



Impact Assessment Institute

The Institute for Impact Assessment and Scientific Evaluation of Policy and Legislation

“Impartial Analysis for Policy Making”

Study on the

Inception Impact Assessment:

“Communication on Modernising and Simplifying the
Common Agricultural Policy” - 2017/AGRI/001

Main Findings

This study scrutinises the Inception impact assessment (IIA) on Modernising and Simplifying the Common Agricultural Policy (CAP) - 02/02/2017 in terms of its adherence to procedures laid out in the Better Regulation Guidelines and the accuracy of the evidence presented.

This IIA precedes a policy communication and is therefore expected to present a broad and open platform for evidence gathering and further policy making. In general, the IIA presents a concise record of the status and the framework for further work in this policy area, at an appropriate level of detail, as an informative basis for stakeholders.

In certain parts however, in particular the description of objectives, parameters appear to have been defined before the planned consultation and analysis has taken place. A coherent process is necessary to translate the policy foundation in the EU treaties and the current status into needs and objectives, which should then drive the analysis of options.

There is also a lack of direct reference in the text to explain the problem definition, objectives and policy options presented. A summary of or reference to the relevant background data would have been necessary to inform stakeholders how these elements were generated, to provide greater confidence in their validity and set a platform for more effective consultation.

Data collection and consultation have been presented in a coherent manner. Additional explanation of the process towards legislation and further Impact Assessments would have been useful information for stakeholders.

This IIA is a useful and mostly balanced platform for further policy making. It would be important to ensure openness in ongoing work, such that the premature decision making identified does not pervade unaltered into the future legislation.

Visualisation

The following table provides a visual overview of the results of this report for each element of the evidence presented in the Impact Assessment, using an assessment from 1 to 7 to indicate the level of confidence (1 = highest, 7 = lowest confidence level).

Element	Assessment level & description (1...7)	Notes
Rhetoric	2 Minor questions identified on analysis and/or evidence	The language used is balanced and neutral, providing a broad platform for policy development.
Assumptions	4 Concerns identified with analysis and/or evidence	Certain key parameters of the reform have been defined before a full analysis and consultation has been performed.
Background data	4 Concerns identified with analysis and/or evidence	Data supporting objectives and policy options is not referenced for explanation. The public consultation is pitched at an appropriate level.
Analysis	3 Several questions identified on analysis and/or evidence	The descriptions of the objectives contain a number of shortcomings.
Results	2 Minor questions identified on analysis and/or evidence	A number of questions arise on the selection of indicators and the assessment of impacts.
Conclusions	2 Minor questions identified on analysis and/or evidence	Fixed conclusions on the assessment have not yet been drawn, although conclusions on objectives derive from the premature assumptions identified above.

Key to assessment levels

1	2	3	4	5	6	7
Correct analysis, fully evidenced	Minor questions identified on analysis and/or evidence	Several questions identified on analysis and/or evidence	Concerns identified with analysis and/or evidence	Substantial concerns identified with analysis and/or evidence	Serious concerns identified with analysis and/or evidence	Incorrect analysis / evidence absent

1. Introduction and General Comments

This study scrutinises the Inception Impact Assessment (IIA) ‘Communication on Modernising and Simplifying the Common Agricultural Policy.’

Inception Impact Assessments were introduced, according to the May 2015 Better Regulation Guidelines, in order to “provide a comprehensive basis for stakeholders to provide feedback, information and opinions.” The Guidelines also state “Preliminary analyses in the Inception IA and early in the IA process should clarify the legal basis and indicate whether advancing further at EU level would make sense”.

The IIA should be published near the start of the evidence gathering process, as the “Initial description of the problem” and to “...indicate whether advancing further at EU level would make sense.” In the case of the subject of this study, as the IIA indicates, work on the impact analysis within the Commission started on September 5th/6th 2016 with the European Conference on Rural Development (“Cork 2.0”).

The IIA was published in February 2017, with the Communication and Impact Assessment expected to be adopted in December (Q4) 2017, according to the “Indicative Planning” field in the title section.

This Inception Impact Assessment is published at an earlier stage in the legislative process than is usual, since it precedes a planned communication, not a legislative proposal. Since the aim of a communication is to establish the basis for an in-depth policy discussion, the level of detail in the evidence presented does not have to be subjected to the same expectations and demands as Inception Impact Assessments that precede legislative proposals. It would be expected to define the terms of the policy, rather than presenting evidence or conclusions for specific actions. The IIA is therefore scrutinised in this context.

2. Evaluation of Content of Inception Impact Assessment

The four sections of the IIA are assessed qualitatively in terms of the appropriateness of the rhetoric, assumptions, data and analysis presented.

2.1. Section A: Context, Subsidiarity Check and Objectives

2.1.1. Context

This introductory part provides a generally neutral and informative overview of the legislative framework of this initiative. In particular, it focuses factually on previous relevant activity in this domain and maps out a plan for future legislation.

2.1.2. Problem the initiative aims to tackle

The three points (prices, trade negotiations, new international commitments/migration) raised in this section, describing the shifting of the context for the CAP, are valid, but do not appear to be sufficiently comprehensive to provide a complete background to the reform. In particular the following additional points are suggested as equally relevant (without claiming to be comprehensive):

- Increasing and shifting global demand for food, from increasing population, GDP growth and changing consumer expectations.
- The contribution of innovation, including traditional agricultural issues such as chemicals and land use as well as new digital technologies.

Whilst the omission of these (and potentially other) major factors does not negate the validity of the introduction, a more comprehensive view would have provided a more useful framework for stakeholders to consider their input. The Commission should aim to correct this during the upcoming stakeholder outreach and ongoing policy development.

Regarding the three points presented, it would have been informative to provide references to enable stakeholders to access additional explanation and detail, thereby providing some justification. DG AGRI can be expected to have significant amounts of information on the issues referred to in the IIA. This data, such as that on the price developments for individual agricultural products and specific links between the COP 21/SDGs and CAP, was not presented. This is a serious omission that makes it more difficult for stakeholders to understand the detailed drivers behind the Commission's decision to initiate the policy debate. A more data-driven background to the IIA would have promoted future discussions based on facts and data and thus have provided a more solid foundation for evidence-based decision-making.

Additionally, the text of the point on prices appears to imply that falling prices is exclusively a problem, in that context quoting only the increased challenge to long term planning. Lower prices are indeed a problem for producers, although not only for long term planning purposes. Conversely, lower prices are an advantage for consumers. Additionally price volatility can be a challenge for all parties. All sides of the price equation should be set out, with broader

descriptions to ensure comprehensiveness, in order to demonstrate a neutral and evidence-based approach.

The three “musts” quoted in this section, specifically “modernised”, “simplified” and “coherent” are sufficiently broad to be inclusive of all expected policy imperatives. However, by introducing these ideas, this part is already discussing objectives for the reform rather than describing the problem as required by this section.

The final paragraph presents a useful overview of the process, but again this is not part of the problem definition, but rather a description of the steps to be taken to address it.

2.1.3. Subsidiarity check (and legal basis)

The subsidiarity check presents a concise reasoning for action to be taken by the EU for the CAP, within the authority of the relevant articles of the Treaty on the Functioning of the European Union. The text states appropriately that “subsidiarity will be duly considered”, thereby setting the subsidiary check as a test to be carried out as part of the evidence gathering process.

The three needs quoted in this section, namely “a level playing field in a single market”, “common and cross-border challenges”, and “strengthening the single market” and “positioning in trade negotiations”, are consistent with the treaties and are relevant to the CAP.

2.2. Section B: Objectives and policy options

At this very early stage in the process, it is important that the policy objectives are clearly explained and also sufficiently flexible to be amended as the legislative and consultation processes progress.

This section presents five broad objectives/orientations on which the CAP “will put emphasis”. This definitive intention is unnecessarily prescriptive at this stage. In addition, there is no explanation or quoted reference to show how the objectives were developed and selected, nor a demonstration of their connection to the problem definition. The five quoted objectives appears to cover in general terms the stated needs of the CAP reform, but without full explanation there is no reference point to test this.

Ideally these objectives can be revised as the process continues, with a clear logical path set out connecting the treaties governing the policy area, the current status and needs, to a comprehensive and coherent set of objectives, to indicators to measure them. This will enable policy options to be generated in a consistent manner.

The policy options are also introduced in a manner, which indicates decision making before gathering of data and assessment of the evidence. It should be made clear that the options can be amended and complemented according to new information and data to be acquired.

Therefore it would have been appropriate at this stage to have considered a larger number of policy elements, from which policy options can eventually be built, rather than explicit discrete options. The three main policy change options are not completely mutually exclusive and elements can be combined. The assessment of the individual elements, independently from each other as well as considering the synergies, would enable to a more comprehensive analysis and enable the definition of a set of more coherent options. For example, risk management, the level of incentive/enforcement of environmental measures, different methods of farm support, simplification options and methods for aligning to EU objectives can all be individually evaluated. Elements can be combined later in the legislative process to determine the most effective overall policy.

At this stage the options could perhaps best have been described as “directions”, indicating different philosophies. As they stand they confuse the high level strategy with implementation methodologies.

Further, option 2 (no policy), by admission of the text, cannot be an option, and it would have been more coherent to consider the scenario with no CAP as the baseline for calculation of the value added of the CAP, both in evaluating the exiting policy and assessing the potential impacts of the future one.

2.3. Section C: Preliminary Assessment of Expected Impacts

This section provides a brief overview of the objectives under consideration, for which indicators are to be determined for evaluating the impact. The impacts themselves are not evaluated. This is an appropriate level of analysis at this stage in the legislative process.

However, as the explanation below shows, the descriptions of the objectives can be interpreted in different ways that would have a substantial effect on the analysis and subsequent outcomes. The IIA should have provided clearer background and evidence for the selection of the identified objectives. Whilst the objectives appear in general relevant and material, without reference to a process and existing analysis, the list has an arbitrary nature.

Before indicators are developed, a comprehensive set of objectives based on well-referenced sources, including existing data and information gained from the ongoing public consultation, should be compiled.

2.3.1. Likely economic impacts

The list of proposed objectives responds to the logic that a reform on the CAP requires and each is reviewed individually below.

In ‘supporting viable farm income’, the term ‘viable’ requires clear definition in order to determine indicators. It should be clarified whether the policy supports incomes that are already viable or whether it enables incomes to become viable in future. This is a highly material distinction.

‘Ensuring food security’ is one of the CAP’s original goals, defined at its inception. The objective remains equally relevant according to the treaties. As the legislative analysis continues, this indicator requires a method for its evaluation and monitoring.

‘Becoming more consumer driven and market oriented’ requires a qualification in the context of the CAP. If this objective were taken to its extreme, i.e. a fully consumer-driven market, it could even be interpreted to imply the termination of the CAP. Therefore, a means to determine and define the extent to which this objective is to be targeted is required.

‘Increasing competitiveness (e.g. value added, productivity, innovation)’ is clearly set out. The bracketed examples of competitiveness are absolute criteria, but competitiveness is often considered in terms of comparison to other global regions. It is therefore crucial for the policy documentation to explain how it will engage with the competition of third countries, in terms of rules and trade agreements.

It is not clear what ‘improving the positioning of farmers within the food system (including integration in producers organisations to enhance efficiency)’ should achieve. If this refers to their relative position, it appears to assume that their position is disadvantageous. However, that determination should be a made as a result of robust analysis, rather than taken as a starting point. A method to measure the relative position of the actors would also be necessary.

‘Strengthening resilience to cope with crisis’: it would be informative to define, or give examples of, the type of crisis that could be expected. To provide guidance even at this early stage in the process, indications of the type of occurrences that require resilience would be necessary to define the indicators and therefore potential measures.

2.3.2. Likely environmental impacts

Many key environmental impacts can be assessed quantitatively, as is done in EU climate and energy policy.

In particular regarding climate change, many effects can be robustly calculated and modelled. It is therefore important that this is done in a transparent manner using modelling and calculations publicly available to all stakeholders, such that the evidence can be fully scrutinised.

Sustainable resource management and the impact of the use of agricultural chemicals are more difficult to evaluate quantitatively. It is therefore essential that evidence is generated in an impartial manner using independent expertise, in order to foster confidence in the results and any derived policy outcomes.

Preservation of nature and landscapes is a somewhat subjective topic and should be dealt with through a consultative political process. Creating reliable and proportionate indicators for this subject would present a significant challenge.

2.3.3. Likely social impacts

The six objectives under “social impacts” are all relevant elements of the CAP that have featured in the past and are directly applicable to the corresponding provisions of the treaties. As mostly qualitative objectives, which are also affected by influences other than agricultural ones, the selection of coherent indicators will be challenging.

2.3.4. Likely impacts on fundamental rights

The statement ‘The planned measures are not expected to have any impact on fundamental rights’ requires some justification. Whilst this may derive from previous experience, agriculture is a pervasive subject and the lack of concrete relationship to fundamental rights is not self-evident.

The text further states that the effects are expected to be marginal and that no methodology exists to assess them. It would therefore be doubly inappropriate to state these conclusions when it is stated that future assessment is not expected to generate quantitative evidence.

2.3.5. Likely impacts on simplification and/or administrative burden

The first sentence under this section, *“This initiative will lead to simplification for the beneficiaries and for public administration”* is a definitive statement describing an intended outcome, thereby prejudging the assessment and policy making. Simplification should be

expressed as an objective, as acknowledged by the language in the remainder of the section. It would be important to generate relevant indicators to measure achievement of this objective, as for the previous sections.

2.4. Evaluation of Section D: Data Collection and Better Regulation Instruments

2.4.1. Impact Assessment

This section provides a generic description of the function of the Impact Assessment, providing an appropriate overview of the logical steps of the assessment and the elements of the analysis. Three aspects would have benefitted from additional clarification:

- The role of the Impact Assessment in the intended process leading to the final legislative reform of the CAP requires clarification. The Impact Assessment in question will accompany the Communication planned for 4th quarter 2017. After further policy development, the process of preparing legislation covering the next Multi-annual Financial Framework is expected to proceed. This will require further Impact Assessment for subsequent proposals. An explanation of this process and its rough timing is necessary in order to provide clarity to stakeholders.
- It would have been informative to specify how and by whom the Impact Assessment is to be compiled, in particular which directorates general are involved and a reference to any procedure for commissioning input from external expertise. A balanced, comprehensive and transparently executed gathering and compilation of evidence is essential to provide a solid foundation for the reform.
- The IIA states that the Impact Assessment will compare options based on a Multicriteria Analysis (MCA). This decision is taken already at the start of the development of the Impact Assessment and before the main part of the analysis has been conducted. Cost Benefit Analysis (CBA), or at least a partial CBA, should not be excluded from the start (as a complement to MCA). Benefits and costs should be monetised to the greatest extent possible in order to provide the most rigorous evidence base for ongoing policy making.

2.4.2. Data collection

This section partly, but not fully, addresses the question posed regarding compilation of the Impact Assessment, by explaining the evaluation process and referring to existing and planned studies.

In particular, evidence is “collected through the Common Evaluation and Monitoring Framework for measuring the performance of the CAP 2014-2020”, established in the primary and secondary legislation. This is therefore a statutory instrument defined by Regulation, as it has direct effect within the EU legal framework.

2.4.3. Consultation strategy

The consultation approach appears to include all the standard elements for gathering information, and is already ongoing since September 2016, with further events to come in

2017. Of particular importance is the public consultation¹, initiated on 2nd February 2017, the date of publication of the Inception Impact Assessment.

The form and content of the consultation survey itself is the defining element, since previous experience indicates that consultations can restrict the answers of respondents in a manner which may distort the overall findings, especially when they are later interpreted statistically. This is particularly true when multiple choice questions are used, allowing only a single answer to often complicated and nuances questions.

In this case the majority of the questions allow multiple (up to three) answers to be given, thereby giving greater freedom to respondents. In addition, the consultation allows a full position paper (up to five pages) to be uploaded, thereby enabling stakeholders to provide some essential detail in their responses.

At this very early stage in the legislative process (essentially pre-Inception Impact Assessment), this level of evidence gathering appears to be appropriate and proportional. It is essential that any statistical evaluation of the consultation results is carefully employed, to ensure that premature conclusions are not extracted, that would subsequently feed into further policy making. The evidence provided should be assessed in a robust fashion, the opinions given should not be treated as if they are empirical evidence.

¹ “Consultation on modernising and simplifying the common agricultural policy”, European Commission, 2nd February 2017: https://ec.europa.eu/agriculture/consultations/cap-modernising/2017_en.

Accompanying statement

This report has been written according to the guiding principles of the Impact Assessment Institute: transparency, objectivity, legitimacy and credibility. It analyses the subject matter from a purely factual and scientific point of view, without any policy orientation. In respecting these principles it has been compiled following its written Study Procedures².

The analysis is open to review and criticism from all parties, including those whose work is scrutinised. In performing this work, the intention of the report is to be constructive in assisting the authors of the subject document and its background information as well as all relevant stakeholders in identifying the most robust evidence base for the policy objective in question. It should therefore be seen as a cooperative contribution to the policy making process.

This report is also to be considered as a call for additional data. Peer review is an essential step laid down in the procedures of the Impact Assessment Institute and this is manifested in the openness to further review and to identify new data. Even after its publication, the report remains open to newly arising data, information and analysis, which could be taken into account in a future revised version.

The Impact Assessment Institute is a private foundation incorporated in March 2016 under Belgian law, number 0650.623.342. The Institute is inscribed in the EU Transparency Register, number 993290221302-35.

² "Procedures for Conduct of Studies", Impact Assessment Institute, December 2015 (<http://www.impactassessmentinstitute.org/#!/procedures/c1q8c>)