated Administration and Control System (IACS) on a certain date come under the regulations of GAEC 1 and GAEC 10. This regulation would have the advantage of grassland, fallow and similar vegetation not being ploughed up every five years at the latest with the primary purpose of maintaining the area’s arable status. The definition should at least give member states the flexibility that they had under Article 3 of the Omnibus regulation (2017/2393).

288. In the course of the national implementation, the Advisory Board recommends that the Federal Government and state governments make the greatest possible use of the potential degree of freedom to allow support for the management and care of high-value non-forest areas in terms of nature conservation through Pillar 1. Against this backdrop, permanent grassland should particularly be distinguished by:

- imposing a particular qualifying date (see paragraph 287)

- being designed in such a way that only the use (mowing, pasture or minimum activity) is crucial for demarcation and not the composition and degree of coverage by vegetation. This would ensure it is treated equally with arable farming.⁵¹ Particularly on grassland locations that are of special value for nature conservation, the current specifications in the definition of grassland often prevent support under Pillar 1
- being designed in such a way that the demarcation includes all grazed and mown areas, and that the habitats are of species that are of general interest (species in the FFH and the directive on the conservation of wild birds) and also dependent on agricultural use for a favourable conservation status. This is all the more important when the conservation status of these species and habitats is an impact indicator (I. 19) of the future CAP under the draft CAP strategic plan regulation. Alternatively a separate area category of “agricultural areas of outstanding importance for the preservation of biodiversity” could be introduced. The eligibility of this kind of area should primarily be geared to its environmental conservation status or to changing it: provided the area is in a good environmental condition or is improved, the area should be eligible. The conservation status should be assessed by the relevant nature conservation authorities
- being designed in such a way that pasture-typical structures such as small field copses, open soil and rank patches are in principle part of the eligible area and not defined separately. These structural elements are hugely important in the preservation and support of associated biodiversity in the agricultural landscape. Particularly with pasture, the extent and position of these elements change both in the course of the year and between years. Recording these elements, either as elements under GAEC 9 or as an ineligible area, requires a great deal of effort by farmers and administrative bodies. Furthermore, these structural elements represent a latent risk of infringement and hence of penalties for farmers. To resolve this problem, a blanket proportion of pasture-typical structures could be tolerated as part of the eligible area on pasture that does not meet the conditions outlined in the previous paragraph.

⁵¹ A field is currently also 100 % eligible if the cultivated crop covers less than 50 % of the area, as for example with asparagus and onions. In contrast, grassland is currently only eligible if the coverage of fodder crops is at least 50 %. Non-fixed “trails” or vegetation-free lanes are also classified as grassland parcels, but this does not apply to non-green machine tracks in arable farming.

6 Conclusions

The legislative proposals for the post-2020 CAP issued by the European Commission in 2018 offer member states much greater freedom for the targeted implementation of policy than is currently the case. On the one hand this presents an opportunity to design an ambitious, well-funded CAP that is focused on objectives that serve the public good. On the other, there is a risk that individual member states could make use of the new freedoms to primarily continue pursuing an income policy for the sector rather than focusing on overarching social objectives. This is all the more reason for Germany to lobby to restrict the scope member states have to devise an unchallenging design of their agri-environment-climate policy. Meanwhile Germany should make use of the new design opportunities in its national implementation to gradually shift the CAP away from its focus on income and align it more consistently with objectives that serve the public good, focusing particularly on the environment, climate action and animal welfare. If the necessary redirection of the CAP is postponed, this will make the issues that have to be addressed even more urgent and the need for farms to adapt even greater – resulting in additional adaptation costs. A CAP that focuses on the public good would help agriculture cope with the challenges ahead, secure social acceptance of the CAP in the long term, and consequently create reliable framework conditions for agricultural policy for the next decade and beyond.

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