

THE LEGISLATIVE PROPOSALS FOR THE REFORM OF THE CAP

Good initiatives but not good enough for the environment

Opinion of the Agriculture Commission at the
German Federal Environment Agency (KLU)

**Umwelt
Bundes
Amt** 
For our Environment

Imprint

Published by: German Federal Environment Agency
Press Office
Wörlitzer Platz 1, D-06844 Dessau-Roßlau, Germany
E-Mail: pressestelle@uba.de
Internet: www.umweltbundesamt.de

KLU Head Office at the Federal Environment Agency – Section II 2.8
Frederike Balzer, Knut Ehlers, Dietrich Schulz

Members of the KLU:
Lutz Ribbe (Chairman), Annette Freibauer, Wolfram Güthler, Alois Heißenhuber,
Kurt-Jürgen Hülsbergen, Andreas Krug, Heino von Meyer, Ulrich Peterwitz,
Hubert Wiggering

Date: August 2012

Design: UBA

Cover photo: Landschaft Scheyern

The legislative proposals for the reform of the CAP

Good initiatives but not good enough for the environment

Opinion of the Agriculture Commission at the German Federal Environment Agency
(KLU)

Table of Contents

Summary	4
1. Introductory remarks	5
2. The package and the timetable	7
3. The proposed Regulation on Direct Payments	7
3.1 Flexibility between pillars.....	9
3.2 Basic payment scheme.....	9
3.3 Greening.....	9
3.3.1 Crop diversification	10
3.3.2 Retention of permanent grassland	11
3.3.3 Ecological Focus Areas	13
3.3.4 Deficits of the 'greening'	15
3.4 Financial provisions	17
3.5 Areas with natural constraints.....	17
3.6 Voluntary coupled support.....	18
4. The proposal for a Regulation on financing, management and monitoring ("Horizontal Regulation") - the updated cross-compliance mechanism	18
4.1 Statutory Management Requirements.....	18
4.2 Integration of the Pesticides Directive (EC 1107/2009) into the CAP in 2013.....	19
4.3 Good agricultural and ecological condition.....	20
5. The proposal for a new Regulation on Rural Development (Second Pillar of the Common Agricultural Policy).....	20

Summary

The EU Commission proposals for the reform of the Common Agricultural Policy (CAP) for 2014-2020 aim at contributing to improved integration of agriculture, environmental protection and climate mitigation (integration scenario). Overall, they are to give more weight to the principle of “public money for public goods” and thus reinforce the legitimacy of the continued substantial expenditure on the agricultural sector. In the proposals, the KLU can see a number of good approaches in principle. However, in their finer detail these remain half-hearted and thus jeopardize the achievement of the objectives set out in the proposals.

In particular, the KLU criticizes the following points:

- The overall allocation of funds continues to be too strongly weighted in favour of Pillar 1.
- Within Pillar 1 the linkage between the basic payment and the ‘greening’ component remains unclear.
- The ‘greening’ component itself will remain only weakly effective: There are no criteria at all for defining excess nitrogen inputs or stocking rates, the requirements with respect to crop diversification and the prohibition on the ploughing-up of permanent grassland as set out in the current much watered-down version of the proposals will have hardly any relevant steering effects, and the envisaged establishment of ecological focus areas (a key element of the reform from the environmental perspective) is insufficient in quantitative terms and under threat of being further diluted in qualitative terms.
- The options for coupled support and support for areas with natural constraints should be more strongly instrumentalized in the interest of environmental protection.
- Environmental protection is not given clear priority in Pillar 2. Significant obstacles in terms of co-financing and administration jeopardize the effectiveness of Pillar 2 overall.

The KLU recommends that prior to the adoption of the reform the stakeholders in charge (EU Commission, Council of Agriculture Ministers, European Parliament) remove the deficits outlined, and it submits detailed proposals to this effect. The KLU continues to welcome a CAP reform based on the integration scenario but recommends that the EU Commission, the Council and the European Parliament allow no further dilution of the environmental components. Should however, in the process of reaching political agreement, the ‘greening’ degenerate into a ‘greenwashing’, the KLU would no longer feel that there is proper justification for maintaining the provision of public funds for agricultural policy.

1. Introductory remarks

On 12 October 2011 the EU Commission presented their legislative proposals for the reform of the Common Agricultural Policy (CAP) for 2014-2012. The reform package includes a total of seven draft Regulations.

The CAP reform package builds on the Commission's multi-annual financial framework (MFF) proposal for the 2014-2020 period, as submitted in the summer of 2011, in which the Commission had already set out proposals for the budgetary framework and the main orientations of the CAP post 2014. According to the MFF proposal, the total proposed budget for the seven year period – in constant 2011 prices – will be EUR 386.9 bn for agriculture and rural development, with EUR 281.8 bn allocated to Pillar 1 and EUR 89.9 bn to Pillar 2.¹ The Common Agricultural Policy (CAP) would thus remain to be a very substantial budgetary item even though at 38 % of the Community's total budget for 2014-2020 compared to a 42 % share in 2010 it has dropped slightly in relative significance.

The Commission's budget appropriation caused its share of controversy. Some of the Commissioners had called for radical cuts in both Pillar 1 and Pillar 2, arguing that EU funds could be used better and in more forward-looking ways in other policy fields. The size of the budget as proposed was only accepted because it was argued that it would achieve not only agricultural objectives but also conservation and climate policy targets. In defence of the budget appropriations, assurances were made that it would bring about a greener and fairer CAP.

The KLU welcomes the planned strengthening of environmental aspects as part of the CAP. There are no other justifications for the relatively high appropriations for agricultural expenditure. The EU Common Agricultural Policy must in future firmly adhere to the principle of "public money for public goods". This includes the safeguarding and strengthening of rural development (the second pillar of the Common Agricultural Policy) including the agri-environmental measures. In this context the KLU is strongly critical of any CAP cuts at the expense of Pillar 2.

The EU Commission's overall vision for the agriculture sector in the Community includes viable food production, sustainable management of natural resources, climate mitigation measures and measures to prevent water pollution, as well as balanced territorial development.

The Agriculture Commission at the Federal Environment Agency (KLU) has already published their baseline considerations and key demands for the upcoming CAP reform². These were based on the Communication from the Commission on the future of the CAP³.

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee Of The Regions *A Budget for Europe 2020 - Part II: Policy fiches*, COM(2011) 500 final, 29.6.2011.

² Opinion of the Agriculture Commission at the German Federal Environment Agency (KLU) on the Reform of the Common Agricultural Policy (July 2011): Towards a greening of Pillar 1 and an efficient Pillar 2" (<http://www.uba.de/uba-info-medien-e/4273.html>).

³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee Of The Regions "The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future". COM/2010/0672 final, 18 Nov. 2010.

In their opinion paper, the KLU called, in particular, for the following five concrete measures for 'greening' Pillar 1 of the Common Agricultural Policy:

- a limit on nitrogen net balance surpluses,
- a limit on stocking rates,
- a limit on the maximum proportion of any one crop type on arable lands,
- the retention of permanent grassland, and
- the provision of ecological focus areas.

Additionally, the KLU called for the integration of semi-natural grasslands into Pillar 1 so as to allow for improved and more widespread protection of e.g. former commonages and wood pastures as well as unimproved grasslands mown for livestock bedding, all of which are of importance for biodiversity. In the context of the legislative proposals currently under discussion, the KLU is critical of the fact that the proposals completely lack any limits on nitrogen net balance surpluses or stocking rates and considers this as being a significant shortcoming of the legislative proposals from the environmental perspective and in particular with a view to the sustainable protection of watercourses. The official reason for this omission as put forward by the EU Commission is that the administrative burden for the implementation of such provisions would be unreasonably high⁴ – a view the KLU does not share.

The KLU also issued a briefing paper providing a short reaction to the Commission's legislative proposals on foot of their publication on 12.10.2011⁵.

With this Opinion Paper the KLU, after a thorough assessment of the Commission proposals, now set out their position in detail. By virtue of their brief, the KLU limits its assessment to environmental priorities. Other controversial details will not be discussed. That said, the KLU is of the opinion that the issues commented upon are of key relevance for a 'greening' of the CAP as envisaged by the Commission.

⁴ As voiced by Georg Häusler, Agriculture Commissioner Dacian Ciolos' Head of Cabinet, at the public presentation of the Commission proposals at the EU local office in Berlin on 12.10.2011.

⁵ Stellungnahme der Kommission Landwirtschaft am Umweltbundesamt (KLU) zu den Legislativvorschlägen der Europäischen Kommission zur Reform der Gemeinsamen Agrarpolitik (October 2011 – German language only)

(http://www.umweltbundesamt.de/landwirtschaft/publikationen/klu/klu_stellungnahme_legislativvorschlaege_ek_reform_agrarpolitik.pdf)

2. The package and the timetable

1. The legislative proposals contain texts of seven draft Regulations⁶ accompanied by a working paper on the impact assessment⁷ of the Common Agricultural Policy towards 2020. Additionally the package includes the proposal for a general Regulation setting out the common provisions for all the relevant Structural Funds⁸, the aim of which is to achieve or at least facilitate policy coherence.

The EU Commission state that they will now enter into an intensive process of debate on the legislative proposals. Final approval by the European Parliament and the Council is expected by early 2013, with a view to having the various regulations and implementing acts come into force as of January 1st, 2014.

3. The proposed Regulation on Direct Payments

2. The new Regulation on direct payments contains a number of drastic changes. In Pillar 1, a distinction is to be made between a “basic payment” and the compulsory ‘greening’ payment. Member States are also given the opportunity to introduce (and thus finance under Pillar 1), at national level and at their own responsibility, some additional measures with relevance for nature conservation and environmental protection. Member States may, for example, use up to 5 % of their annual national ceiling in addition to Pillar 2 funding for the support of areas with natural constraints. A specific support scheme for small farmer will be introduced with the aim of reducing the administrative burden. Support for young farmers can also be provided under Pillar 1 (up to 2% of the annual national envelope). Additionally, there is moderate flexibility between the pillars with Member States being allowed to redistribute up to an additional 10 % of their annual national ceilings for direct payments from Pillar 1 to Pillar 2.

➔ **It is the KLU's opinion that the introduction of a mandatory 'greening' component in Pillar 1 going beyond the statutory minimum requirements as well the retention of Pillar 2 (voluntary measures) are vital. The 'greening' component must include substantive measures in order to be able to contribute to solving the ongoing and severe agri-environmental problems. The 'greening' of Pillar 1 is the key element of the planned reform. It brings about a paradigm shift in the CAP, in that for the first time farmers will only benefit from direct**

⁶ 15396/11 COM(2011) 625 final: Direct payments.

15397/11 COM(2011) 626 final: Single CMO (Common organisation of the markets).

15398/11 COM(2011) 630 final: Application of direct payments in respect of the year 2013.

15399/11 COM(2011) 631 final: Single payment scheme and support to vine-growers.

15400/11 COM(2011) 629 final: Fixing certain aids and refunds.

15426/11 COM(2011) 628 final: Financing, management and monitoring (“horizontal regulation”, HZR). COM(2011)627 final/3: Rural development (EAFRD).

⁷ Commission Staff Working Paper: Executive Summary of the Impact Assessment – Common Agricultural Policy towards 2020. (http://ec.europa.eu/agriculture/cap-post-2013/legal-proposals/index_en.htm).

⁸ Common provisions on the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF).

payments if they are compliant with measures going beyond the statutory minimum requirements. This is exactly the point that is drawing opposition from certain lobby groups. The KLU cautions against the introduction of weak 'greening' measures or a litany of exemptions which would jeopardize this core of the reform proposal. There must not be a 'greenwashing' of the agricultural policy with a view to legitimizing agricultural subsidies. The KLU also cautions against the 'greening' of Pillar 1 coming at the expense, either financially or in terms of substance, of Pillar 2. The basic payment and the 'greening' component must be linked, i.e. farmers must only be eligible for the basic payment if they fully implement the 'greening' measures. Additionally the KLU recommends that the Member States use the option mentioned above of redistributing (a limited amount of) funds from Pillar 1 to Pillar 2 and that they use these funds for programmes with an ecological focus in order to strengthen targeted, regionally differentiated environmental measures in the farming sector.

In environmental terms, an essential element of the reform of the direct payments system is the equal treatment of grassland and arable land in terms of eligible areas. The KLU welcomes this equal treatment which in Germany had already been implemented in the 2007-2013 funding period but which had not been in place in many other EU Member States. However, the KLU is of the opinion that the proposed definition of permanent grassland (Article 4 (h) and (i)) must urgently be reviewed from the environmental perspective. Semi-natural pastureland including all landscape features embedded within it must be eligible for support. Limiting eligible areas to e.g. "grasses and other herbaceous forage" is counterproductive as this would mean that heathlands with their dominant cover of dwarf-shrub communities would continue to be ineligible.

With a view to improved species protection in the agricultural landscape and in support of the objectives of the German Federal Government's Biodiversity Strategy (to halt to the decline in biodiversity and to reverse the downward trend), the KLU also supports a petition submitted to the EU Commission in March 2012 by 80 farming and environmental organisations from all over Europe in which detailed proposals for improved integration of extensive pasture into Pillar 1 are presented.⁹ As extensive pastoral landscapes play a key role in European biodiversity, their current large-scale exclusion from CAP support is a major deficit that must be eliminated as part of the 'greening' of the CAP.

The full inclusion of existing or newly created landscape features, small structures, sown wildflower strips and buffer strips into the eligible area will be of particular benefit to those farmers whose holdings host a relatively high proportion of such features which thus far have been partly excluded from farmland eligible for payment. These structurally rich areas are of major ecological importance. Therefore there must be no further incentives or pressures that would give rise to their removal. Instead, the integration of such landscape features into the "ecological focus areas" must be facilitated without undue "red tape", i.e. without the need to digitize each and every bush and patch of scrub.

⁹ European Forum on Nature Conservation and Pastoralism (2012): Support the farmers who maintain Europe's pastoral landscapes – change the CAP rules on permanent pastures.
<http://www.efncp.org/forum/from-the-forum/support-the-farmers/>

3.1 Flexibility between pillars

3. Flexibility between pillars (Article 14) allows Member States to redistribute up to 10 % of their national ceilings from Pillar 1 to Pillar 2. This would increase the available funds for agri-environmental measures, amongst others. For Germany this would entail a sum of approximately EUR 500 million in additional funding for Pillar 2 measures. The current legislative proposal however suggests that the funding thus redistributed would need to be co-financed, in Germany's case by the federal states (*Länder*).

→ The KLU welcomes, in principle, any strengthening of Pillar 2. However, it is also keenly aware of the increasing difficulties faced by the *Länder* in raising the relevant co-funding. These difficulties must not lead to opportunities for improving the environmental situation in agricultural landscapes to be missed. The KLU therefore calls for the removal of the requirement to provide national co-funding for measures financed using funds transferred from Pillar 1 to Pillar 2.

3.2 Basic payment scheme

4. The basic payment continues to be subject to compliance with Statutory Management Requirements (SMR) and Good Agricultural and Environmental Conditions (GAEC) – the "cross-compliance" requirements.

→ In the view of the KLU the continued linkage between receipt of the basic payment and compliance with cross-compliance requirements is currently warranted. However, as cross-compliance primarily demands compliance with rules resulting from mandatory environmental legislation it cannot in itself create an obligation on society to offer remuneration or compensation to farmers.

3.3 Greening

5. A significant innovation in Pillar 1 is the requirement for farmers to observe certain "agricultural practises beneficial for the climate and the environment" in order to qualify for the full basic payment (Draft Regulation on direct payments, Chapter 2, Article 29 ff.).

→ The KLU has welcomed this measure, the 'greening' component, from the outset. It is the view of the KLU that, in addition to its importance for the protection of natural resources, the 'greening' component and the resultant ecosystem services to be provided by farmers, constitute the only proper justification in the medium term for maintaining the provision of significant public funds to the farming sector. The KLU regrets however that in this context the proposed measures are limited to crop diversity, retention of permanent grassland, and ecological focus areas. The KLU refers to its Opinion Paper of July 2011 in which it called, in particular, for a mandatory linkage between livestock production and forage area and for measures combating nitrogen surpluses (see Box 2). It is also of the view that the necessary administrative tools for monitoring purposes are already in place (IACS-GIS, herd/flock data). Farmers would merely have to supply a new code for ecological focus areas with their payment claim. This would allow for important environmental standards to be achieved as part of the 'greening' without adding significant administrative burden. The KLU is strongly

opposed to any further dilution of the remaining measures as part of the 'greening' proposals, i.e. a shift from 'greening' to 'greenwashing'.

In its introductory rationale for the draft Regulation on direct payments the EU Commission outlined the context of the reform proposals as well as the results of stakeholder consultations and of the impact assessment¹⁰. In the impact assessment, three different policy scenarios were compared:

- An adjustment option which would best allow for policy continuity with limited but tangible improvements, including improvements in environmental performance (Scenario 1).
- An integration option which includes more targeted direct payments as well as the 'greening' component of direct payments, and gives new impetus to rural development (Scenario 2).
- A refocus option which places priority on the acceleration of structural adjustment in the farming sector (resulting in the *de facto* phasing out of direct payments) and funds environmental measures exclusively under Pillar 2.

The Commission's impact assessment concludes that the integration option would appear to strike the right balance in progressively steering the CAP towards the EU's strategic objectives (i.e. the objectives of the European Sustainable Development Strategy and the Europe 2020 strategy). In the Commission's view, the integration option best addresses the long term sustainability of agriculture and rural areas, provided the right balance is struck.

→ **The KLU shares the Commission's basic assessment, provided the Commission proposals are rigorously implemented with a view to achieving genuine environmental benefits. However, in the current political discussions – to which the German Federal Ministry of Food, Agriculture and Consumer Protection contributes – there are indications of strong tendencies towards the downgrading of the 'greening' to a 'greenwashing', resulting in essence in the adjustment option (Scenario 1, see above). Such a 'greenwashing' would not in any way do justice to the EU Commission's aspirations or the EU's stated environmental objectives.**

3.3.1 Crop diversification

6. The first criterion proposed by the EU Commission for the 'greening' are minimum requirements for 'crop diversification'. The Commission proposes that farmers must have three different crops on their arable land if that land covers more than three hectares and each of the three crops would have to cover between 5% and 70 % of the holding's arable land (Article 30). For monitoring reasons, crop diversification is basically used as a proxy to achieve the actual objective of ensuring crop rotations on arable land with at least a three-field rotation.

¹⁰ Please refer to the impact assessment for details. The following section is closely based on the COM paper.

→ While the KLU welcomes the inclusion of the crop diversification measure into the list of 'greening' measures, it regards the quantitative requirements as wholly inadequate. In particular, almost all farms concerned would already be compliant with the 70 % limit for the maximum share of a single crop type. Therefore, this percentage limit would not have any steering effect and would thus not provide any environmental benefit. The KLU refers to its proposals published in July 2011 and renews its call for a maximum of 45 percent per crop type on a holding's arable land, with multi-annual crops being considered separately in each individual cropping year. Moreover, protein crops should feature more strongly in crop rotations than is presently the case.

3.3.2 Retention of permanent grassland

7. A further proposed 'greening' measure is the retention of permanent grassland (Article 31). The reference areas under permanent grassland are those declared in the 2014 payment application. So as to avoid providing an incentive for farmers to plough up permanent grassland in the interim, reference is made to Article 93 HZR which states that the current rules on cross-compliance will remain in force in the years 2014 and 2015 and shall also comprise the maintenance of permanent grassland within national defined limits (max. 5 % loss of permanent grassland at state level in Germany compared to the 2003 baseline). Moreover, the EU Commission plans to adopt delegated acts with a view to preventing the "preemptive" ploughing-up of permanent grassland at farm-level resulting from the release of the reform proposals. In future, farmers may convert a maximum of 5 % of their holdings' reference area under permanent grassland, so the proposal permits a 5% decline in permanent pasture at farm level. Thus the limit on ploughing-up of permanent grassland is *de facto* moved from the national to the farm level. Current cross-compliance based measures for the protection of permanent grassland at national level have been largely ineffective as they take effect at too late a stage and also provide incentives to exploit any concessions given. In Germany, the area of permanent grassland declined by just under 7 % between 2003 (Germany's reference year for cross-compliance purposes) and 2011. Some of the *Länder* have reacted to the ongoing loss of permanent grassland, which has been exacerbated by the economic attractiveness of growing maize as a feedstock for biofuel production, by enacting ordinances prohibiting the ploughing up of permanent grassland.

→ The KLU regards the loss of grassland over recent years (Fig. 1) as an urgent conservation and environmental problem in the farming sector, and is therefore in favour of initiatives to halt and reverse this trend. However, the KLU is concerned that the current Commission proposals will not be sufficient to address the weaknesses of the current provisions. Under normal circumstances the proposal to use a farm-level baseline would be considered an effective improvement, but the permission contained in Article 31(2) to convert a maximum of 5 % of a holdings' reference area under permanent grassland counteracts its usefulness. Given the ongoing loss of biodiversity in agricultural landscapes and the particular significance of extensively managed grassland for biodiversity the KLU calls for a complete prohibition on the ploughing-up of permanent grassland. The KLU is concerned that as a result of the publication of the reform proposals there is a powerful incentive for farmers to plough up permanent grassland in the interim and therefore strongly calls for the 2014

baseline date to be changed to the year 2011. This is necessary not only from the perspective of the severely strained biodiversity situation but also with a view to climate change objectives (Article 29 ff.). Payments for agricultural practices beneficial for the climate and the environment would be futile if their effects were counteracted by the conversion of permanent grassland.

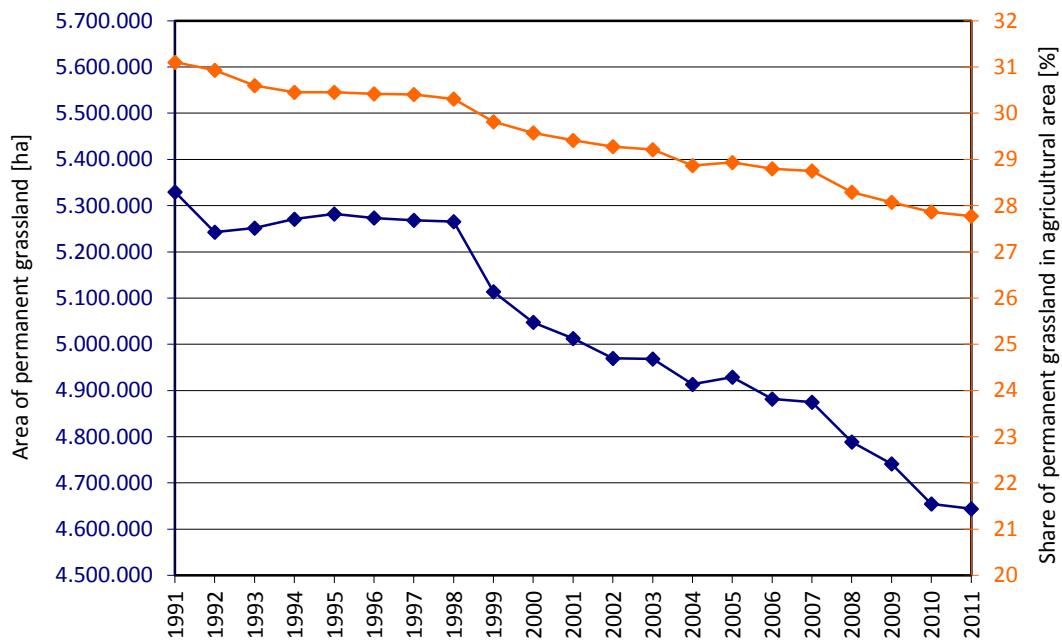


Figure 1: Loss of permanent grassland in Germany
(Data source: <http://www.bmelv-statistik.de/index.php?id=139>)

The KLU therefore calls for

- 2011 to be set as the reference year. The necessary data are contained in the 2011 direct payment applications;
- the abolition of the currently proposed permission to convert up to 5 % of a holdings' reference area under permanent grassland; to allow for flexibility at farm level, at most a balanced budgeting of permanent grassland areas on the individual holding may be envisaged, unless in the individual case environmental considerations dictate otherwise;
- a requirement that grassland-only holdings or those with a predominant share of grassland (>66 % share in the total agricultural area) must manage 15 % of their grassland area in an extensive (low-input) manner or enter these into agri-environmental programmes respectively.

However, the KLU would like to point out that in their opinion the long-term maintenance of permanent grassland (and, in particular, the extensification of grassland management which is important for biodiversity) can not primarily be achieved by way of a prescriptive ‘greening’ component. Instead, policy measures should ensure that grassland management will return to being an economically attractive activity for farmers. Therefore, support options, for example under Pillar 2, as well as opportunities for the introduction of optional coupled payments should be utilized in order to e.g. encourage grazing or improve the situation for extensive grassland management (incl. wet grassland sites). Finally one must bear in mind that the quality of a grassland area must be a major consideration both for determining its future agricultural use and with a view to achieving conservation objectives (primarily biodiversity). The KLU is of the opinion that robust criteria must be developed in order to guide, in a targeted manner and with a view to the objectives to be achieved, any decisions on the conversion, intensification, or extensification of grasslands.

3.3.3 Ecological Focus Areas

8. The third ‘greening’ component proposed by the EU Commission under Pillar 1 are the new ‘ecological focus areas’ (Article 32). Farmers are to ensure that at least 7 % of their eligible arable land (areas under permanent grassland are to be excluded from this provision), are ecological focus areas. Examples listed in the Commission proposals include land left fallow, terraces, landscape features, buffer strips and afforested areas. The precise definitions are to be left to the Commission to decide under delegated acts.¹¹.

→ **The KLU expressly welcomes the introduction of ecological focus areas (EFAs) but is of the opinion that the percentage of land given over to EFAs should be set at 10% (following the provisions of the German Federal Nature Conservation Act for a habitat network system) and that grassland areas should also be integrated¹².**

The proposal represents however a valuable move towards making available a minimum of areas, including areas in agriculturally favoured and intensively farmed regions (e.g. the very fertile German ‘Börde’ landscapes), primarily to meet objectives of species and habitat protection, of the National Biodiversity Strategy, the Water Framework Directive, and climate mitigation objectives. More than ten years after the amendment of the German Federal Nature Conservation Act, this proposal could, given adequate implementation, bring substantial progress with a view to halting the decline in biodiversity in agricultural landscapes and reversing the downward trend, as proclaimed in the German Federal Government’s Biodiversity Strategy.

With respect to the prevention of water pollution it should be pointed out that, for example, 127,000 ha EFA or approximately 1 % of Germany’s arable land (c. 12 million ha) could provide all surface waters in Germany with a catchment area of more than 10 km² (these fall under the reporting requirements of the Water Framework Directive) with a 5 m riparian zone on both sides (254,000 km riparian zone, i.e. 127,000 km of watercourses). This measure would deliver significant environmental benefits to both the

¹¹ The details are set out in Article 55 of the Regulation on direct payments.

¹² Germany’s total agricultural area (AA) is approximately 17 million ha of which 12 million ha are arable land. The first scenario (10 % of the AA) would result in approximately 1.7 million ha ecological focus areas, the second scenario (7 % of the area of arable land) in approximately 850,000 ha, i.e. about half as much.

watercourses and their associated habitats and it would greatly reduce nutrient deposition into watercourses.

→ **The KLU regards the mandatory provision of ecological focus areas as the key element of the 'greening' and thus of the re-orientation of the CAP. There must be no further weakening of this component. Rather it must be specified in more detail for the purposes of achieving conservation and environmental objectives.**

The KLU is not of the opinion that EAFs must necessarily be set aside from production. Instead, particularly beneficial types of environmentally and ecologically compatible agricultural land use should be supported in addition to riparian zones and sown wildflower strips (cf. Box 1). However, particular management aspects, such as a widening of crop rotations, should be precisely targeted towards conservation or biodiversity objectives. Research projects examining such options are currently being undertaken.

Ecological focus areas as envisaged by the KLU (not an exhaustive list)

Basic principle: On all areas recognized as ecological focus areas the use of chemical plant protection products and mineral fertilizers is not permitted. Black fallow should be avoided.

1. Riparian zones with riparian vegetation, seeded with herbaceous riparian seed mixes, or extensive (low-input) grassland use;
2. Fallow with spontaneous vegetation or multi-annual fallow with sown cover (native herbaceous plants/flower-rich mixes);
3. Woodland strips or short-rotation coppice consisting of multiple tree species, agro-forestry systems (linear, max. width of 10 m), sown wildflower strips, conservation headlands in arable fields, sparsely cropped arable fields (wide distance between rows), skylark plots, and other such areas or point features;
4. Terraces, landscape features (e.g. copses, kettle holes, windbreaks etc.) in accordance with the Commission proposal;
5. Afforested areas (Commission proposal) only in landscapes devoid of natural structures, and only in the form of semi-natural mixed deciduous forests with well designed and managed woodland edges.

Box 1: Ecologically beneficial types of agricultural land use which should be recognized as ecological focus areas.

The KLU would like to emphasize that arable cropland or specialty crops should not be considered EAFs merely on account of being located in certain designated areas (e.g. Natura 2000, water conservation areas, flood plains). Such areas should only be considered eligible if the focus of land use is indeed on the site's ecological benefit in accordance with Article 32 of the draft Regulation on Direct Payments, as indicated in the non-exhaustive list above. It might be useful to link the establishment of such areas with agri-environmental measures under Pillar 2 if additional environmental benefits can thus be delivered.

The KLU is further of the opinion that all agricultural holdings should be under the obligation to declare ecological focus areas. There is no comprehensible or objective reason for additional exemptions from the requirements for e.g. holdings with more than 50 % permanent grassland or less than 20 ha arable land or for holdings in less-favoured areas, as called for by the farming lobby. For grassland-only holdings or those with a predominant share of grassland (more than 66 %), an appropriate target would be that 15 % of the grassland area is managed in an extensive (low-input) manner (or entered into agri-environmental programmes), as mentioned above.

Moreover, in order to avoid a “migration” of EFAs away from intensively managed agriculturally favoured regions towards marginal regions, effective provisions must be put in place to ensure that EFAs are directly linked into the holdings’ land base. It is the KLU’s opinion that such effective provisions and control mechanisms are also needed for the accreditation of ecological focus areas on the farms themselves. Especially in the agriculturally favoured regions there must be no more loopholes.

3.3.4 Deficits of the ‘greening’

9. In the summer of 2011 the KLU already set out their views on the pending reform of the CAP, based on the Communication from the Commission of November 2010, and called for five concrete measures for ‘greening’ Pillar 1 of the CAP. Only the three elements described in Chapters 3.3.1 – 3.3.3 of this paper made it into the Commission’s legislative proposals. The reason given by the EU Commission, at the occasion of the proposals’ publication on 12 October 2011, for the omission of other elements was that ‘greening’ components other than those presented would pose insurmountable problems in administrative implementation.¹³

➔ **The KLU greatly regrets that their proposals for limits on nitrogen net balance surpluses and stocking rates were not taken on board by the EU Commission as part of the ‘greening’, and in the absence of a detailed reasoning considers this omission as one of the greatest deficits of the reform proposals from the environmental perspective (cf. Box 2) . Specifically this means that the issue of the prevention of water pollution is not explicitly being addressed by the Commission proposals and similarly the benefits in terms of climate mitigation will be indirect and minor.**

¹³ G. Häusler, Press conference at the EU local office in Berlin on 12.10.2011.

The KLU is of the opinion that the negative impacts of excess nitrogen and high stocking rates are amongst the most serious negative environmental impacts caused by European agriculture today. The KLU therefore calls for measures addressing these problems to be integrated into the 'greening' component. For farmers to receive the full amount of direct payments in future they should therefore

- 1. limit the annual net balance surplus to a maximum of 50 kg N/ha agricultural area, and*
- 2. limit their stocking rate to the equivalent of max. 160 kg of N/ha/yr from livestock manure. Moreover, on soils susceptible to leaching, catch crops must be grown in order to prevent the leaching of nitrates.*

Box 2: Limits on nitrogen net balance surpluses and stocking rates under Pillar 1

→ The KLU is also critical of the proposal for organic farms to be exempt from the 'greening' requirements while however strongly welcoming the fact that organic farms are given due recognition for the ecosystem services they deliver. The KLU is confident that in the context of the standard crop rotations in organic farming, crop diversification as called for by the Commission is inherent in the system, so that this element of the 'greening' will not be a problem for the organic farming sector. Similarly, the traditional practice of forage cultivation on organic farms (mixed farming) is likely to ensure sufficient protection of grasslands. However, clarification is needed with respect to organic holdings engaging solely in crop production. There is no logical reason for exempting organic farms from the need to retain permanent grassland. Secondly, with a view to achieving landscape-level biodiversity objectives, organic farms should also be required to give over a minimum amount of land to ecological focus areas. And thirdly, the KLU misses provisions for grassland-only farms. Grassland is of particular ecological benefit if it is under extensive management. It then gives rise to species-rich vegetation with high proportions of wildflowers and other herbaceous plants. In contrast, grassland receiving high rates of fertilizer is dominated by grasses and ubiquitous species. As a contribution to the 'greening' the KLU therefore calls for 15 % of the agricultural area to be managed extensively on grassland-only holdings.

As a general consideration, the KLU wishes to point out the production-based (coupled) direct payments were introduced as part of the 1992 CAP reform ("McSharry reform") in order to partially compensate farmers for income lost as a result of price cuts. The decision to decouple direct payments was taken as part of the 2003 CAP reform (midterm review of Agenda 2000). In Germany, regional single area payments (on a *Länder* basis) will remain in place until 2013. However, in recent times producer prices for important agricultural commodities have developed relatively favourably. The original rationale for direct payments thus no longer applies and it is becoming ever harder for agricultural policy to make the case to society for the continuation of these payments.

Scientific committees have therefore called for the abolition of direct payments under Pillar 1 and for remuneration to be paid for the provision of public goods. The Commission proposals envisage a linkage between the retention of Pillar 1 and the provision of additional non-marketable common goods (this being the core of the

‘greening’). The reduction in ‘greening’ requirements, as currently called for by various different lobbies, would need to directly result in a reduction of Pillar 1 payments. Otherwise there would be no socio-politically acceptable rationale for meeting the call for “public funds for public goods”.

3.4 Financial provisions

10. The Commission proposes that in order to finance the ‘greening’ component, Member States shall use 30 % of their annual national ceiling (Article 33).

→ Given the ‘greening’ component’s general significance (its integration into Pillar 1 is designed to ensure applicability across the wider countryside, whereas Pillar 2 measures are voluntary, regionally targeted and spatially more limited in their impact) and its growing importance in terms of offering the only long-term justification for Pillar 1 support measures, the KLU calls for the consistent development and expansion of the importance of and the financial contribution devoted to the ‘greening’ component as further steps to reform the CAP are taken, and ultimately for the entire agricultural policy to be based on the principle of ‘public money for public goods’.

11. According to the Commission, farms that do not implement the ‘greening’ measures risk losing their current year’s payments. Repeated infringements would incur penalties exceeding the share of the payment for the ‘greening’ component which would thus be deducted from the basic payment. Therefore *de facto* it would not be possible for a holding to ignore the ‘greening’ component and still receive the full basic payment.

→ In the view of the KLU this is an essential aspect, as the ‘greening’ component can only be fully effective if we do not allow a scenario in which farmers may opt out of ‘greening’ and simply forego the aid associated with the ‘greening’ option while retaining their basic direct aid. To ensure the integrity of Pillar 1, all farms in receipt of direct payments must participate in the ‘greening’ measures (agricultural practices beneficial for the climate and the environment).

3.5 Areas with natural constraints

12. The EU Commission proposes to newly delimit areas with natural constraints (formerly LFA) exclusively based on biophysical criteria (climate, soil, terrain, i.e. slopes). Details are set out in Annex II of the draft EAFRD Regulation.

13. The important role of support for areas with natural constraints for the maintenance of biodiversity and mountain farming should certainly not be diminished. In such regions, climate is often the limiting factor, lowering the standard use of inputs accordingly. This also reduces the environmental burden and gives rise to species-rich grassland areas which are significant not only for biodiversity but also for recreation and tourism. Article 34 of the new Regulation on direct payments allows Member States to use up to 5 % of their annual national ceiling to grant additional annual area-based payments in areas with natural constraints. Member States may focus funding on certain key areas, such as for example wetlands (for the purpose of rewetting measures which result in management difficulties, paludicultures etc.; this is also a significant possible contribution of the farming sector to reducing GHG emissions) or seasonal alpine pastures.

➔ The KLU welcomes this approach and calls on the German government to exploit its potential to the full extent.

3.6 Voluntary coupled support

14. Voluntary coupled support as set out in Article 38 of the planned new Regulation on direct payments gives Member States the option to use up to 5 % of their annual national ceiling (i.e. approximately EUR 250 million per annum in Germany) for coupled support payments to farmers under clearly defined conditions. Such support may only be granted “where specific types of farming or specific agricultural sectors undergo certain difficulties and are particularly important for economic and/or social and/or environmental reasons.”

➔ The KLU welcomes this approach and sees it as an opportunity to provide additional support for land use methods that are particularly favourable from the environmental or conservation point of view.

In Germany, pastoral sheep or goat systems are highly important from the environmental perspective as they not only maintain certain landscapes such as the Lüneburg heathlands or the juniper heaths of the Swabian Jura but also play an important role in maintaining floodbanks. For such systems as well for maintaining extensive pastoral cattle systems the option to use coupled payments (linked to livestock) should be utilized.

4. The proposal for a Regulation on financing, management and monitoring (“Horizontal Regulation”) - the updated cross-compliance mechanism

15. The new “Horizontal Regulation” (HZR) sets out, in particular, the basic rules for beneficiaries receiving direct payments (cross-compliance)¹⁴. These rules include, as is currently the case, the Statutory Management Requirements (SMR) and the Standards for good agricultural and environmental condition of land (GAEC)¹⁵, both of which are clearly set out in Annex II.

4.1 Statutory Management Requirements

16. The Statutory Management Requirements (SMRs) include a total of 13 EU Directives¹⁶ and are applicable in all EU Member States. A new addition will be the Water Framework Directive (WFD) as soon as it has been implemented by all Member States and the resultant elements of the WFD that are directly applicable to farmers and are to be added to the cross-compliance conditions (resulting from the WFD management plans) have been defined¹⁷. Same is true for the EU Pesticides Directive.

¹⁴ Title VI, Articles 91 ff.

¹⁵ Cf. Article 93 for both.

¹⁶ Nitrates Directive, Birds Directive and Habitats Directive, amongst others.

¹⁷ In Germany from 2012?

- ➔ The KLU welcomes the introduction of the Water Framework Directive within the remit of cross-compliance. The WFD management plans must be used to guide environmental measures under the CAP. This is particularly true with respect to the "good agricultural and environmental condition" (GAEC) of farmland and will require determined action from the German Federal Government and the *Länder* since the detailed design of the GAEC is incumbent on the individual Member States. GAEC requirements also apply, in particular, outside of nitrate vulnerable zones (NVZ) and may thus result in considerable progress vis-à-vis the Nitrates Directive in those Member States that have opted for the designation of individual NVZs instead of taking a whole country approach as, for example, Germany, the Netherlands and Denmark have done.
- ➔ With respect to the establishment of riparian zones however the KLU considers the relevant GAEC requirement, i.e. GAEC 1 "Establishment of buffer strips along water courses", on its own to be too weak to effect the changes in agricultural landscapes necessary to protect waters from pollution. The KLU therefore calls for the establishment of 5 m wide riparian zones on which the application of fertilizers and pesticides is prohibited. These areas should be eligible for inclusion into the required 7 % ecological focus areas (preferably in the form of extensive grassland; woodfuel production may also be an option).

4.2 Integration of the Pesticides Directive (EC 1107/2009) into the CAP in 2013

17. In the field of crop protection, cross-compliance controls are based on Council Directive 91/414/EEC concerning the placing of plant protection products on the market, as well as the national implementing acts (in Germany: Crop Protection Act - *Pflanzenschutzgesetz*) and ordinances. Currently, checks carried out during cross-compliance controls in Germany cover i.a. the 'Certificate of competence in the safe use of pesticides', the mandatory safety decals for sprayers etc., mandatory keeping of records on pesticide applications, and compliance with the 'Ordinance on the prohibition and restriction of pesticide use' (*Pflanzenschutz-Anwendungsverordnung*) and the 'Ordinance on the use of pesticides harmful to bees' (*Bienenschutzverordnung*).

- ➔ The KLU welcomes the introduction of Regulation (EC) No 1107/2009 of 21 October 2009 concerning the placing of plant protection products on the market (and repealing Council Directives 79/117/EEC and 91/414/EEC) within the remit of cross-compliance as a consistent step towards adapting cross-compliance requirements to current legislation.

The incorporation of current EU pesticides legislation into the cross-compliance system (Horizontal Reg.) provides an opportunity to improve GAEC rules and to sanction, by way of reduced premia, breaches of (optimized) good farming practice. Various aspects of the protection of waters against pollution can thus be considered in the future. These include i.a. equal consideration of groundwater and surface waters, mandatory monitoring following licensing, special provisions in catchment areas of drinking water abstraction plants, pesticide storage, documentary proof of proper disposal of technical residues, improved "dovetailing" with the WFD, and the avoidance of point-source pollution resulting from the cleaning of equipment.

4.3 Good agricultural and ecological condition

18. The standards for good agricultural and environmental condition of land (GAEC) are defined at national level. The EU Commission does however provide a list of eight items which must be implemented. Given that the Draft Soil Framework Directive (SFD) has been taken off the agenda at EU level¹⁸ and that therefore no soil protection SMR can be defined due to the lack of an EU-wide legal basis, soil protection aspects have been set out under four GAEC requirements, with detailed specifications to be drawn up at national level. They include soil cover, soil erosion, soil organic matter, and the new (!) protection of carbon rich soils (wetlands).

→ **In the view of the KLU, the implementation of the last item (protection of carbon rich soils) should primarily focus on a complete ban on the ploughing up of peat soils and hydromorphic humic soils (anmoor soils), i.e. the conversion of grassland into arable land on such sites, and similarly a complete ban on new drainage measures.**

Such practices have become very widespread, especially for the cultivation of maize as a feedstock for biofuel production for which the German Renewable Energy Sources Act provides strong economic incentives. However, the GHG balance of grassland conversion on fen peat soils is strongly negative. Moreover, the mineralization of soil organic matter releases large quantities of nitrates which are at high risk of leaching. These effects contravene both climate mitigation and water protection efforts. At the same time, the KLU wishes to point out that abandonment of grassland sites and a lack of habitat management generally result in a process of natural vegetation succession up to and including the development of site-specific natural woodlands (potential natural vegetation). In many cases this entails a loss of species diversity. If the aim is to maintain specific agrobiocoenoses adapted to certain land use types, incentives must be given under Pillar 2 to ensure the continuation of appropriate land use on such sites.

5. The proposal for a new Regulation on Rural Development (Second Pillar of the Common Agricultural Policy)

19. The second pillar of the CAP, which will continue to include i.a. the agri-environmental programmes, remains largely intact under the Commission proposals but will be amended with a view to the Europe 2020 Strategy. In the future, Germany and other Member States will be given the opportunity to redistribute up to an additional 10 % of their annual national ceilings from Pillar 1 to Pillar 2.

→ **Given the still considerable importance of Pillar 2 for environmental protection, the KLU strongly recommends that this opportunity be utilized.**

¹⁸ Germany, France, the Netherlands, the UK and Austria are the five countries that, as a blocking minority, have prevented the adoption of an EU Soil Framework Directive. The German Federal Government's official primary reason for blocking the proposed Directive is that it would not respect the principle of subsidiarity and interfere with domestic soil policy. However, only nine of the 27 EU Member States have adopted national soil protection legislation to date, including Germany (Federal Soil Protection Act / *Bundesbodenschutzgesetz – BBodSchG*).

20. The EU Commission envisages more flexibility in the second pillar of the CAP (new EAFRD Reg.) for the future. Instead of 4 priorities (axes) with minimum spending requirements for each axis, the funds in the new programming period will be distributed amongst a total of six priorities (Article 5). These take their orientation from the Europe 2020 strategy that has taken the place of the Lisbon Strategy (growth, innovation, jobs). With a view to environmental protection and nature conservation, the focus is on Priorities 4 “restoring, preserving and enhancing ecosystems dependent on agriculture and forestry” and 5 “promoting resource efficiency and supporting the shift towards a low-carbon and climate-resilient economy ...”. While the Regulation no longer specifies minimum budgetary shares for individual priorities¹⁹, “agri-environment-climate payments should continue to play a prominent role in supporting the sustainable development of rural areas and in responding to society's increasing demands for environmental services” (Recital 28). The KLU is strongly supportive of this consideration and calls for the “prominent role” to also find entry in the Regulation's legally binding articles and for suitable arrangements to be put in place that will ensure its practical implementation. The KLU shares the view put forward in a report commissioned by the EU Commission²⁰ that there are significant budgetary deficiencies with respect to the remuneration for the delivery of environmental services under Pillar 2. Therefore a binding minimum funding level of 50 % of funds to be allocated to Priorities 4 and 5 should be specified in the programming documents.

→ The KLU is of the view that environmental services are at the heart of Pillar 2 and considers therefore that the implementation of the EU's environmental objectives (Biodiversity Strategy, Water Framework Directive, Natura 2000, climate mitigation) must be prioritized accordingly.

21. A significant proportion of the measures under Pillar 2 more strongly embody the principle of “public money for public goods” than the much more well-resourced Pillar 1. The KLU thus sees an urgent need for a much enhanced Pillar 2 budget so as to allow for the achievement of the ambitious European objectives in the environmental arena (Natura 2000, biodiversity protection, Water Framework Directive, climate mitigation). In almost all EU Member States there are significant deficits in the implementation of EU environmental legislation. In the agricultural sector these deficits can only be addressed in a collaborative manner by way of a reinforcement of the Second Pillar. The KLU is of the view that there are inconsistencies in this respect, in particular in the Commission proposals for a nominal freeze to the level of CAP spending at 2014 prices, and thus also to the level of Pillar 2 funding, and in allowing a number of Member States²¹ to redistribute a limited amount of funding from Pillar 2 to Pillar 1.

¹⁹ However, at least 5% of the funds are to be reserved for LEADER and 25 % for climate mitigation and adaptation.

²⁰ COOPER, T., HART, K. UND BALDOCK, D. (2009): The Provision of Public Goods Through Agriculture in the European Union, Report Prepared for DG Agriculture and Rural Development, Institute for European Environmental Policy: London.

http://ec.europa.eu/agriculture/analysis/external/public-goods/report_en.pdf

²¹ According to the Commission proposal, this involves Member States in which the level of direct support remains lower than 90% of the European average. Germany is not amongst those countries.

➔ Given the special significance of Pillar 2 for nature and the environment, the KLU calls for a successive increase of 50 % overall in funding for environmental and conservation measures under Pillar 2 by the end of the new EU funding period, with the bulk of the increase to be achieved by redistributing funds from Pillar 1.

Cuts in Pillar 2 funding, as they have been seen in the past, must not be a feature of the upcoming funding period. At the start of the 2007-2013 funding period, such cuts caused enormous problems in Germany, in particular for agri-environmental schemes.

22. Some of the Pillar 2 spending to date has given rise to significant negative environmental impacts (e.g. with respect to some land consolidation programmes, construction of roads and tracks, funding for irrigation projects in the Mediterranean, initial afforestation of high nature value open habitats).

➔ The KLU is of the opinion that the new EAFRD Regulation must include strong provisions to the effect that in future only such measures can be financed under the EAFRD that can be considered to have a positive, or at least neutral, environmental impact.

The KLU therefore welcomes the ex-ante evaluation of Pillar 2 measures and programmes; it should take the format of a strategic environmental impact assessment. Measures requiring significant EAFRD spending, such as land consolidation measures or agricultural investment support, should only be entitled to funding if, in the individual case, their environmental impact is demonstrably or will plausibly be positive.

23. The KLU can not understand why the EU Commission is planning to apply significant cuts to the EU co-financing rates for environmental measures. According to the proposals, the co-financing rates for agri-environmental measures and Natura 2000 compensatory payments in Germany will be reduced to 50 % from a previous 55-90 % depending on the region. In contrast, co-financing rates for other measures in competition with environmental measures will see significant increases. Given that the environmental authorities in the Member States find it difficult to obtain the required national funding, the cuts will considerably weaken environmental protection and run completely counter to achieving a greener agricultural policy. In Germany, this is true in particular for conservation measures for which there is no federal level contribution under the 'Joint task for the improvement of agricultural structures and coastal protection' (*Gemeinschaftsaufgabe Agrarstruktur und Küstenschutz, GAK*), i.e. where national co-financing must be provided by the *Länder* budgets alone. In contrast, the German Federal Government does provide national co-financing for most other EAFRD measures (e.g. under the GAK's 'Market-oriented and locally adapted land management' heading).

24. The cuts in EU co-financing rates will most strongly affect those Member States that have been placed under strict austerity regimes. It would appear reasonable to assume that countries such as Greece, Portugal or Ireland would be hard pressed to provide additional co-funding. The current provisions (95 % EU co-financing for these countries) will apply until the end of 2013 and it is not clear what will happen thereafter.

25. The EU Commission set out to establish a "greener and fairer" CAP with the upcoming reform. This was the only way for the Commission to defend the CAP budget from other policy sectors. Despite the 'greening' of Pillar 1, the Second Pillar still plays a vital role in this respect. In addition to agri-environmental measures going beyond both cross-

compliance requirements and the new ‘greening’ components under Pillar 1, other important conservation and environmental measures are supported under Pillar 2 (e.g. the restoration of watercourses and peatlands, advisory services for farmers, raising environmental awareness). Pillar 2 measures allow for efficiently and regionally tailored action and can therefore react to local environmental situations in a much more targeted manner than Pillar 1. This does however also result in more burdensome programming and monitoring. Given the Second Pillar’s key importance for a greener EU agricultural policy it is rather astonishing to see that the draft Regulation presented by the EU Commission contains not only lowered co-financing rates for environmental measures but also some other provisions which would weaken environmental and conservation efforts, as outlined below.

26. While the wording of the draft Regulation leaves much scope for interpretation, there would appear to be a risk that many of the environmental and conservation measures which enjoy a high uptake in the current funding period will in future only attract co-financing in a reduced overall eligible “rural area”, given that the draft Regulation makes frequent reference to same. This limitation is not compatible with environmental and conservation objectives. For example, the restoration of watercourses as well as information and advisory measures are of equal significance in urban or urbanized areas. There is no rational or technical justification for not extending such measures beyond the boundaries of rural areas however these may be defined.

The KLU therefore proposes to include in the Regulation a clarification stating that all measures relating to the safeguarding of biodiversity, the implementation of Natura 2000 and the implementation of the Water Framework Directive can be financially supported throughout the entire territories of the Member States on the basis of sound and coherent programmes.

27. Priority 4 (Ecosystems) in Article 5(4) of the draft Regulation is generally suited to making a significant contribution to achieving environmental and conservation objectives, a fact that is strongly welcomed by the KLU. The KLU is however of the opinion that the proposed restriction to “ecosystems dependent on agriculture and forestry” represents a severe and inappropriate restriction from the environmental point of view. As a result it would likely be difficult if not impossible to fund, for example, the restoration of watercourses, the rewetting of wetlands and peatlands, or the abandonment of timber extraction in woodlands (as these ecosystems would then no longer be dependent on agriculture or forestry). The KLU therefore calls for the restriction to “ecosystems dependent on agriculture and forestry” to be deleted without replacement. The EAFRD’s generally still very sectoral orientation should be replaced with a more cross-sectoral approach.

28. The KLU is of the opinion that the principle of cooperation in environmental protection in rural areas should be reinforced, in particular with a view to implementing the EU Biodiversity Strategy. The acceptance and attractiveness of agri-environmental measures based on the principle of cooperation would benefit greatly if, in addition to compensation for yield losses and special management requirements, the incentive component of the payments to participating farmers was to be reinstated.

➔ The KLU is clearly in favour of an incentive component. Additionally, the farmers' transaction costs of their participation in the schemes must be fully taken into account for the purposes of funding allocations.

Moreover, the planned restriction to commitments on "agricultural land" should be deleted as this may pose problems in supporting extensive pastoral land use. Additionally, provisions should be made to allow for appropriate results-based remuneration for agri-environmental measures, as proposed in the European Court of Auditors Special Report No. 7/2011. Finally, there must be significant increases in the maximum amounts payable for agri-environmental measures as these are not sufficient to adequately remunerate farmers for services provided in, for example, intensive arable regions or steeply sloping mountain regions. Especially in the agriculturally favoured regions (e.g. the very fertile German 'Börde' landscapes) there is often a significant lack of near-natural landscape features. The German Federal Nature Conservation Act (BNatSchG) however calls for the establishment of a habitat network system consisting of core areas, connecting areas and connecting elements (Article 21, BNatSchG), with "the linear and punctate elements needed to link biotopes, especially hedges and field borders and "stepping-stone" biotopes, [...] to be conserved and, where they are not present to a sufficient degree, to be created." Rural development based on the EAFRD Regulation should become a powerful instrument for the implementation of these provisions.

29. The current Article 57 of the EAFRD Regulation (Reg. (EC) No. 1698/2005), entitled "Conservation and upgrading of the rural heritage", is of outstanding importance for the implementation of Natura 2000 and the Water Framework Directive in both Germany and Austria. Funding under this Article is used for i.a. the restoration of peatlands and watercourses, the establishment of small wetland depressions, the planting of hedgerows, for specific species protection measures, advisory services for farmers, and conservation management planning. Unfortunately, there is no equivalent article in the Commission's draft Regulation. Only partial aspects of Article 57 can now be found under a number of different articles of the draft Regulation. Support for nature conservation measures is integrated into other areas of support (e.g. investment schemes), making qualified evaluations more difficult.

The fragmentation of Article 57 (Reg. (EC) No. 1698/2005) into several other articles will significantly increase the administrative burden for environmental protection and nature conservation compared to the current period, with no discernable added value. Moreover, this fragmentation will make financial earmarking for environmental measures more difficult and thus also the allocation of expenditure to the different priorities or thematic axes. Compared to Article 57 of Reg. (EC) No. 1698/2005 and its predecessor (Article 33 of the 1999 EAFRD Reg.), the fragmented nature of the proposed provisions may also – depending on how they will be interpreted – result in significant funding gaps and thus in restrictions to funding options. At present, investments associated with the maintenance, restoration and upgrading of natural heritage and with the development of high nature value sites as well as environmental awareness actions are eligible for support. The new Regulation would only allow for continued support to be provided for part of these measures.

The existing Article 57 (Reg. (EC) No. 1698/2005) has proven its usefulness and should be kept and developed. This will be of fundamental importance for the implementation of environmental and conservation objectives in Germany.

30. The KLU is very concerned about the fact that the Commission proposals will further add to the bureaucracy associated with Pillar 2 (e.g. partnership agreements, ex-ante conditionalities, performance reserve, broadening of the remit of certifying bodies) with no adequate added value. This will increase the administrative burden and reduce acceptance of Pillar 2 amongst farmers as well as environmental organisations and other partners. Moreover, there is a risk that innovative approaches will face disproportionate difficulties as administrations “play it safe” and continue to follow the beaten track.

Environmental administrations tend to be short-staffed and the added administrative burden will result in important support measures not being integrated into their programming to the desirable extent. Opportunities for improvements in the environmental and conservation arenas would thus be wasted.

Instead of increasing the administrative burden associated with Pillar 2, steps must be taken to greatly reduce bureaucracy. Possible measures include, for example:

- Funds for micro-projects with simplified administration of environmental projects, similar to the approach planned for LEADER;
- Stand-alone support measures for environmental and conservation projects (as in Article 57 (Reg. (EC) No. 1698/2005))
- Providing the option of aid for the two types of environmental measures listed above to be granted on the basis of standard costs (as planned for LEADER).

The approval of Rural Development Plans should include state aid approval for all EAFRD measures (i.e. not just those under Article 42 of the Treaty on the Functioning of the European Union), thus removing the necessity of seeking individual state aid approval from the Commission.

The KLU emphatically supports the programmatic approach of Pillar 2 which will allow for the targeted orientation towards the specific problems of individual regions. The KLU is also supportive of the participation of the economic and social partners as well as of environmental stakeholders; these processes have proven their worth and should be reinforced. In these areas, the additional burden compared to Pillar 1 is indeed beneficial in that it results in improved target orientation. The Second Pillar should therefore consistently be developed and reinforced into the future; the First Pillar will meanwhile gradually diminish in importance.