

Possible support instruments for industrial hemp in the framework of the Common Agricultural Policy (CAP)

Dr. sc. agr. Stephan Piotrowski

Dipl. Phys. Michael Carus

nova-Institut

June 2011



nova-Institut GmbH

Chemiepark Knapsack

Industriestraße, 50354 Hürth, Germany

Internet: www.nova-Institut.de/nr

E-Mail: contact@nova-institut.de

KEY MESSAGES	3
1 INTRODUCTION	4
2 THE CAP UNTIL 2013	5
2.1 FIRST PILLAR.....	5
2.2 SECOND PILLAR	7
3 THE CAP POST 2013	11
3.1 FIRST PILLAR.....	11
3.2 SECOND PILLAR	12
4 REFERENCES	14

Key messages

1. Article 63 of Regulation (EC) 73/2009 allows to channel funds formerly used in coupled payments to establish or increase the value of entitlements based on particular types of farming activities not necessarily linked to the formerly coupled payments. Using this provision, the funds from ending the processing aid for hemp could be channelled back to hemp farmers.
2. Article 68 of Regulation (EC) 73/2009 allows member states to divert a maximum of 10% of national direct payments ceilings to support certain sectors or agricultural practices. Industrial hemp is currently clearly eligible for support under this article arguing that it is a very environmentally friendly crop, e.g. due to its positive effects in crop rotations.
Support under this article can provide a possibility to bridge the gap between the end of the processing aid at the end of 2011 and the beginning of the new funding period in 2014. However, the utilization of Art. 68 depends on the decisions by individual member states. Germany, for example, has decided to barely make use of Art. 68.
3. In the CAP post 2013, support under Art. 68 is likely to be not anymore available for environmental reasons. Instead, direct payments in the first pillar will be increasingly tied to the supply of public goods.
4. Industrial hemp is well positioned in the EU strategy of “greening” direct payments for the post-2013 CAP. Hemp can be expected to easily fulfil these requirements and in particular the requirement for sound crop rotations can be an opportunity for hemp.
5. The Rural Development Programmes (RDPs) in the second pillar of the CAP offer further opportunities for support of hemp, e.g. in the framework of agri-environment payments. In the development of the strategic guidelines for the RDPs for the period 2014-2020, the material use of biomass should be given equal emphasis for reaching climate protection targets instead of only focusing on bioenergy. If this will be the case, hemp will have even better opportunities for support under the second pillar.
6. An additional instrument for support of hemp could be an aid for private storage in order to be able to better cope with increased market volatility.

1 Introduction

The Common Agricultural Policy of the EU (CAP) has the overall policy objectives of securing income for farmers, the supply of public goods and the further development of structural adjustment of the agricultural landscape. These objectives are pursued within two “pillars”, namely pillar 1 that consists of direct payments and market measures and pillar 2 that consists of rural development programmes that have been implemented by each member state (MS) for the period 2007 to 2013. Through the so-called modulation funds are increasingly shifted from direct payments to rural development policies (Figure 1).

While market measures and direct payments are solely financed by EU-budget, measures in the second pillar are funded through the European Agricultural Fund for Rural Development (EAFRD) and national and private co-financing in the member states.

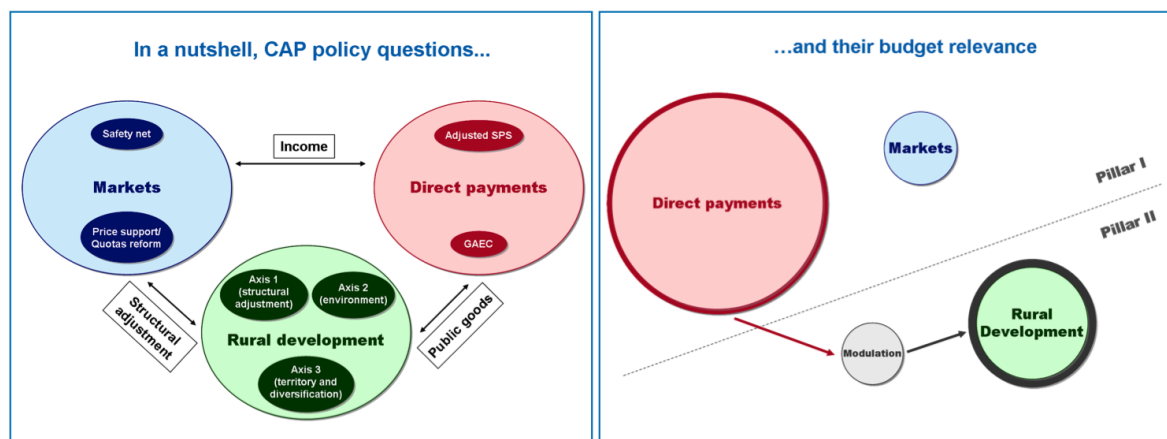


Figure 1: The overall structure of the CAP

Source: COM 2011a

The following text describes how industrial hemp could be supported within this framework until the end of the current period (2013) and also in the context of the discussion around the future funding period (2014-2020).

2 The CAP until 2013

In this section we describe possible support instruments in the framework of the current funding period that lasts until 2013.

2.1 First pillar

As outlined, the “first pillar” of the CAP mainly consists of direct payments to farmers. These have been almost entirely decoupled from actual production and tied to so-called **cross-compliance**. The aim of cross-compliance is to enhance enforcement of EU legislative and mandatory standards in the fields of

- Environment
- Nature and biodiversity
- Food safety
- Animal health and welfare
- Good agricultural and environmental conditions.

Industrial hemp benefits from the increasing cross-compliance requirements in the sense that the crop easily fulfils the requirements, being a very environmentally and biodiversity friendly crop.

The rules for direct support schemes for farmers under the common agricultural policy are laid down in Regulation (EC) 73/2009.

Article 63 of this Regulation obliges MS to integrate the former coupled supports into the single payment scheme. However MS are also allowed by derogation to apply the funds formerly used in coupled payments to **establish or increase the value of entitlements based on particular types of farming activities not necessarily linked to the formerly coupled payment**. The savings from the decoupling can therefore be used to restructure the subsidies being paid in favour of some particular farming activities, and against others. Only France has chosen to exercise this option, channelling the savings from newly decoupled payments in particular towards a new payment per hectare for grassland farming and forage crops (Pitts et al. 2010, p. 25). According to Pitts et al. 2010 (p. 25) Germany and Finland plan to make use of Art. 63 on a limited scale in 2012.

The option of Art. 63, introduced in the 2009 regulation, was not available to those Member States, who fully decoupled early, such as Ireland and the UK, or to those new Member States, who historically did not have subsidies which came within the scope of the single payment. However there are several other MS which could have exercised the article 63 option but which have not done so. A possible reason may be the wish not to reduce payments to farmers in general in favour of a minority which could cause resentments among those losing in this process. (Pitts et al. 2010)

However, the **Article 63 could provide an option to channel all or part of the savings from ending the processing aid for hemp back to this sector.**

Article 68 (1) of this regulation makes an exception from the principle of decoupling of direct payments by allowing MS to grant direct support to farmers for specific farming practices. Among others, such payments may be granted

- (a) for:
- (i) **specific types of farming which are important for the protection or enhancement of the environment;**
 - (ii) improving the quality of agricultural products;
 - (iii) improving the marketing of agricultural products;
 - (iv) practising enhanced animal welfare standards;
 - (v) **specific agricultural activities entailing additional agri-environment benefits.**
- (b) to address specific disadvantages affecting farmers in the dairy, beef and veal, sheepmeat and goatmeat and rice sectors in economically vulnerable or environmentally sensitive areas, or, in the same sectors, for economically vulnerable types of farming;
- (c) in areas subject to restructuring and/or development, programmes in order to ensure against land being abandoned and/or to address specific disadvantages for farmers in those areas;
- (d) in the form of contributions to crop, animal and plant insurance premiums in accordance with the conditions set out in Article 70;
- (e) by way of mutual funds for animal and plant diseases and environmental incidents in accordance with the conditions set out in Article 71.

Especially (a) (i) and (v) could be interesting to support hemp. According to Art. 69 (1) of this Regulation, MS may decide every year to use from the year following that decision up to 10% of their national ceiling for direct payments for the specific support provided for in Art. 68 (1). The next deadline for making a decision on the use of this provision is August 1st 2011. In 2010, the option to utilise Art. 68 and 69 had been implemented by 22 MS (see Figure 2).

Within the overall restriction of 10% of national ceilings, there is a further limitation. Support under headings (a) (i) to (iv), (b), and (e) of Art. 68 – the **coupled subsidies** – are **limited collectively to 3.5% of the national ceiling**, in accordance with article 69 (4). The limit of 3.5% means that countries, wishing to utilise the full 10% for national measures, would have to use environmental, or crop insurance schemes. However, there is also a possibility to derogate from this provision for measures applied to the dairy and beef sectors (Pitts et al. 2010). The horizontal bar in Figure 2 indicates the 3.5% limit and that the Czech Republic, Latvia, Finland, Hungary and Slovenia have made use of the possibility to use more than these 3.5% for coupled support.

The usage of Art. 68 by member states in the past provides an indication that hemp is in fact a good candidate to benefit from this support (see European Commission 2010). Several member states have already granted support for a **diversification of crop rotations** (France, Italy and Spain) with reference to Art. 68 (1)(a)(v) of Regulation (EC) Nr. 73/2009. Since hemp provides significant benefits as a preceding crop, it is clearly eligible for support, especially if integrated in a proper crop rotation system.

Furthermore, Denmark granted support for **perennial energy crops** and Poland for cultivating **pulses and herbage legumes** under Art. 68 (1)(a)(i).

Figure 2 shows how MS have made use of Art. 68 and 69 in 2010. As the extreme at the lower end, Germany only made use of 0.03% of the national direct payment ceiling and at the upper end, Slovenia nearly used the maximum of 10%.

According to Pitts et al. 2010, the reason for the negligible use in Germany is that “Germany (a) is in favour of full decoupling; the recoupling via Article 68 is not in its interest and (b) the regional model induced considerable redistributions of Direct Payments; therefore additional redistribution based on Art 69 is not in the interest of policy makers.” (Pitts et al. 2010, p. 35).

Finally, Figure 2 shows the extent to which MS have used Art. 68 in 2010 for environmental reasons, i.e. for (1)(a)(i) and (1)(a)(v). Only a minority of countries has made use of Art. 68 for these purposes, namely Denmark, Poland, the Netherlands, Spain, Portugal, France and Italy.

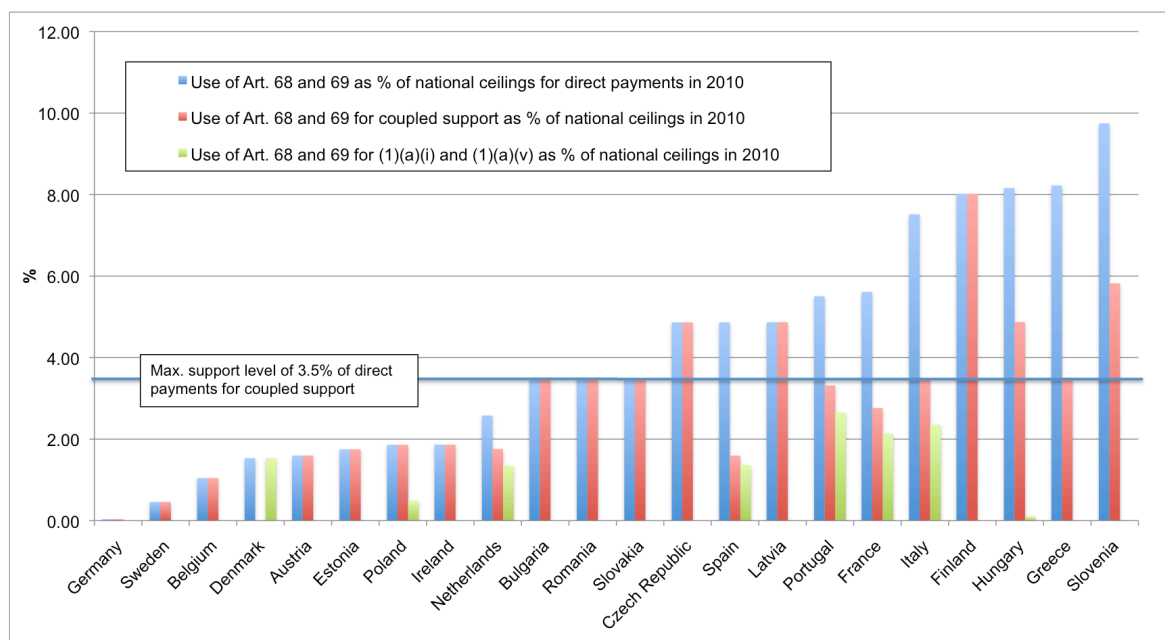


Figure 2: Use of Art. 68 and 69 in Members States in 2010

Source: nova 2011 based on Pitts et al. 2010

2.2 Second pillar

The rural development programmes (RDP) of the second pillar have been developed along four *axes*, namely

Axis 1: Competitiveness

Axis 2: Environment and land management

Axis 3: Economic diversification and quality of life

Axis 4: LEADER (aiming at mobilising local engagement of people and community development)

Within these axes, the member states have implemented support *measures* in their specific national RDPs. Whether hemp could benefit from support within the RDPs therefore depends on whether MS have implemented suitable measures.

One such measure under axis 2 are **agri-environment payments** (measure code 214):

„The payments granted under this measure must encourage farmers and other land managers to serve society as a whole by introducing or continuing to apply agricultural production methods compatible with the protection and improvement of the environment, the landscape and its features, natural resources, the soil and genetic diversity.“

Furthermore, “the agri-environment payments can be granted to farmers or other land managers who make a voluntary agri-environmental commitment for a period between 5 and 7 years. These commitments must go beyond the mandatory standards established pursuant to Articles 4 and 5 and Annexes III and IV of Council Regulation (EC) No 1782/2003 as well as minimum requirements for fertiliser and plant protection product use and other relevant mandatory requirements established by national legislation and identified in the programme The payments are annual payments per ha or per livestock unit and shall cover the following costs:

- Additional costs due to the commitment
- Income forgone due to the commitment
- Where necessary, they may also cover transaction costs

Commitments can concern the following activities

- Organic farming
- Integrated production
- Other extensification of farming systems: fertilisers reduction, pesticides reduction and extensification of livestock
- Crop rotation, maintenance of set-aside areas
- Actions to prevent or reduce soil erosion
- Genetic resources (local breeds in danger of being lost to farming, plat under threat of genetic erosion)
- Biodiversity conservation and enhancement actions
- Upkeep of the landscape including conservation of historical features on agricultural land.”

The requirements for agri-environment payments are therefore quite strict and are meant to be *compensation* rather than support payments for certain agricultural production. Still, hemp could be eligible for this measure under certain conditions. However, bioenergy has been given a priority in the second pillar.

The rural development programmes of the second pillar have been developed along **strategic guidelines** as foreseen by Regulation (EC) 1698/2005 (8):

„To focus the strategic content of rural development policy in line with the Community’s priorities and hereby favour its transparency, the Council should adopt **strategic guidelines** on a proposal from the Commission.“

In these guidelines that have been detailed in Council Decision 2006/144/EC bioenergy plays an important role for combating climate change and the rural economy:

„Agriculture and forestry are at the forefront of the development of **renewable energy** and material sources for bioenergy installations. Appropriate agricultural and forestry practices can **contribute to the reduction in greenhouse gas emissions and preservation of the carbon sink effect and organic matter in soil composition**, and can also help in adapting to the impacts of climate change.“

„... developing the provision and innovative use of **renewable energy sources**, which can contribute to **creating new outlets for agricultural and forestry products, the provision of local services and the diversification of the rural economy**.“

The important role of bioenergy has been confirmed in the amendment of Council Decision 2006/144/EC by Council Decision 2009/61/EC which encourages MS to focus support on key actions, in particular:

“(i) investment support under axis 1 towards energy, water and other input saving machinery and equipment as well as to the production of renewable energy for on farm use.

(ii) Under axis 2, the agri-environment measures and forestry measures can be used in particular to enhance biodiversity by conserving species-rich vegetation types and protecting and maintaining grassland and extensive forms of agricultural production.

(iii) Under axis 3 and 4, local scale projects and cooperation for renewable energy projects can be supported as well as diversification of farmers into bioenergy production.

(iv) As all rural areas are being confronted with the climate change and renewable energy issues, Member States can encourage the local action groups under axis 4 (Leader) to pick up these issues in their local development strategies as a cross-cutting theme. The groups are well placed to contribute to climate change adaptation and renewable energy solutions tailored to the local situation.

(v) Innovation has the potential to achieve particularly positive effects in meeting the new challenges of climate change, the production of renewable energies, more sustainable water management practices and halting biodiversity decline. Support for innovation in these areas could take the form of encouraging the development, take-up and application of relevant technologies, products and processes.

(vi) As a general principle, support shall be targeted on types of operations which are coherent with the objectives and provisions established in Regulation (EC) No 1698/2005 and which contribute to generating positive potential effects in view of the new challenges such as those specified in Annex II to that Regulation.”

Apparently, the material use of biomass, on the other hand, has been completely overlooked in these guidelines. However, as said above, hemp may be eligible for agri-environment payments under the requirements of (ii) above.

In the ongoing discussion about the funding period 2014-2020, emphasis should therefore be laid on including the material use, which includes hemp, in the rural development programmes of the second pillar.

3 The CAP post 2013

The CAP after 2013 is only gradually taking shape. The following text describes possibilities for support of hemp as emerging from the ongoing debate around the post-2013 CAP.

3.1 First pillar

An important document that states the current position of the Commission towards the CAP reform dates from November 18 2010 (COM 2010). On the future of direct payments, this document states, among others, that these could be based on

“Enhancement of environmental performance of the CAP through a **mandatory “greening” component of direct payments** by supporting environmental measures applicable across the whole of the EU territory. Priority should be given to actions addressing both climate and environment policy goals. These could take the form of simple, generalised, non-contractual and annual **environmental actions that go beyond cross-compliance and are linked to agriculture** (e.g. permanent pasture, green cover, crop rotation and ecological set-aside).”

On the future of Art. 68, the document states that

„In order to take account of specific problems in certain regions **where particular types of farming are considered particularly important for economic and/or social reasons, voluntary coupled support, may continue** to be granted, within clearly defined limits (with support based on fixed areas, yields or number of heads).”

This implies that support under Art. 68 may not be available after 2013 for environmental reasons but only for economic and/or social reasons while the eligibility for direct payment will be linked stronger to mandatory environmental measures. This, however, could also provide some indirect opportunities for hemp as it is a valuable crop in crop rotations.

Various stakeholders have responded to the proposition of the Commission on the future of Art. 68. Among these is the Royal Society for the Protection of Birds (RSPB, Northern Ireland):

„The RSPB believes that Article 68 funds have the **potential of delivering public goods**, if they are directed towards the objective of ‘protection and enhancement of the environment’. However, it can also be directed towards quality and marketing projects for agricultural goods, particularly disadvantaged sectors and risk management programmes such as mutual funds for animal and plant diseases and crop insurance. National envelopes have the potential to deliver real environmental goods but only if they are used by Member States for that purpose. The flexibility within Article 68 means that Member States can develop programmes that have no positive environmental effects at all, and we would not support a funding allocation that caused undue harm to the environment. We, therefore, **do not support any increase in trade distorting subsidies including coupled support. Our proposals to target support at the delivery of public goods would avoid the need for such measures but would, we believe, target support at the most vulnerable sectors.**” (RSPB 2011)

Their view therefore advocates continuing the support under Art. 68 to deliver public goods but not for economic/social reasons as proposed by the Commission. The organisation of European farmers and agri-cooperatives (COPA-COGECA), on the other hand,

states that it “supports the Commission proposal that voluntary coupled support may continue to be granted provided it is **within clearly defined limits** (i.e. suckler cow and sheep premium and continued possibility for other limited coupled payments as currently under art. 68)” (COPA-COGECA 2011a).

Beyond the mandatory “greening” component of direct payments, the EU considers further instruments in order to reach its goals of the 2020 Biodiversity protection strategy. According to a press release of May 2011 (EurActiv 2011) these include:

- incorporation of the **Water Framework Directive (WFD)** within the scope of cross-compliance in order to improve the state of aquatic ecosystems in rural areas, meaning that fulfilling the requirements of the WFD would count as cross-compliance.
- the development and use of innovative financing mechanisms, including market-based instruments (MBI), through which the external costs of consumption and production activities on the environment could be internalised. Such measures would include **Payments for Ecosystem Services, green taxes, fees, tradeable permits, eco-labelling, subsidies and compensation schemes.**

Industrial hemp could possibly benefit from this objective to reach biodiversity targets, being a very biodiversity friendly crop.

However, stakeholders by and large complained that the EU biodiversity strategy still lacks concrete goals and commitments. According to the statement by the WWF,

“The fundamental solutions to protect nature will not be found in this strategy but rather in the upcoming legislative reforms that will be decided soon, such as the EU Financial Framework, Common Agricultural Policy, the Common Fisheries Policy and overseas development cooperation strategy due at the end of this year.” (EurActiv 2011).

Finally, an additional instrument for support of hemp could be an **aid for private storage** in order to be able to better cope with increased market volatility as proposed in a policy paper by COPA-COGECA (COPA-COGECA 2011b).

Another aspect of the CAP reform is the proposition that “a larger responsibility of current CAP spending could be assigned to the Member States, or direct aids could be co-financed by national contributions” (Zahrnt 2009). This implies that it will become even more important to convince national policy makers of the agri-environmental benefits and the economic prospects of implementing support instruments for hemp, considering that member states will increasingly bear the burden of such policies.

3.2 Second pillar

In the Commission communication (COM 2010) relatively little is said about the future second pillar. However, the paper puts more emphasis on environmental targets and innovation:

„...**environment, climate change** and **innovation** should be guiding themes that steer the policy more than ever before. For example, investments should lift both economic and environmental performance; environmental measures should be more closely tailored to the specific needs of regions and even local areas such as Natura 2000 and

HNV areas; measures to help unlock the potential of rural areas should pay close attention to innovative ideas for business and local governance.“

It is desirable that future RDP measures will be tied stronger to the objectives of environmental protection and combating climate change without focusing only on bioenergy. In order to ensure this, it is important to engage in the policy discussion around the CAP reform. A policy paper on the reform of RDPs (COM 2011b) states that these should be in the future in line with the EU priorities, notably the “Europe 2020 strategy for smart, sustainable and inclusive growth” (Figure 2). This could be a starting point for the discussion of the future RDPs as this strategy includes increasing resource efficiency, providing environmental public goods, reducing emissions and enhancing carbon sequestration and also, but not only, developing bioenergy.

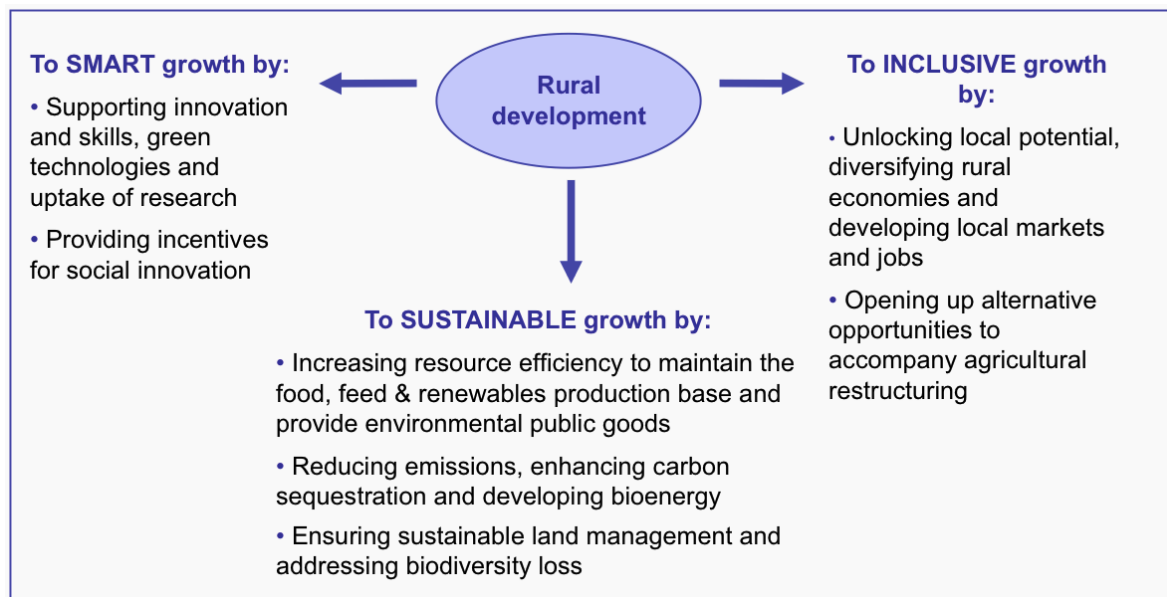


Figure 2: Contribution of rural development to the Europe 2020 targets

Source: COM 2011b

4 References

- COM 2008: Report from the Commission to the European Parliament and the Council on the hemp and flax sector, 20 May 2008, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0307:FIN:EN:PDF>, accessed May 13 2011.
- COM 2010: 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 http://ec.europa.eu/agriculture/cap-post-2013/communication/com2010-672_en.pdf, accessed May 13 2011.
- COM 2011a: The CAP in perspective: from market intervention to policy innovation, Agricultural Policy Perspectives Briefs no 1, Jan. 2011, http://ec.europa.eu/agriculture/publi/app-briefs/01_en.pdf.
- COM 2011b: The future of rural development policy, Agricultural Policy Perspectives Briefs no 4, Jan. 2011, http://ec.europa.eu/agriculture/publi/app-briefs/04_en.pdf.
- COPA-COGECA 2011a: The Future of the Common Agricultural Policy post-2013: Copa-Cogeca's reaction to the European Commission's Communication, http://www.copa-cogeca.be/img/user/file/7142_PAC_E.pdf, accessed May 13 2011.
- COPA-COGECA 2011b: Flax and hemp: Overview and prospects; Contributions from the Copa-Cogeca Working Party on Flax and Hemp to the CAP legislative proposals.
- EurActiv 2011: EU seeks to steer CAP money to biodiversity protection, <http://www.euractiv.com/en/print/sustainability/eu-seeks-steer-cap-money-biodiversity-protection-news-504507>, accessed May 13 2011.
- Pitts, E., O'Grady, S. and Wimmer H. 2010: THE IMPLEMENTATION OF THE "HEALTH CHECK" OF THE CAP IN THE MEMBER STATES, IN PARTICULAR WITH REGARD TO THE NEW ARTICLES 68 AND 69 OF REGULATION (EC) N° 73/2009, Study of the European Parliament, <http://www.europarl.europa.eu/activities/committees/studies/download.do?language=fi&file=33965>, accessed May 24 2011.
- RSPB 2011: EU Communication on Common Agricultural Policy (CAP) Reform Post 2013 - A response from RSPB Northern Ireland January 2011, http://www.dardni.gov.uk/royal_society_for_the_protection_of_birds__rspb__response.pdf, accessed May 13 2011.
- Zahrnt, V. 2009: The budgetary aspects of the new CAP payment. European Parliament, Policy Department B: Structural and Cohesion Policies.