



Agribusiness | IEG Policy

Food & Agriculture Outlook 2020

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Editor: US Food Policy
Joan Murphy
Email: joan.murphy@ihsmarkit.com



Editor: European Food Law
Peter Rixon
Email: peter.rixon@ihsmarkit.com



Analyst: US Agricultural Policy
Roger Bernard
Email: roger.bernard@ihsmarkit.com



Analyst: European Agricultural Policy
Pieter Devuyt
Email: pieter.devuyt@ihsmarkit.com



Analyst: US Food Policy
JR Pegg
Email: jonathan.pegg@ihsmarkit.com



Analyst: US Food Policy
Margarita Raycheva
Email: margarita.raycheva@ihsmarkit.com



Analyst: US Agricultural Policy
Richard Morrison
Email: richard.morrison@ihsmarkit.com



Analyst: European Agricultural Policy
Steve Gillman
Email: steve.gillman@ihsmarkit.com



Consultant: European Agricultural Policy
Chris Horseman (contributor)



Analyst: European Food Law
Sara Lewis (contributor)

Subscription & Marketing Enquiries Email: AgriMarketing@ihsmarkit.com

Agribusiness Intelligence Customer Success Team

EMEA: +44 20 38 55 38 90

APAC: +852 37 26 70 59

AMERICAS: +1 64 66 79 30 70 (New York)/

+1 65 14 44 71 10 (Minneapolis)

Email: AgriSupport@ihsmarkit.com

www.agribusinessintelligence.com

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Welcome to our Food & Agriculture Outlook for 2020

Europe has been embattled by trade disputes that will continue to be felt throughout 2020, whilst CAP negotiations continue and more member states work out how to rid their systems of glyphosate.

The Airbus subsidy dispute shook up the European agrifood sector in 2019 and the after-effects will be felt throughout 2020. The WTO gave the green light in April 2019 to the US to impose retaliatory tariffs on the EU over the awarding by the Europeans of subsidies to Airbus, which had upset US competitors such as Boeing.

The US administration began imposing an additional 25% tariffs on a wide range of EU agri-food imports soon after the WTO ruling. The US and the EU are likely to enter further into trade disputes in 2020 as the US has taken exception to France's digital services tax and threatened, at the end of 2019, to impose additional tariffs on agrifood produce from France.

Negotiations around the reform of the Common Agricultural Policy (CAP) will continue throughout 2020, probably further facing delays with uncertainty around Brexit and stalled budget negotiations stalling the timetable. Meanwhile, the Commission has introduced a new growth strategy, called the Green Deal, with a special focus on sustainability.

Food labelling will continue to be an important development to watch in Europe throughout 2020 as companies look at different ways of providing the information other than through traditional labels on the products themselves.

An exciting year is also expected for novel foods, particularly in the field of cannabidiol products, insects and laboratory produced meat.

Manufacturers of glyphosate-based products can only expect an ever greater movement against the herbicide with member states lining up to ban the product through phases over the coming years.

US regulators will need to wrestle with hemp and cannabis regulation, new labeling rules that come into play this year and the aftermath of leafy greens outbreaks – all with the backdrop of the Trump administration's aggressive trade stance and a very light hand when it comes to new regulations in the run-up to a presidential election.

Expect increasing enforcement of the Food Safety Modernization Act after FDA allowed a phase-in of some of the requirements for US and foreign suppliers. And all eyes will be on the produce industry as it struggles to prevent future romaine outbreaks in California and Arizona, while FDA continues tinkering with ag water standards.

USDA did roll out the much-anticipated hemp rule under the 2018 Farm Bill, but it did not quell concerns from those who think the testing and sampling protocols are too stringent.

And will there be a legal pathway for cannabis as an ingredient in food and supplements? Another agency has said it will need three-to-five years to write that regulation, much to the dismay of industry and vocal supporters in Congress who are anxious for a legal pathway. Legislation may force the government's hand.

Finally, the food industry will be eager for some regulations this year, particularly ones on labeling that define "healthy" and perhaps even "natural." The dairy industry is hoping 2020 will be the year FDA takes a stand on the rising number of plant-based dairy companies using dairy terms on labels.

Of course, the looming presidential elections will play a supporting role in Washington, DC. this year, whether in forging a partisan agenda in Congress, debating a biofuel policy, or as the Trump administration courts the farm vote.



US FOOD POLICY »

Increased enforcement, produce safety expected to dominate FSMA in 2020

by Joan Murphy

With the Food Safety Modernization Act (FSMA) rules largely in place, FDA has left for 2020 other decisions and experts predict companies will see FDA's generous "educate before regulate" mantra transition to full-blown enforcement.

In 2019, FDA rolled out the [FSMA Intentional Adulteration program](#) and released the much-delayed [laboratory accreditation proposal](#) for food testing. On the to-do list for 2020, the agency still needs to tackle the FSMA farm definition and [clarify written assurances in the supply chain](#) to give the regulatory community more transparency of what to expect.

But two issues garner the most attention from experts: FDA's anticipated move to ramp up enforcement of FSMA and the vexing outbreaks caused by *E. coli* on romaine lettuce.

An FDA official said the "educate before you regulate" approach can be credited for the high FSMA compliance rates [when investigators check plants for food safety plans and incorporating process controls](#).

According to the Food Marketing Institute (FMI), a trade group that represents retailers, FSMA compliance has gone smoothly for the most part throughout the supply chain as different sized companies come under the nearly nine-year-old law. The group points to the unprecedented outreach and education during inspections as reasons for the smooth transition.

"What we're seeing now is a shift," said Hilary Thesmar, FMI's chief food and product officer and senior vice president of food safety programs. An FDA official signaled in October the "educate before you regulate" mode is going to come to an end, Thesmar hinted at a recent Food and Drug Law Institute (FDLI) meeting. The number of warning letters are starting to tick up and FDA is shifting the types of inspections it conducts, she said.

Enforcement of the Foreign Supplier Verification Program (FSVP) regulations is having an effect, "at least to the extent that some importers are asking consultants for help," said Charles Breen, a FSMA advisor at EAS Consulting. "It's not always FDA that's driving importers to seek advice, but big box retailers are demanding FSVP details as a condition of purchase."

With FSVP, clients are seeing a change in stepped-up enforcement, agreed Mark Levy, partner, Eckert Seamans Cherin & Mellott, who also spoke at a December FDLI meeting.

One signal of that change came when FDA created an import alert to detain human and animal foods that do not comply with FSVP, which requires importers to perform risk-based supplier verification activities. While only one company is named on the import alert's red list, FDA is likely to target more companies that fail to make any effort to comply with the regulations, he said.

FDA also [delivered the first warning letter in July](#) to a tahini importer for not complying with FSVP as a result of a *Salmonella* outbreak that led to an FSVP inspection. Companies are being forced to look back through the entire supply chain to make sure they comply and do not become targets of class action lawsuits, Levy said.

Industry should brace for increased inspection, another expert noted. In 2020, anticipate an increase in Form FDA 483s, as well as warning letters, said Allen Sayler, senior director of food consulting services at EAS Consulting. An increase in foreign food manufacturer inspections will likely spur more follow-up enforcement and more "holds," inspections, and testing of imported foods at the US ports of entry.

What is FDA finding during inspections? An FDA official said in December the top citations in warning letters for human food companies are not from failing to identify hazards, but pest control, sanitation, and other lapses in meeting Current Good Manufacturing Practices. However, investigators are seeing animal food companies struggle with getting the right hazard analysis and prerequisite programs under FSMA, the official said.

Romaine outbreaks

While shifts in enforcement priorities may not reach the front page, the produce industry is in the unenviable position of struggling to contain the damage from the rolling romaine lettuce recalls and outbreaks, which have put a spotlight on the FSMA Produce Safety Rule.

The final rule went into effect in 2016, but FDA put off inspections for the first-ever produce safety regulation until spring 2019 to allow time for more training and technical assistance. Some key provisions have been delayed, including one of the most important regulations for produce safety – agricultural water testing – until

While shifts in enforcement priorities may not reach the front page, the produce industry is in the unenviable position of struggling to contain the damage from the rolling romaine lettuce recalls and outbreaks...

2022 at the earliest after industry questioned the practicality of FDA's approach.

The produce industry has named task forces, [funded research and embarked on geographically based labeling](#), all tactics to respond to the growing number of outbreaks from romaine grown in Salinas, Calif. and Yuma, Ariz. And in December, [FDA announced it was investigating three separate outbreaks](#).

Sayler suggested the outbreaks may prompt FDA to revise the enforcement timeline to move toward full implementation of the FSMA Produce Safety Rule.

But he suggested sweeping changes may be tempered in 2020.

"Since the Produce Safety regulation was one of the most politically sensitive parts of FSMA, with 2020 being an election year, it is possible FDA may keep its enforcement powder dry in this area, unless there is another romaine lettuce-like problem," he said.

FDA just [began a yearlong sampling assignment in November](#) to test romaine prior to processing for *Salmonella* and pathogenic *E. coli*. The sampling data will increase frequency during March/April and October/November, the transition periods between regions of California and Arizona that have caused the most illnesses.

Breen said the agency is "buying time with ag water" as it gathers better data to establish standards, and he predicted further delays in enforcement are possible if FDA can't get good data.

As for romaine, Breen said he sees parallels with FDA's struggle to deal with



repeated outbreaks from raw sprouts, which led to a specific set of regulations for producing sprouts.

“If the romaine outbreak investigations develop data to show there are special considerations not addressed by the Safer Produce Rule, it could eventually lead to a romaine rule,” he said. “But since I am speculating, my best guess is FDA will try to avoid commodity-specific rules if a more general regulation can improve public health.”

David Acheson, founder of The Acheson Group (TAG), suggested 2020 may be the year for a regulation related to the traceability requirements for FSMA pushed along by the recent produce outbreaks.

“We have to be able to connect the dots faster from consumer to grower and all points in between,” Acheson said in a recent TAG blog. “The technology is there, the need is there, the pain is there – but maybe the willingness to step up and pay the price is not there – or is it now?”

Thomas Gremillion, food policy director of the Consumer Federation of America (CFA), said consumer groups see the ag water standards as a top priority, so that issue is unlikely to fade from their agenda in 2020.

“I would put development and implementation of ag water standards to the list of big FSMA issues to come. I also wouldn’t be surprised if we saw some legislative tweaks in 2020 that give FDA better authority to require more traceability,” he said.

Breen suggested FDA priorities such as the smarter food safety initiative, lab accreditation, and farm inspections will likely have a high profile in 2020.

Lab rule, Intentional Adulteration

One of the last major regulations required under FSMA, FDA proposed a rule Nov. 4 that would establish a program that requires food testing by accredited laboratories and develop model standards that laboratories must meet to be accredited.

Required by 2013, the delayed rule caused [two consumer groups to sue the agency in August](#), saying FDA was putting consumers at risk by not establishing a comprehensive food testing program years ago.

Acheson said he expects “a little push back on the recent lab accreditation reg around sharing testing data with FDA.”

With comments due March 2020, Saylor predicted the final rule will not likely surface until 2021.

“Since this will have FDA venturing into an area that they have not regulated in the past, i.e. private food testing labs, we anticipate that unless there is a ‘trigger’ during 2020 related to food lab mistakes resulting in consumer illness or injury or significant pressure by consumer groups or Congress, with public meetings and FDA’s need to digest public comments after the March 2020 deadline, it could be 2021 before this proposed regulation/rule is published in final form,” he said.

The agency also may hold public meetings to allow more feedback on the measure, he added.

“It is also likely to take FDA at least a year after publication of the final rule to establish the internal system to implement and enforce the food laboratory accreditation final rule or regulation. We do not anticipate FDA being in a position to initiate the private food laboratory accreditation and certification program until late 2021 or sometime in 2022 at the earliest,” Saylor said.

Under another FSMA requirement, large companies needed to comply with the first deadline of the Intentional Adulteration rule in July 2019. And while FDA finishes rolling out guidance documents, the

agency said it won’t plan to conduct routine inspection until March 2020.

High-risk foods

Another looming FSMA regulation may throw all sectors of the food industry into a food fight in 2020.

[A court settlement reached between FDA and consumer groups](#) dictate the agency must designate “high-risk” foods and propose special recordkeeping requirements for facilities that handle them by Sept. 8, 2020. FDA also agreed to publish the final rule and post the list of high-risk foods on its website by Nov. 7, 2022.

Under FSMA, FDA was required to designate high-risk foods by January 2012 and propose recordkeeping requirements for facilities that handle those foods by January 2013, all designed to speed traceability in the likelihood of an outbreak.

But drawing the line for what’s in or out of the high-risk list, will not be an easy task for FDA and any approach it uses will be heavily scrutinized, judging by comments filed on FDA’s 2014 draft model that ranked foods or food categories based on total risk scores.

Finally, the change in leadership at FDA will likely have an impact on the agenda in 2020.

One expert predicted that even though more enforcement is expected in 2020, some of that may depend on [newly confirmed FDA Commissioner Stephen Hahn](#).

“With the confirmation of Dr. Stephen Hahn as the new FDA Commissioner and his strong educational and work history in the human medical area, it is likely that he and his supporting staff will focus most of their energy on the medical issues impacting public health such as vaping, the opioid crisis, new drug approvals, drug compounding, drug availability, pricing and their supply chains,” Saylor said.

“However, there will be continued pressure on FDA from consumer groups and Congress to move forward with full enforcement of the Food Safety Modernization Act (FSMA) of 2011 and its seven (7) regulations.”



US FOOD POLICY »

All eyes on FDA as food and supplement makers await regulatory pathway for CBD

Agency appears adamant it lacks safety data for quick action, but industry growing increasingly impatient amid growing consumer demand

by J.R. Pegg

US food and supplement manufacturers, keen to take advantage of booming consumer interest in cannabidiol (CBD), remain frustrated by a patchwork of state regulatory regimes and the lack of FDA rules that would legitimize the market and allow for interstate sales of hemp-derived CBD foods and supplements.

Congress did give the agency a nudge with new funding for research and a call for the agency to develop an enforcement discretion policy, but stakeholders are still waiting to hear FDA's timetable for action.

FDA, however, has shown no signs it will

be rushed into finding a regulatory route for CBD foods and supplements. The agency has repeatedly said CBD cannot be added to foods or sold as a supplement because it was approved 2018 as the active ingredient in Epidiolex, a drug used to treat childhood epilepsy. The agency

says that permitting such uses would require it to carve out an exception under the Federal Food, Drug, and Cosmetic Act (FDCA), a regulatory process that would take several years to complete.

That timeframe is frustrating for

“As we continue to work as rapidly as possible to figure out how to address this popular ingredient that until very recently was a controlled substance, it’s important to remember that there are no special rules for CBD”

Lowell Schiller, FDA Principal Associate Commissioner

supplement manufacturers and food companies eager to cash in on the booming market for CBD products. US consumers bought more than \$200 million CBD supplements, ointments and infused foods and beverages last year, and the market is predicted to top more than \$1.5 billion by 2025.

Nearly 25% of American adults – more than 60 million – have tried CBD and found it effective for pain, anxiety and other ailments, according to a 2018 survey by *Consumer Reports*.

The position prohibits interstate sales of CBD foods and supplements, but several states – including Colorado, Maine, and Oregon have legalized CBD as a food and supplement ingredient – while others are following the federal agency’s lead and prohibiting such uses or turning a blind eye.

Food and supplement manufacturers see federal rules as critical to the future of the CBD industry, arguing the existing patchwork of rules is encouraging bad actors, endangering consumers and precluding them from a lucrative market.

“There is clearly consumer confusion – there is a lot of uncertainty all around and that looks likely to continue,” said Brian Ronholm, senior director of regulatory policy at Wilson, Sonsini Goodrick & Rosati. “The heavy lifting is going to be done by FDA and who knows how long that will take.”

No special rules

FDA officials have repeatedly said the bar for an exemption to allow CBD use in foods and supplements is high and contend they [need more data](#) before moving forward with a potential rulemaking.

“There’s still much we don’t know – about the consequences of long-term use, about the risks to vulnerable populations, and lots more,” FDA Principal Associate Commissioner Lowell Schiller, the co-chair of FDA’s CBD working group, said in Nov. 7 remarks at the Council for Responsible Nutrition’s (CRN) annual conference in Carlsbad, Calif. “As we continue to work as rapidly as possible to figure out how to address this popular ingredient that until very recently was a controlled substance, it’s important to remember that there are no special rules for CBD.”

“Congress didn’t put CBD in a special new class of products, subject to a special set of rules,” Schiller added. “Under the framework recognized and preserved in the Farm Bill, we look at an FDA-regulated product containing CBD the same way as we would look at an FDA-regulated product containing any other substance. We apply the same tools and authorities and statutory provisions.”

But critics say FDA’s approach ignores the threats to consumers and problems for manufacturers from a patchwork of rules.

“Right now, different states have different rules and there is inconsistency,” said Jonathan Havens, a partner with Saul Ewing Arnstein & Lehr. “I understand FDA’s challenge. The FDA is not a public pressure agency, they are a public interest agency charged with protecting the public health. But the reality is this is a really big market and from a safety perspective, you want uniform standards.”

The agency has effectively ignored the vast majority of CBD supplements and foods on the market and has only sent warning letters to CBD companies making overt therapeutic claims. The agency sent out 15 warning letters in late November, reiterating its concerns about the lack of CBD safety data and its policy that CBD is not Generally Recognized as Safe (GRAS) for use in human or animal food. FDA has also stepped up its warnings about the potential risks from CBD, telling consumers in a November alert that the limited data it has reviewed show “CBD has the potential to harm you, and harm can happen even before you become aware of it.”

FDA seems to be signaling to consumers “that they really view this product as unsafe, that they don’t have enough data to make confident of its safety,” said Jessica Wasserman, a partner in the Cannabis Law Group at Greenspoon Marder LLP. “Therefore, they can’t bless it in any way, even at a certain dosage. It seems like things are going to continue as they are.”

“I’m a little critical of FDA on this,” Wasserman said, adding the agency is “scaring consumers” but ignoring the booming market for CBD products.

“They always say ‘safety first,’ but this current situation is unsafe and they aren’t showing any urgency,” she said.

Wasserman added that FDA's current policy also precludes supplement manufacturers from submitting New Dietary Ingredient notifications, but suggested the agency may have a more favorable view CBD as a supplement rather than a food ingredient.

The restatement that CBD is not GRAS "signals they are very uncomfortable with CBD in food," she said.

Havens echoed the view that FDA may ultimately look more favorably on CBD supplements than foods, noting the agency's policy is that adding CBD to foods is a "prohibited act." By contrast, the agency says that CBD currently "doesn't meet the definition of a supplement," he said, and that the companies it has issued warning letters to have made "exaggerated health claims" on their products. If the agency went after a company for "merely selling a CBD supplement, I question whether FDC could win in a court case," Havens said.

FDA's policy does not appear aligned with the booming CBD market as "consumer demand for CBD continues to grow rapidly despite the lack of regulatory clarity," said Peter Matz, director of food and health policy for the Food Marketing Institute.

Matz said his group's members – food retailers – are "confused about which CBD products can be sold legally and where" and also unsure about labeling requirements and quality standards.

"However, the bigger concern here is public



health and safety in an unregulated CBD market," Matz said. "The absence of a clear pathway to market for these products means consumers currently face a variety of risks, from unsubstantiated health and benefit claims, to a lack of standardization in product labeling and packaging, to products that may not contain the ingredients they purport to contain."

Another option for FDA would be to follow the advice of former FDA Commissioner Scott Gottlieb, who suggested FDA needs to put the onus on manufacturers to petition the agency to prove CBD can be safely added to foods through the submission of NDIs or food additive petitions, which would include reviews of toxicity studies.

"These are the same standards any new food ingredients are held to," Gottlieb explained in an July 31 opinion piece published by The Washington Post. "Congress can help by passing language saying that the FDA doesn't need to issue a broad regulation on CBD and can instead rely on petitions filed by individual, prospective producers."

In the interim, the FDA could exercise enforcement discretion to allow CBD to be marketed in food so long as the products meet certain conditions, Gottlieb suggested.

Pressure on Congress

Whether Congress has the appetite for Gottlieb's plan is unclear but pressure from stakeholders did result in a move in late December by lawmakers to push FDA to act more quickly.

The FDA spending bill approved by Congress in December includes \$2 million for the agency to study hemp-derived CBD and to begin work on an enforcement discretion policy for food and dietary supplements that contain the non-psychoactive cannabis ingredient.

Language in the bill earmarks the funding for "research, policy evaluation, market surveillance, issuance of an enforcement discretion policy" of hemp-derived CBD product. Within 60 days of enactment of the appropriations bill, FDA is tasked with providing the Senate and House Appropriations Committees with "a report regarding the agency's progress toward obtaining and analyzing data to help determine a policy of enforcement

discretion and the process in which CBD meeting the definition of hemp will be evaluated for use in products."

Lawmakers are also directing FDA "to perform a sampling study of the current CBD marketplace to determine the extent to which products are mislabeled or adulterated" and report to the committees within six months.

But the language falls far short for many stakeholders and is unlikely to quell demands for lawmakers to intervene again.

Wasserman said the directives from Congress are "all items FDA is doing anyway", adding that language in prior versions of the spending bill went further and mandated quicker action and immediate enforcement discretion.

Supplement manufacturers were clearly hoping Congress would take a more aggressive approach. A coalition of supplement makers led by the Council for Responsible Nutrition (CRN) and the United Natural Products Alliance (UNPA), have urged lawmakers to amend the FDCA to craft an explicit regulatory pathway for CBD supplements.

In a memo released after the spending bill was finalized, UNPA officials said apparently FDA "was not supportive of the industry's language recommending an NDI pathway" for CBD dietary supplements and "insists on evidence that would support a dosage level."

Wasserman suggested FDA's position that it lacks the needed safety data makes it unlikely Congress will force the issue and require it to take specific action to open the door for CBD foods and supplements.

"If FDA says this isn't safe, you don't want to push them too hard," Matthews said.

Ronholm agreed that lawmakers are likely to be cautious about heaping too much pressure on FDA and meddling with its review of CBD.

"FDA is just in a really tough spot," Ronholm said. "They have no safety data whatsoever but are being pressured to put together regulatory scheme. It is not fair to a public health agency."



US FOOD POLICY »

FDA to implement updated Nutrition Facts, define ‘healthy,’ tackle ‘natural’

by Margarita Raycheva

From defining “healthy” to modernizing standards of identity, and perhaps taming the raging debate over whether plant-based dairy alternatives should be labeled with traditional dairy terms, FDA has plenty of controversial labeling issues to deal with in 2020.

But before the agency can get there, FDA will have to deal with ensuring that companies are implementing the new and updated Nutrition Facts labels – a major labeling overhaul that has been in works for years and is set to take effect Jan. 1, 2020.

Though FDA [has indicated](#) it will not take enforcement action on the labels till July 2020, some experts say there are still loose ends that remain in the way for widescale adoption of the new labels.

One issue that remains to be addressed is whether FDA will allow certain non-digestible carbohydrates to be declared as fibers on the new labels.

Under the new, [narrower NFP rules for fibers](#), carbohydrates that are not inherently present in plants but are “isolated or synthetic,” can only be listed as fiber if FDA deems them beneficial for human health. When FDA drafted the new NFP rules, it recognized seven synthetic fibers that stand as exception to the rule and said it would evaluate requests for other potential synthetic fibers through Citizen Petitions.

The agency [has been reviewing](#) petitions on a rolling basis and has [already allowed](#) certain synthetic fibers to be listed.

However, seven petitions for six additional

potential synthetic fibers remain unanswered, creating uncertainty for many food and ingredient producers, says Evangelia Pelonis, partner at Keller and Heckman LLP.

“That is one area that continues to cause stress within that industry,” said Pelonis.

The remaining petitions include requests for fiber status for konjac flour, D-tagatose, highly purified glucomannan, arabinogalactan, as well as two individual requests – from Top Health Ingredients and BioNeutra North America – seeking fiber status for Isomaltooligosaccharide.

The outstanding petitions also include a [request](#) from a Keller and Heckman client for gum acacia to be recognized as fiber, which could have wider implications for industry, as gum acacia serves as a food stabilizer in a range of foods.

Not knowing how FDA might rule, companies using those ingredients have been holding back on the new NFPs, in hopes the agency would rule on the petitions before it moves to enforcement in July, Pelonis said.

“If the agency can move quicker on these Citizen Petitions, that would help some folks in the industry that are using these particular non-digestible carbohydrates to understand whether they can continue to be counted as fiber for labeling purposes,” she explained. “Industry doesn’t really have much clarity on that, so they are waiting anxiously for FDA’s response.”

Decision pending on low-calorie sugars

Another FNP-related decision likely to surface in 2020 is FDA’s response to a [petition](#) asking the agency to exempt D-tagatose, a low-calorie sweetener, from the added sugars declaration on the new Nutrition Facts panels.

The Charlottesville, Va.-based ingredient manufacturer Bonumose filed the petition in February 2018, arguing that D-tagatose has been associated with positive health effects and that listing it as added sugar would “misrepresent the communication of potential health benefits to the consumer.”

Hoping that exempting D-tagatose would encourage companies to use it in place of traditional sugars, Bonumose was encouraged in April when FDA issued a guidance [allowing](#) another low-calorie sweetener – allulose – to be exempted from the NFP added sugar declaration.

But to the [company’s frustration](#), FDA has not yet made a decision regarding D-tagatose, even though Bonumose says FDA should have easily applied the analysis it used for allulose, and despite a [growing FDA interest low-calorie sugar alternatives](#).

Getting a determination from FDA on how D-tagatose can be listed on the NFPs is important because it will provide food and beverage companies with an additional incentive to use the ingredient to make

healthier products, Bonumose’s CEO Ed Rogers told IEG Policy in November.

“The longer that FDA takes to make a ruling, they actually create a disincentive for companies to reformulate with healthier sweeteners,” he said.

FDA told IEG Policy Nov. 13 it is still reviewing Bonumose’s request and will “notify the firm when we have reached a decision.”

FDA to define ‘healthy,’ make a move on ‘natural’

2020 may also be the year in which FDA updates the definition for “healthy.”

After years of deliberation, FDA has drafted a proposal for “healthy,” [forwarding](#) it in August to the Office of Management and Budget (OMB) for White House review.

While the timeline for release is unknown, both advocates and industry are already eagerly anticipating the proposal.

“It is important for healthy to be updated, in particular by setting limits on added sugars and also [establishing] requirements for whole grain content,” said Sarah Sorscher, deputy director for regulatory affairs at the Center for Science in the Public Interest (CSPI).

CSPI has recommended that FDA tackle the claim with caution and ensure that packaged foods labeled as “healthy” don’t compete for consumer attention with fresh fruits and vegetables.

“We want to encourage innovation and healthier foods, but we want to ensure the core of a healthy eating pattern [remains] on foods that don’t even have a label at all,” Sorscher said.

FDA in 2020 may also finally [make a move](#) to define “natural,” another [elusive and difficult-to-define term](#) that has stirred numerous lawsuits against food companies.

FDA began working on a “natural” definition in 2015 and collected thousands of comments, but then stayed quiet until Gottlieb last year included defining “natural” in his Nutrition Innovation Strategy (NIS).

FDA officials now [say](#) work is underway to

The labeling of plant-based products and whether they can include terms traditionally used on animal-derived foods will be a hot issue at FDA and spill over to Capitol Hill in 2020

define the term. However, FDA has not released any further details on the matter and rulemaking on “natural” was notably missing from the [agency’s Fall 2019 Unified Agenda](#).

“I am not quite sure what to make of it,” Pelonis said. “It may be just a guidance, not rulemaking.”

Plant-based ‘dairy’ labeling

The labeling of plant-based products and whether they can include terms traditionally used on animal-derived foods will be a hot issue at FDA and spill over to Capitol Hill in 2020.

Most discussion has centered on the [battle over plant-based dairy labels](#), as the traditional dairy industry has lobbied FDA to stop allowing plant-based products to use terms, such as milk or cheese.

FDA finally made a move last year, when under the guide of former Commissioner Scott Gottlieb, it [issued a request for information](#) to evaluate whether consumers understand the nutritional differences between plant-based dairy alternatives and traditional, animal-based dairy.

After receiving 13,000 comments – including proposed labeling solutions from both [industry](#) and advocates – FDA is still reviewing the feedback and has yet to decide how to move forward.

It’s also unclear whether FDA’s change in leadership may sway the agency’s position on the matter.

[Speaking](#) at his first Senate confirmation hearing, FDA’s new Commissioner Stephen Hahn, expressed support for “clear, transparent and understandable labeling for the American people” and said he was

very interested in revisiting the labeling of plant-based dairy alternatives.

However, he did not commit to specific action on plant-based labels and dodged a request from Sen. Tammy Baldwin (D-Wis.) that he guide FDA to begin enforcement against “mis-labeled” plant-based dairy alternatives within 60 days of his confirmation.

“FDA may or may not enter that fray,” Pelonis said, noting that plant-based dairy alternatives are just one category of foods causing controversy.

With advances in food technology and continuing proliferation on plant-based products, labeling questions have emerged about various novel products – from plant-based ice cream, [butter](#), margarine and mayo, to [meats](#) and even rice-shaped foods that do not contain [rice](#), such as cauliflower “rice.”

“People would like more clarity in this area,” Pelonis said. “What we have seen on the meat side, is the states kind of legislating in that space. And I think FDA at some point may come out and provide the clarity that the industry needs.”

Efforts to continue modernizing identity standards

[Modernizing standards of identity](#) also remains an FDA priority for 2020, as the agency may decide on specific horizontal approaches that would allow it to work across the board to modernize outdated standards that don’t allow for new technologies, novel ingredients and healthier options.

The effort, which began with a public meeting in 2019, has already ruffled feathers, as [milk producers cautioned](#) that loosening standards too much could water down essential requirements for the content and production of foods.

Advocates, on the other hand, are also watching closely to ensure that any horizontal changes to the standards are made with consumers in mind.

“We want to make sure that anything FDA does is going to give consumers clear information about genuine healthy choices and also not remove protections that keep standardized foods of high quality, and nutritious, and free from harmful additives,” Sorscher said.

CSPI will also continue its push for [sesame to be added to the list of allergens](#) that must be declared on food packages. FDA in October 2018 [opened a request for information](#) to collect input on the prevalence of sesame as a food ingredient and the scope and severity of sesame allergies.

But there has been no further plan for action, causing frustration at CSPI, which in 2014 petitioned FDA to add sesame to the list of the Big Eight allergens.

“We wouldn’t want them to unreasonably delay any further answering that petition,” Sorscher noted. “Hopefully they will have some action on sesame in the coming year.”

Heightened interest in ‘clean’ labels

Another trend expected to continue in

2020 and beyond, is an increased interest of food producers to use “clean” labels, Pelonis predicted.

With consumers continuing to seek foods with ingredients they understand, Keller and Heckman lawyers have seen a spike in questions from industry on ways to clear up and simplify ingredient declarations, particularly from ingredient suppliers and finished food companies.

Companies, Pelonis said, are increasingly questioning what constitutes “common and usual” names of ingredients and how much flexibility they may have on listing ingredients on food labels.

“It would be interesting to see if FDA has seen an uptick in these questions as well,” Pelonis said.

FDA has taken steps to provide industry with more flexibility, particularly in addressing a 2016 request from NuTek Food Science to allow companies to replace the name of “potassium chloride” with “potassium salt” on ingredient labels.

A sodium alternative that can help reduce salt intake, potassium chloride has been slow to gain acceptance from consumers, who incorrectly associate “chloride” with chemicals, NuTek argued in its petition.

FDA in May [issued a draft guidance](#) proposing to allow food producers to use “potassium chloride salt” – a slightly different term than what NuTek had requested.

And while NuTek is pushing for “potassium salt,” it remains to be seen if FDA would cave under [mounting support](#) – from industry and advocates – for that option when finalizing the guidance.

A change is possible, Claudine Kavanaugh director for the FDA Office of Nutrition and Food Labeling (ONFL), recently [told](#) IEG Policy. But stakeholders would have to show strong evidence in support of the option.

Update: Following publication of the story, FDA made moves to address some of the outstanding petitions on dietary fiber. In January, the agency approved a petition for konjac glucomannan to be considered dietary fiber, but rejected two requests to do the same for isomaltooligosaccharide (IMO).





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EUROPEAN FOOD POLICY »

Airbus tariffs on agri-food products: A new chapter in EU-US trade disputes

by Pieter Devuyt

In 2019, the EU's farm and food sectors were hit by US duties over a 15-year old aircraft subsidy dispute, which caused deep concerns about damage to their exports. The tariff rift has reignited EU-US trade tensions and is likely to escalate in the course of 2020.

The first months of 2020 will show whether the EU executive has a real strategy to soften the blow for agri-food producers and if it will introduce further compensation measures under the Common Agricultural Policy (CAP)

As anticipated by IEG Policy in [April](#), the US began imposing additional 25% tariffs on a wide range of EU agri-food imports worth an annual US\$4.8 billion (€4.3 billion) on October 18.

A few days earlier (October 14), the World Trade Organisation (WTO) had given the [green light](#) for the duties as retaliation for the European state aid provided to aerospace giant Airbus. This was based on a ruling that these subsidies were undue and caused harm to US manufacturers such as main rival Boeing, in a case that had been in litigation for 15 years.

EU agriculture, food and drink associations were quick to express fears that they would suffer [serious export losses](#) from the tariffs and denounced that their sectors faced collateral damage from a trade dispute in which they were not involved at all.

The Trump administration decided to target some of the bloc's most famous, high-value food and drinks, whose names are often protected by EU Geographical Indications ([GIs](#)). [Dairy](#), [olive oil](#), [spirits](#) and [wines](#) are the most affected goods, accounting for 92% of total exposed exports.

This is why [Italy](#) – renowned worldwide for its excellent food products – is one of the countries hit hardest by the move, together with [France](#), Germany, [Spain](#) and the [UK](#) – the European nations where Airbus is manufactured.

Agri-food businesses in these countries bear around 95% of the tariffs, which are expected to hinder the industry's access to its main foreign destination and lead to lower volumes of shipments in the coming year 2020.

CAP support as compensation

As such, these five EU member states were the most vocal ones asking the European Commission for “rapid support” for the worst affected agri-food sectors at the [AGRIFISH Council meeting](#) on October 4.

The European Parliament voiced [similar demands](#) almost two months later (November 28), pushing the EU executive to “mobilise all available market instruments” to deal with the resulting disturbances.

By that time, the Commission had already

reacted by agreeing to provide [private storage aid](#) for olive oil and launching new [agri-food promotion campaigns](#) to help exporters find alternative markets abroad.

The first months of 2020 will show whether the EU executive has a real strategy to soften the blow for agri-food producers and if it will introduce further compensation measures under the Common Agricultural Policy (CAP).

Boeing tariffs as retaliation

The Parliament and the Council were more divided on possible retaliation measures.

While MEPs called for an urgent and coordinated EU response to the US tariffs, most ministers expressed fears that an aggressive strategy could lead to a trade war and further negative impacts to the sector.

Former EU Trade Commissioner Cecilia Malmström had insisted for a long time that a “[negotiated solution](#)” to the aircraft dispute would be the best outcome for both sides of the Atlantic.

But the unwillingness of the Trump administration to engage in such a dialogue has left EU policy-makers no other choice than to strike back.

The EU now plans to impose its own tariffs on US imports based on a ‘[hit list](#)’ of goods worth a total of US\$20 billion (€18.3 billion), which also covers various food and drink products.

However, the bloc will have to wait until early 2020 to do so, when it is expected to receive the WTO's final approval for retaliation measures in the similar Boeing case, where US subsidies have been found equally in breach of the trade body's rules.

The US was simply free to fire the first shot in the potential tariff war because its case was running nine months ahead.

In the meantime, the Commission could also activate some unused tariffs from other WTO disputes won by the EU. For instance, [Spain](#) has suggested slapping around €4 billion in duties on the US from a case on special tax treatments settled in 2006.

US threatens with 100% tariffs

On December 2, the WTO further strengthened the US case for retaliatory

tariffs by rejecting the EU's stance in the Airbus case for the second time.

A compliance panel ruled that the European countries – France, Germany, Spain and the UK – had not withdrawn their illegal support to Airbus, even though they were required to do so, and were therefore still not in compliance with an earlier decision by the trade body.

Based on this ruling, the US Trade Representative's office threatened on December 9 to increase the tariffs on EU goods and subject additional products to the sanctions, given what it called a "lack of progress in the efforts to resolve this dispute".

Specifically, the tariffs could soon be raised to up to 100% and extended to other agricultural items such as cheese, cheese, bulk olive oil and wine, sparkling wines, whiskies, hams and pasta.

The EU already appealed the compliance panel's findings in the hope that the trade-distorting subsidies will be fully reversed.

However, the future of any appeal by the bloc has become highly uncertain after the shutdown of the WTO's Appellate Body on December 11, as a result of the US refusal to appoint new judges on the panel.

The impasse will affect both new cases and those already in progress, meaning the EU's objections could not be heard

by the body any time soon.

New front in US-EU trade disputes

At the end of 2019, a WTO ruling on a 14-year old aircraft subsidy thus triggered a new tariff rift that seems likely to escalate in the course of 2020.

The 'Airbus tariffs' opened a new chapter in the trade disputes between the EU and the US, which had already increased drastically in recent years.

Over the past year, the EU also made efforts to de-escalate these transatlantic tensions.

Lawmakers have agreed to ring-fence the bulk of its hormone-free beef quota for US suppliers from the start of 2020, faced with the threat of retaliatory sanctions.

Meanwhile, the Commission remains committed to buying more soybeans from the country in an attempt to avoid additional tariffs on European cars – a threat which keeps hanging as a sword of Damocles over the bloc.

This is in line with a pledge made by former Commission President Jean-Claude Juncker to US President Donald Trump in July 2018, when the US still vowed to hold off further trade sanctions and work together with the EU towards "zero tariffs, barriers and subsidies".

Although EU and US officials had been

trying to work out a trade deal in the wake of this joint Juncker-Trump declaration, these negotiations never really took off due to the EU's resistance to include agricultural products in the talks.

Meanwhile, the US has made no movement towards lifting the first 'Trump tariffs' imposed on steel and aluminium, meaning the rebalancing measures imposed by the EU on products worth €2.8 billion remain in place.

Both sides are also still in dispute at the WTO over earlier US anti-dumping duties applied to Spanish olives dating back to 2017.

Looking forward, the EU agri-food sector could again become the victim of a new tariff spat in 2020.

On December 2, the US threatened to impose additional tariffs of up to 100% on products imported from France worth US\$2.4 billion (€2.17 billion), including Champagne and specialty cheeses such as Gruyère, Parmesan and Roquefort, in response the country's new digital services tax.

In reaction, French champagne producers and exporters expressed fears about the impact of the possible trade sanctions and stressed that they have nothing to do with the dispute.

The European Commission and France are already preparing to strike back.





EUROPEAN FOOD POLICY »

Food labelling under pressure

by Sara Lewis

With the release of a long-awaited European Commission report on front-of-pack nutrition labels imminent, there are no prizes for guessing the issue that is going to dominate at least the first half of 2020.

Online information

A key trend for 2020 and beyond is towards offering information online, through websites and apps linked to smartphones via barcodes, rather than traditional labels on the food and drink products themselves.

The spirits industry has already been given the go ahead to offer ingredients and nutrition information online and only have the calorie content on the bottle itself as its voluntary way of complying with the food information to consumers regulation (FIC - 1169/2011). This has brought criticism from consumer and health groups that insist information should be on the label.

Unveiling its [European Green Deal](#) on December 11 and plans for measures to help consumers choose healthier and more sustainable diets as part of its 'Farm to

Fork' strategy, the Commission made clear it is leaning towards online information.

"The Commission will explore new ways to give consumers better information, including by digital means, on details such as where the food comes from, its nutritional value, and its environmental footprint," the communication states.

The statement prompted Camille Perrin, Senior Food Policy Officer at the European Consumer Organisation (BEUC) to comment that "shifting food information online is surely not the way forward, consumers need information on the spot to make their lives easier."

Nutrition labelling

The Commission's report on voluntary front of pack nutrition labelling schemes is

already waiting on the desk of the new EU Health and Food Safety Commissioner Stella Kyriakides, who took over December 1. Her predecessor Vytenis Andriukaitis told IEG Policy in an [interview](#) that the report was ready but was being left for the new Commissioner. The report looks at the additional front of pack nutrition labelling schemes that member states or retailers and industry have adopted such as the Nutri-Score in France and Belgium, the Scandinavian Keyhole or the UK's traffic lights. These labels are allowed under the FIC regulation's Article 35 on additional forms of expression or presentation of the nutrition declaration. The same article requires the Commission to adopt a report on the use of these additional nutrition labels and logos covering their effect on the internal market, and the advisability of further

harmonisation in this field. It is this report that Andriukaitis left for Kyriakides.

Campaigners want a single European front of pack nutrition label and are pushing for the EU to adopt the Nutri-Score, the colour-coded labelling system that grades food and drink products according to both their positive content such as fruit and vegetables and the negative nutrients they contain like salt, sugar and saturated fat. This is likely to be a major battleground in 2020 as member states such as Italy, which see colour coded nutrition labels as detrimental to their traditional food products such as olive oil, against those such as France, which have endorsed the label as their national albeit voluntary schemes. France is even looking to make the Nutri-Score mandatory, raising concerns about the impact on the single market. [Nestlé](#) has already decided to use the Nutri-Score on its product labelling as have some retailers like Belgium's Delhaize.

Crucially, a petition to make the Nutri-Score mandatory EU-wide, the European Citizen's Initiative (ECI) Pronutriscore, is open until May 8. If it gains the necessary million signatures across Europe and meets minimum thresholds in at least seven member states, then the Commission has to react officially, if only to say that it will not be adopting measures and why. But, apart from France, where the label was developed, Belgium and the Netherlands, the petition is not taking off and is well short of the million-signature goal over halfway to the May 8 deadline. In November Green and Socialist MEPs [threw their weight](#) behind the ECI, encouraging consumers to sign.

Alcohol labelling

Drinks containing over 1.2% alcohol by volume (ABV) were exempted from the FIC regulation but following a March 2017 report which found this was not justified industry has been working on self-regulatory measures to comply with ingredients and nutrition information. A single common scheme for all sectors proved a pipe dream since the brewers wanted to have full FIC-compliant labelling, while the spirits and wine sectors favoured off label information through apps and websites. The Brewers of Europe started labelling beer voluntarily in 2015, and under a new [memorandum of understanding](#) (MoU) that the Brewers signed with the Commission in October, it

will be gradually rolled out to all bottles and cans by 2022. [SpiritsEUROPE](#) by contrast will only be putting calories on labels with other information online, under its own June 2019 MoU. Wine labelling will be dealt with by agricultural markets legislation due for adoption in 2020 - the common market organisation regulation.

Origin labelling and GIs

Origin labelling will remain a major issue going into 2020 as will the protection of geographical indications (GIs).

Always a front runner when it comes to origin labelling, France wants to roll out its current meat origin information requirements to include restaurants and catering companies. In November France [notified](#) the Commission of a decree that will require restaurants and catering companies to provide the country of rearing and slaughter of pork, poultry and lamb meat they serve to their customers from April 1, 2020. The Commission and other member states have until February 19, 2020 to raise any concerns about the decree's compatibility with EU law.

On March 31, 2020 France's pilot meat and dairy origin labelling scheme is due to expire, unless it is extended again. The scheme, originally launched in 2016, then [extended in 2018](#), was the springboard for a spate of similar national laws in the EU and led to concerns about renationalisation of food labels. Member states are still waiting to see France's evaluation report of the pilot scheme, which was allowed on grounds that there was consumer interest in having this information. A case is pending in the European Court of Justice challenging the French decree.

Origin labelling would be even more widespread, if the organisers behind another European Citizen's Initiative (ECI) eatORIGINAL have their way. The ECI closed for signatures on October 2 but it has not yet been confirmed whether the thresholds of one million signatures with minimum numbers in seven member states were achieved. Results are expected early in 2020 but a month before the deadline the ECI already had [over 800,000 signatures](#). Even if the ECI falls, which is unlikely, the organisers are set to continue their campaign for more origin labelling.

The Commission and member states have a February 17 deadline to object to an [Irish](#)

Campaigners want a single European front of pack nutrition label and are pushing for the EU to adopt the Nutri-Score, the colour-coded labelling system that grades food and drink products according to both their positive content such as fruit and vegetables and the negative nutrients they contain like salt, sugar and saturated fat

[labelling scheme](#) for grass-fed beef. Ireland notified the plans in November for a logo signalling that beef and in future dairy products, come from cattle fed on grass rather than grain. The scheme needs to be assessed to ensure that it is in line with EU state aid rules for “promotion measures in favour of agricultural products”.

On February 26 the EU accedes to the Geneva Act of the Lisbon Agreement, the international treaty that protects GIs. The EU [deposited](#) its membership documents at the UN’s World Intellectual Property Organisation (WIPO), which manages the treaty, at the end of November.

Moreover, throughout 2020 the EU will be firming up and negotiating more free trade agreements, with GI protection on both sides central to the deals.

GI rights holders and those seeking to sell similar products will almost certainly be analysing a December 4 ruling in the European Court of Justice specifying that the protection granted to [Aceto Balsamico](#)

[di Modena](#) does not extend to the non-geographical terms in the name.

Vegan / vegetarian

A row over whether ‘meat’ terms such as ‘sausage’ or ‘burger’ should be allowed to describe vegan and vegetarian products will rumble on into 2020. MEPs still need to decide whether they want to back a ban during ongoing talks on agricultural market regulations.

Climate and sustainability labelling

The Commission’s December 11 European Green Deal includes a commitment under the section devoted to the ‘Farm to Fork’ strategy, to “propose actions to help consumers choose healthy and sustainable diets and reduce food waste.” The Commission plans more information but including online rather than just labelling.

BEUC’s Camille Perrin was critical that consumer information was seen as the way to achieve a shift to sustainable consumption without binding environmental targets. “We fully agree

with the need to stimulate consumption of sustainable and healthy food, but labelling must not be seen as the silver bullet,” said Perrin.

The Commission now plans a “wide-ranging” consultation on its ‘Farm to Fork’ strategy kicked off by a Communication early in 2020 “that will then be followed by specific measures throughout the mandate.”

Clean labelling

The consumer trend towards more natural and healthier products has spawned clean labelling whereby products are labelled as ‘free from’ various substances considered undesirable ranging from added sugars to genetically modified organisms (GMOs). While the trend is likely to grow, the Commission holds that it [does not require](#) more legislation as the FIC already regulates clean label claims under Article 36. The article allows their use on a voluntary basis provided that they are not misleading, ambiguous or confusing for the consumer.



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EUROPEAN FOOD POLICY »

A busy year for novel foods

by Sara Lewis

The novel foods sector is not going to stand still in 2020 with exciting developments in the pipeline such as cannabidiol (CBD) and laboratory produced meat as well as expected insect product approvals.

The regulation

Although the 2015 [novel foods regulation](#) (2015/2283) has only been in effect since January 1, 2018, it has already been revised to increase transparency in risk assessment procedures. The regulation was one of eight specific pieces of legislation that alongside the general food law regulation (178/2002), were revamped in 2019. The 2019 [regulation](#) on transparency in risk assessment in the food chain (2019/1381) amends risk assessment at the European Food Safety Authority (EFSA), to render procedures more public and open. The transparency regulation only takes

effect on March 27, 2021, but the preparatory work will keep EFSA busy throughout 2020.

The main change to come is that once EFSA has validated an application (confirmed it is complete and ready to go forward for risk assessment) then it will publish the studies submitted to back it up, apart from parts claimed as confidential. A patented production process would be covered by confidentiality, which might apply to novel foods, but safety data that EFSA uses for its risk assessment has to be made public.

The novel foods regulation introduced a centralised assessment and authorisation procedure that makes the overall process more efficient. Since the beginning of 2018, the European Commission has been responsible for authorising novel foods, with input from member states in the Standing Committee on Plants, Animals, Food and Feed (PAFF), in most cases based on a risk assessment from EFSA.

As of mid-November there were 156 novel food applications pending and 44 notifications for traditional foods from third countries.

EFSA has rejected some applications for traditional foods from third countries on grounds that the use proposed was not the customary use of the food

Traditional food from third countries

The 2015 regulation introduced a simplified notification procedure for traditional foods from third countries that had at least 25 years' history of safe use in at least one country outside the EU. The logic behind the move was that there were usually no scientific data on these foods, which were generally primary products, meaning that they were unable to gain approval under the old system. A notification including compositional data and proof that there is a history of safe use is sent to the Commission and then forwarded to all member states and EFSA, which then have four months to raise any safety objections.

Nevertheless, there have been quite a few problems with poor quality notifications or products being notified as traditional when they are novel foods derived from the original plant. To qualify as a traditional food, the product has to be used in the way it was always used in the third country.

In the annual International Congress on Food Supplements Safety and Compliance October 28-29 in Brussels, Klaus Riediger of the Austrian food safety agency AGES explained that when it comes to traditional foods, "we have a lot of problems because applicants say it should be used in foods where it is not traditionally used," giving the example of ice cream.

Riediger said that applicants asked regulators if they could use extracts of the traditional food in a supplement as an extract, adding "it's complicated honestly."

EFSA has rejected some applications for traditional foods from third countries on grounds that the use proposed was not the customary use of the food. Minutes from a November 14 meeting of the Network on Novel Foods, the annual regulators meeting, note that EFSA presented practical examples of TF notifications that it had recently assessed after it raised duly reasoned safety objections including [Moringa stenopetala leaf powder](#).

EFSA outlined the critical issues encountered for these two TF notifications and highlighted the importance of looking at not only the data provided by applicants but also publications found through a dedicated literature search to identify hazards potentially present in the food. The agency explained that there was a lack

information about undesirable substances that could be potentially present in these traditional foods.

The minutes also show that expected uses and use levels of these traditional foods in the EU 'deviated' from the historical consumption patterns in the third country. This means that there is uncertainty about the risk from the traditional foods if sold in the EU at proposed uses and use levels, as exposure in Europe may exceed historical intakes in the third country on which the history of safe use was based.

By contrast EFSA also presented the assessment notifications on [cocoa pulp](#) where no safety concerns were identified.

The problems with the quality of the traditional food notifications mean that EFSA might need to revise its guidance in future.

"EFSA highlighted some elements from the experience gained in the assessment of TFs, which may serve as a basis to update the EFSA Guidance on the preparation of TF notifications," the minutes state, adding: "EFSA invited the Network to share ideas and proposals for the future update of the EFSA Guidance on the preparation of TF notification."

Later in the Chair's summary of the meeting, a bullet point revealed that EFSA is also planning on updating the guidance for applicants for novel food applications. "Based on the experience gained in the evaluation of TF notifications and NF applications, EFSA will update the EFSA guidance on the preparation of TF notifications and NF applications," the minutes state.

Another improvement that EFSA is seeking is in member state input during the first two months of a traditional food assessment using the Commission's e-submission tool. Some member states at the meeting pointed out that limited resources hampered their ability to provide input, but in the end agreed that it was important to discuss and raise concerns about notifications through the EC e-submission tool, before formally submitting 'duly reasoned safety objections'. EFSA pledged to continue sharing its literature search on traditional food notifications with member states as well as its preliminary and final assessments.

Insects

One of the biggest changes under the 2015 regulation was to include a range of food categories considered novel foods on top of maintaining the catch-all definition from the old legislation of a food that was not marketed in the EU before May 15, 1997.

Insects, either as whole traditional foods or ground and used as ingredients, is one such category. There are numerous applications pending and on which EFSA is currently carrying out a risk assessment. But EFSA has already given one application for [whipworm eggs](#) in supplements the thumbs down over safety concerns.

Because EU legislation had not included insects before the 2015 regulation some member states, like Belgium, had authorised their use on the domestic market under national law. To prevent products authorised under national law being forced off the market by the new EU rules, the regulation provided for a transition period, in which any insect-based novel foods already on a national market on January 1, 2018 could remain on sale pending approval at EU level.

Producers then had two years to file an application and now the final deadline for doing so is approaching fast - January 2, 2020. After that date only products where an application has been filed and a decision is pending can remain on the market. If the producer has not

submitted the application by the beginning of next month then the product has to be withdrawn.

Lab meats

One area certain to grow in future is laboratory cultured protein products whether cell-based meats or novel vegan alternatives.

Some analysts [forecast](#) that in 20 years' time most 'meat' will not come from slaughtered animals.

However, while green campaigners and politicians welcome novel vegan products with open arms, the same cannot be said for cell-cultured meat. Attempts to get novel food applications for cell-based meat approved could come up against the same sort of opposition as genetically modified organisms.

In a February 2019 [hearing](#) on meat analogues, green and left wing MEPs were sceptical about cell cultured meat.

Moreover, a plant-based egg substitute is due to gain novel food [approval](#) in the EU within the next three months.

Nevertheless, novel plant protein products might not have a market with the very consumers they were initially aimed at - vegans. The animal studies needed to gain approval as a novel food mean many vegans would reject the end products.

CBD

CBD is set to be a major topic in the EU in 2020, with about 20 applications for CBD products pending. CBD legislation is already under debate in the US and [New Zealand](#) and interest is [growing](#) in Europe. There are already CBD products on the market [in the UK](#).

In October's food supplements congress Riediger underlined that companies considering applying for novel food approval for a CBD product should be aware of different drug regulations in the EU member states. Although CBD is made from the non-psychoactive parts of the cannabis plant, it is still outlawed in some member states. CBD "in some countries are really forbidden," he said. Where it is allowed the amount of the main psychoactive compound in cannabis, tetrahydrocannabinol (THC), has to be low to non-existent.

Riediger noted that many times CBD was not considered a novel food "but in the end people were really not eating the hemp flower."

Ireland contends that only CBD produced using new extraction methods is novel, but Riediger made clear that this view is not shared by AGES or the Commission.

The Austrian official revealed that "it is really the most complicated issue I have ever had."





US AGRICULTURE POLICY »

EPA's moves continue to be a focus for biofuels sector

Skepticism abounds about EPA SRE plan

by Richard Morrison

Moves by the Environmental Protection Agency (EPA) on biofuels, particularly its method of accounting for small refinery exemptions (SREs), continues to concern biofuel stakeholders and remains one of the most controversial of several policy issues affecting the US biofuels sector heading into 2020, stakeholders told IEG Policy.

Biofuel policy is a major issue for the US ag sector. A large share of key crops – namely corn and soybeans – are used as feedstocks to produce ethanol and biodiesel. According to USDA, in marketing year 2018/19 some 37% of US corn use was tied to ethanol production, the largest component of corn use, while just over 33% of US soybean use was attributed to biodiesel production.

SRE plan front and center

How EPA's SRE supplemental plan plays out in practice will be a major topic in 2020, particularly for corn and ethanol producers, stakeholders said. Their top concern is whether EPA will again fail to fully account for biofuel volumes waived by SREs resulting in a continued watering down of the 15-billion-gallon conventional biofuel volume blending mandate for gasoline.

EPA [released its final rule for 2020 biofuel and 2021 biodiesel Renewable Volume Obligations \(RVOs\)](#) Dec. 19 and insisted the agency is “committed to ensuring a net of 15 billion gallons of conventional biofuel is blended in 2020.”

Under the final rule, EPA said it “modified the way RFS obligations are determined to better ensure that these volumes are met, while still allowing for relief for small refineries consistent with the direction provided by Congress under the statute.” The agency added, “By proposing effectively 15.8 billion gallons we will net out at 15 billion” gallons of conventional biofuel for 2020.

Notably, EPA's 172-page pre-publication version of the rule does not specify the 15.8-billion-gallon level EPA referred to in a release that accompanied the final rule.

EPA finalized [the Oct. 28](#) proposal that projected exempt volumes “based on a three-year average of the relief recommended by the Department of Energy (DOE) for 2016-2018.” The agency insisted that beginning with 2019 and 2020 SRE petitions, it is “committed to following the DOE recommendations,” acknowledging that has not always been the case in the past.

Focus on 15-billion-gallon conventional biofuel figure

Biofuel stakeholders said it was critical to see the 15-billion-gallon conventional biofuel mandate is met and that relying on DOE recommendations for reallocation

[leaves too much uncertainty about whether that will occur.](#)

The number one issue facing the biofuels sector is “ensuring that 15 billion gallons means 15 billion gallons,” stressed American Farm Bureau Federation (AFBF) Economist Michael Nepveux.

The only way to fully ensure the conventional biofuel mandate is met would be rulemaking that “reallocates exempted volumes based on actual history or it provides a commitment to follow [Department of Energy (DOE)] recommendations in the future,” Renewable Fuels Association (RFA) Chief Economist Scott Richman told IEG Policy.

National Corn Growers Association (NCGA) Director of Public Policy Kathy Bergren agreed, telling IEG Policy that the language included in the supplemental plan, and which EPA retained in the final rule, “is much more likely to continue to shortchange the RFS when waivers are granted than ensure the 15-billion-gallon implied volume requirement for ethanol is met.”

Still, Richman said the reallocation methodology favored by EPA is better than the previous status quo of no reallocation. He qualified that by saying the approach may not “be sufficient to return the industry to the growth trajectory it was on prior to the granting of large-scale exemptions that began under former [EPA] Administrator [Scott] Pruitt.”

AFBF “will be looking to see if the administration follows through with its commitment to look at partial waivers/ utilization of DOE recommendations,” Nepveux said, which EPA promised to do going forward with the release of its final rule for 2020 biofuel and 2021 biodiesel levels.

Similar sentiments were expressed by NCGA's Bergren, who remarked that “any accounting for waivers going forward is an improvement over the status quo, but a meaningful accounting that upholds the law and the integrity of the RFS is the only remedy to restore certainty, consistency and confidence that the RFS volumes will mean something again.”

Skeptical response to final rule

However, many biofuel backers were

How EPA's SRE supplemental plan plays out in practice will be a major topic in 2020, particularly for corn and ethanol producers

disappointed with the 2020/2021 RVO final rule.

“EPA's rule fails to deliver on President [Donald] Trump's commitment to restore integrity to the RFS, and it fails to provide the market certainty desperately needed,” said RFA CEO Geoff Cooper. “While the final rule is an improvement over the original proposal, it still does not guarantee that the law's 15-billion-gallon conventional biofuel blending requirement will be fully enforced by EPA in 2020,” Cooper added.

House Ag Committee Chairman Collin Peterson (D-Minn.) was also critical of the move, saying the final rule “does not guarantee the 15 billion gallons the RFS mandates.” Sen. Chuck Grassley (R-Iowa) struck a similar note, arguing that the reliance on DOE recommendations does not follow the deal reached with President Donald Trump earlier this year.

How the SRE plan will affect ethanol producers, farmers

Corn demand for ethanol production has come under pressure in part due to the biofuel policy landscape, Bergren said. “For the past marketing year, corn use for ethanol production dropped by 229 million bushels compared to the prior marketing year, and the [USDA's] outlook for corn use for ethanol in the coming marketing year is essentially flat,” she remarked. “That's not good news for corn growers.”

[Resolving the trade conflict with China](#), “scaling back small refinery exemptions and reallocating waived volumes” could all



help boost demand for ethanol and corn as a feedstock, said Richman.

Policy and trade uncertainty make it “very hard to have a solid outlook” for biofuels, including ethanol, said Nepveux. “I think that next year is going to have a hard time topping 16 billion gallons of ethanol production,” he remarked.

Stakeholders watching several other policy areas

While making sure EPA lives up to the ethanol mandate topped priorities for AFBF, RFA, and NCGA, they also said other policy changes could help boost biofuel demand.

Resolving the trade war with China is one area that could provide a lift to the sector, they suggested. The removal of trade barriers “including the Chinese tariffs” will help increase exports and “meet a growing global demand for low carbon renewable fuel,” said Bergren, who added that improved access to the Brazilian market is another area of opportunity.

Richman said he expects a “rebound” for the ethanol sector in 2020, following “a difficult 2019.” Besides biofuel policy, another factor will be conditions in the energy and agriculture markets, he noted.

“Maintaining momentum in expanding of E15 (15% ethanol, 85% gasoline),” recently approved for sale year-round by the Trump administration, is one other area RFA is watching, Richman said. Meanwhile, paving the way for even higher ethanol blends would also help support

the sector and increase overall biofuel usage, he added. “Mid-level ethanol blends can play a key role in providing the high-octane, low-carbon fuels that will be needed for the fuel-efficient engines of the future,” he noted.

This year’s approval of year-round E15 sales was “strongly supported” by NCGA, Bergren noted, as the move increases the market for farmers while enabling RFS compliance. But she said the benefits of the policy are being undercut by the EPA’s actions to undermine the RFS by not accounting properly for waived volumes.

Some in Congress have even pushed to replace RFS volume mandates entirely with an octane standard, but that proposal has not gained traction from ethanol backers.

Moving forward with policies that promote the use of mid-level ethanol blends is also firmly on NCGA’s agenda, Bergren said. Expanding their availability would “give automakers the fuel needed for higher efficiency vehicles and decarbonize liquid transportation fuels,” she said, adding, “this fuel, when matched with proven engine technologies, supports vehicle fuel efficiency gains of at least 5%.”

The use of higher ethanol blends will also help support efforts to reduce greenhouse gas (GHG) emissions from transportation, Bergren emphasized. “Today’s ethanol has a carbon footprint at least 40% lower than that of unblended gasoline,” she noted.

Eye on 2021, 2022 RFS ‘reset’

Looking even farther ahead, all eyes will be on the RFS “reset” that will occur for RVO rulemaking through 2022.

“EPA is required to modify, or reset, the applicable volume targets specified in the statute for future years if waivers of those volumes in past years met certain specified thresholds. Those thresholds have been met or are expected to be met in the near future,” the agency said in its fall regulatory agenda update.

Richman said the rulemaking will be key, particularly for 2021 and 2022 RFS volumes.

Then, after 2022, EPA will no longer be subject to meeting certain statutory volumes but rather will have to set volumes on its own using certain criteria including environmental impacts, biofuel production and the market for agricultural commodities used as feedstocks.

Despite the major change in how the RFS functions post-2022, the program “does not end,” stressed Bergren. While the change “may create different administrative challenges, the RFS provides biofuels with access to an otherwise closed market controlled by the oil industry, and that market access remains key for renewable fuels to compete based on their lower cost, lower carbon emissions and higher octane value,” she continued.

Considerations that could play a role in shaping the post-2022 RFS include how liquid fuels factor into a shifting transportation landscape and the growing number of electric vehicles, noted Nepveux.

Overall, it appears ethanol stakeholders remain strongly focused on EPA’s promise to address biofuel volumes waived by SREs. If 2019 is any indication, there could be considerable back and forth between biofuel proponents, the petroleum industry, and the White House as the plan is implemented. If waived volumes continue to diverge from DOE recommendations, expect a strong response from biofuel backers.

As the 2020 elections approach, a desire by Trump in an election year to keep the ag sector and rural voters happy could put more pressure on EPA to follow through on its commitments. If they do not, expect biofuel stakeholders to again press the issue directly with the president.



US AGRICULTURE POLICY »

Hazy outlook for hemp in 2020

Uncertainty looks likely to continue over regulatory regime and market for hemp-derived products

by J.R. Pegg

USDA's much-anticipated interim final hemp production rule has done little to quell uncertainty about the regulatory regime surrounding the newly legalized crop, a signal that market confusion will likely continue throughout 2020.

Add in the lingering uncertainty surrounding the legality of selling hemp-derived cannabidiol (CBD) in foods and supplements and the coming year could be a frustrating one for the hemp industry.

"The Farm Bill and the interim final rule were supposed to clarify things, but there might be more confusion now," said Jonathan Havens, a partner with Saul Ewing Arnstein & Lehr. "If not confusion, then there is definitely the concern that this desire to make things smoother and more uniform may have made things worse."

The confusion and uncertainty stemming

from the USDA rule is not a huge surprise, according to Brian Ronholm, senior director of regulatory policy at Wilson, Sonsini Goodrick & Rosati.

Creating a framework for a crop that still has the potential to be an illegal substance is not easy and USDA faced an unenviable timeframe to get its rule completed, he said.

"There was an unfair expectation as to what kind of clarity the interim final rule was going to provide and we are seeing that play out," Ronholm said. "There is going to be more uncertainty in the new year as we see what states are going to do."

Federal floor for hemp production

Released on Oct. 31, the USDA rule, which will expire on Oct. 31, 2021, effectively sets a floor for regulation of hemp production in the US, laying out guidelines for state and tribal hemp plans and rules for individual growers in states and tribal lands that don't enact their own regulatory frameworks. The 161-page rule details licensing standards, requiring growers to provide USDA or their state with basic information about where they are growing hemp and setting out protocols for sampling and testing of hemp plants. USDA says it expects most states will take on oversight of the crop, which is already being grown in at least 23 states

According to the National Association of State Departments of Agriculture, 85% of states say they will need to change their laws to comply with the federal regulatory regime

under the limited research authority contained in the 2014 Farm Bill.

Licensed acreage jumped dramatically in 2019, increasing from some 78,000 acres to 511,000 acres, amid a fervor of the economic potential for hemp and hemp-derived CBD. But the regulatory landscape has shifted with USDA's interim final hemp production rule, which is markedly different – and less flexible – than what was permitted under the 2014 Farm Bill's hemp research provision that governs existing state programs.

Hemp industry stakeholders and several states have pushed back by asking USDA to make changes to the rule and raising concerns about the sampling and testing standards as well as the licensing requirements.

The rule lays out a framework that requires samples of hemp flower to be collected by a USDA- or state-approved agent within 15 days of anticipated harvest. Samples must come from the top 8-10 inches of the plant and have to be tested at a laboratory registered with the Drug Enforcement Agency (DEA). USDA's is requiring tests for total THC to determine that the crop contains no more than 0.3% of delta-9 THC – the psychoactive ingredient in cannabis – on a dry weight basis. Hemp that exceeds 0.3% must be destroyed as a controlled substance and cannot be repurposed. Farmers with hemp that tests in excess of 0.5% THC may face criminal charges for growing an illegal crop.

Stakeholders are upset with virtually every detail in the sampling and testing protocols, voicing concern that the regime is “potentially too restrictive,” said Jessica Wasserman, a partner in the Cannabis Law Group at Greenspoon Marder LLP.

“The jury is out on whether the 15 days and total THC is workable,” she said, adding that growers are worried about “DEA hovering around to take action” if their crops exceed the THC limit.

“We could see lots and lots of hot material being destroyed and confusion in the marketplace,” Wasserman said.

The worry about “hot” crops is one USDA has acknowledged and the department has estimated some 20% of the 2020 crop will test above the legal threshold. But some

industry stakeholders suggest that figure could be much higher and say more flexibility is needed because the THC content in hemp plants can fluctuate based on soil type, climate, weather, pest infestations or other plant stress factors.

USDA's rule has sent “a shockwave through the industry,” said Jeff Sharkey, executive director of the Florida Hemp Industries Association. “The way they are going to test THC – 30-60% of the crop grown this year would not have passed that test.”

States have three options – they can continue their existing 2014 programs through Oct. 31, 2020, submit new plans to change their programs to fit the new rule or allow USDA to take the lead on licensing hemp producers.

According to the National Association of State Departments of Agriculture, 85% of states say they will need to change their laws to comply with the federal regulatory regime.

USDA has urged stakeholders to comment on its rule – and agreed to requests to extend the public comment period by 30 days – but officials say there is little chance the regulations will be reworked before 2021.

“This is the rule that is going to be in place for 2020 and 2021,” Mai Dinh, a top official in USDA's Office of General Counsel (OGC), said in November at the Food and Drug Law Institute's (FDLI) cannabis conference.

Watching FDA

Uncertainty surrounding hemp is not just focused on USDA – legal confusion around CBD use remains a major concern for the hemp industry. Producing the crop to extract the non-psychoactive ingredient is far and away the most lucrative opportunity for growers. An acre of hemp grown for fiber and other industrial products is valued at less than \$1,000 an acre, whereas hemp grown for CBD is estimated to be worth \$30,000-\$60,000 an acre.

But FDA's reluctance to develop a pathway for use of CBD in foods and dietary supplements is causing a major headache for the hemp industry. NASDA says it is “imperative FDA establishes CBD regulations early to ensure the crop has a stable market come harvest time.”

Relief on the CBD front could come from Congress given the strong interest of lawmakers in helping to kickstart the hemp industry, Havens said, adding that stakeholders need to continue to push for FDA to act.

“For us only to focus on the cultivation side is short-sighted,” Havens said. “If there is a very restrictive CBD market, where is that hemp going to go?”

Congress is giving FDA a nudge via language in FDA’s FY 2020 spending bill, providing the agency with \$2 million to study CBD and begin work on an enforcement discretion policy for CBD foods and supplements.

But that provision falls short for many stakeholders.

Wasserman called the language “weak” and said the directives from Congress are “all items FDA is doing anyway.”

The CBD language does highlight the pressure Congress is under to force FDA’s hand, Ronholm added.

“The FDA is going to be under scrutiny on this issue regardless of the inclusion of this language in the spending bill,” he said.

Tricky Transport

Another issue for the industry is the potential roadblocks to interstate transport of hemp. Several shipments were seized

in 2019 by local and state authorities due to legal confusion and the lack of quick and reliable methods for testing the crop. Hemp and marijuana are virtually indistinguishable in appearance and smell and available roadside test kits report the presence of THC, not the concentration. The interim final rule reiterated the legality of interstate transport of hemp, but growers and processors remain concerned about the potential for state and local law enforcement to derail shipments.

USDA is working with the Department of Justice to develop a database that includes the licensing information provided by hemp growers with the hope that it can be an easy tool for law enforcement officials to access and verify the legality of hemp shipments, but that system will take several years to develop.

This means the transport issue is going to “continue to be a challenge,” said Patrick Moen, a former DEA agent who serves as managing director and general counsel for Privateer Holdings, a cannabis investment firm

“We are going to continue to see state and local law enforcement interfere in this process, largely out of ignorance,” Moen said. “The reality is sending along a certificate of analysis with the freight shipment — given the lack of uniform standards, what those certificates look like and how the lab is accredited — your

average patrol officer... is not going to know what to do.”

Still fired up

Questions about the hemp production and CBD regulations have not yet dampened excitement for the crop, leaving some stakeholders wary that supply will outstrip demand and undermine the potential economic benefits to farmers.

Farmers should be cautious before jumping into hemp production, according to Scott Burgett, chief operating officer of Green Earth Cannaceuticals, a Florida-based hemp company.

“Most farmers if you are growing soybeans, you can take it to a co-op, you know what your grain price is, you know where you can sell it,” Burgett said. “Hemp is just not like that. You have to figure out how to process your crop and I think a lot of farmers haven’t thought about that yet.”

“I’ve seen growers in other states lose their farms,” Burgett told Florida lawmakers at a hearing in December. “I’ve got farmers wanting to do a thousand acres next year. I tell them that would be foolish.”

“It would be like if you are growing soybeans and all of a sudden decide to get in blueberry growing and you don’t know anything about blueberries. You don’t convert your whole crop over. You run a test crop and you figure out how to do it.”





US AGRICULTURE POLICY »

The elections and what lies ahead

Several issues at play with 2020 elections as a backdrop

by Roger Bernard

Presidential candidates have focused intently on the key agricultural state of Iowa in the lead-up to the state's first-in-the-nation caucus on Feb. 3, and farmers in Iowa and around the country will be listening for their views on trade and other policies as candidates crisscross the tall corn state.

And while the presidential debates continue, the changing faces in key congressional committees, trade oversight and scores of new regulations are on the agenda for 2020.

The candidates who are vying for the Democratic nominee against President Donald Trump have all talked about ag policy, but that topic is rarely a decision point for farmers on whether they will vote for a certain candidate or not. Rather, the farmer's focus will be on issues like trade and other policy areas like biofuels.

"Farm politics is more cultural than it is tied to specific litmus tests or policy," said David Wasserman, House editor and political analyst for the Cook Political Report.

Climate change is another policy that many Democratic candidates have focused on, but Wasserman said the polls they monitor do not show that as a top concern. "It ranks well below the economy, health and trade," he noted.

As the year unfolds, the focus on those voters who are undecided will rise. "The

polling right now suggests that there is 8% to 10% of voters that are genuinely persuadable," Wasserman said.

With scores of long-time Republican lawmakers in the House not seeking another term in office, that has the potential to be a factor in the November balloting. Wasserman currently sees Republicans gaining five to 10 seats in the House, short of the 18 they need to get to a majority. "The politics of impeachment have shifted slightly since the Ukraine situation and the Syrian withdrawal," he

noted, but not enough to have a significant impact as voters go to the polls.

In the Senate, Wasserman said he expects Republicans could lose a seat or two but maintain their majority. “I don’t expect Iowa as a battleground state for the Senate,” he noted, but Michigan, Pennsylvania, Wisconsin, Arizona and North Carolina will have competitive Senate races. That, in turn, also makes those key states for the presidential race.

The 2020 elections will also mark a crop of new faces leading the US ag policy process in Congress. Gone will be current Senate Ag Committee Chairman Pat Roberts (R-Kan.) who [announced he will not seek another term in office](#). That puts Sen. John Boozman (R-Ark.) in line to take over the panel.

That move could elevate issues important to southern farmers. Shifts in the leadership positions on the ag panels can change the focus for farm policy. The 2014 Farm Bill saw the influence of then-Ranking Member Thad Cochran (R-Miss.) relative to the Price Loss Coverage (PLC) program in the bill. So, while Boozman’s move to the top Republican post will elevate southern agriculture, it does not mean it will dominate the panel, said Randy Russell, president of the Russell Group.

Boozman will most likely be paired with Ranking Member Debbie Stabenow (D-Mich.) who has honed her focus on areas [like the Market Facilitation Program \(MFP\) payments to farmers](#). The minority staff of the Senate Ag Committee [released a paper in the fall that was critical of the MFP payments](#) and how they were distributed around the country.

MFP will continue in the limelight, particularly if a 2020 version of the program is in the cards. That will keep Stabenow’s focus on the program, seeking to push USDA to make the payments more “equitable” across the various regions and sectors of US agriculture.

“If I was a betting man, I would not bet against there being another MFP program for 2020 since it is a year divisible by four,” Russell said.

Historically, presidential election years have seen sitting administrations take actions leading up to the elections that

are viewed as being “farmer friendly” and are seen by some as a less-than-transparent bid by those administrations to keep their positions.

Unlike 2016, there are not the heady ag policy issues on tap in 2020. [The 2018 Farm Bill](#) was in the development stage as the 2016 elections neared, but candidates then did not offer much that would impact the farm policy debate ahead in Congress.

On the House side, current Ranking Member Mike Conaway (R-Texas) is also not seeking re-election, meaning Republicans will have a new leader on the panel. “Republicans have a deep bench on our committee in terms of who could be the next leader,” [Conaway told IEG Policy this fall](#). He listed Reps. Glenn “GT” Thompson (R-Pa.), Austin Scott (R-Ga.) and Rick Crawford (R-Ark.) as “ones that are seasoned and ready to go.”

Conaway believes that trio are “good guys” and that means the Republican steering committee has “got a super-difficult decision to make between those three. It’s going to be tough.”

The Republican Steering Committee is chaired by the party leader in the House, currently House Minority Leader Kevin McCarthy (R-Calif.) and other Republican House leaders are key members along with the leaders of the National Republican Congressional Committee and regional members and others.

Implementation of [the US-Mexico-Canada Agreement \(USMCA\)](#) and [the US-Japan trade deal](#) are two areas where ag lawmakers will focus on in 2020. Plus, they will have the Phase One agreement between the US and China to monitor and make sure that China makes the purchases of US ag products that they have committed to as part of that deal.

The farm income situation will continue in focus, with farmers having burned through capital over the past several years in trying to keep their farming operations moving forward during a time of more-than-ample supplies, trade disruptions and lower prices.

US farm income has continued to be impacted, [with debt-to-asset and debt-to-equity ratios rising](#) as farm debt in

The farm income situation will continue in focus, with farmers having burned through capital over the past several years in trying to keep their farming operations moving forward during a time of more-than-ample supplies, trade disruptions and lower prices

particular has risen to lofty levels. Still, even at elevated levels, the farm economic indicators are still at levels substantially below those of the mid-1980s when scores of farmers went bankrupt as interest rates soared and land values declined.

But rate reductions by the US Federal Reserve have removed interest rates as a rising cost for farmers.

And the MFP effort has been a positive with farmers, Russell noted.

Even with economic struggles in agriculture, Conaway believes that the safety net programs in the 2018 Farm Bill were “designed to address one set of circumstances. And this trade disruption was not part of that narrative.”

With the current farm bill in place through 2023, there are still some issues ahead for agriculture policy. Reauthorizing the Grain Standards Act and Mandatory Price Reporting on Livestock is on the agenda, Russell noted, with authorities expiring Sept. 30. “There is also talk about reauthorizing the Child Nutrition Act,” he

said, which has not been done since 2010.

“There will be a lot on the regulatory and administrative front,” Russell predicted, especially on the trade policy front.

Implementation of the US-Mexico-Canada Agreement (USMCA) and the US-Japan trade deal will be a prime focus in 2020, Russell observed, along with [a Phase One agreement with China](#). “There will be a lot to focus on for agriculture with those deals,” he said.

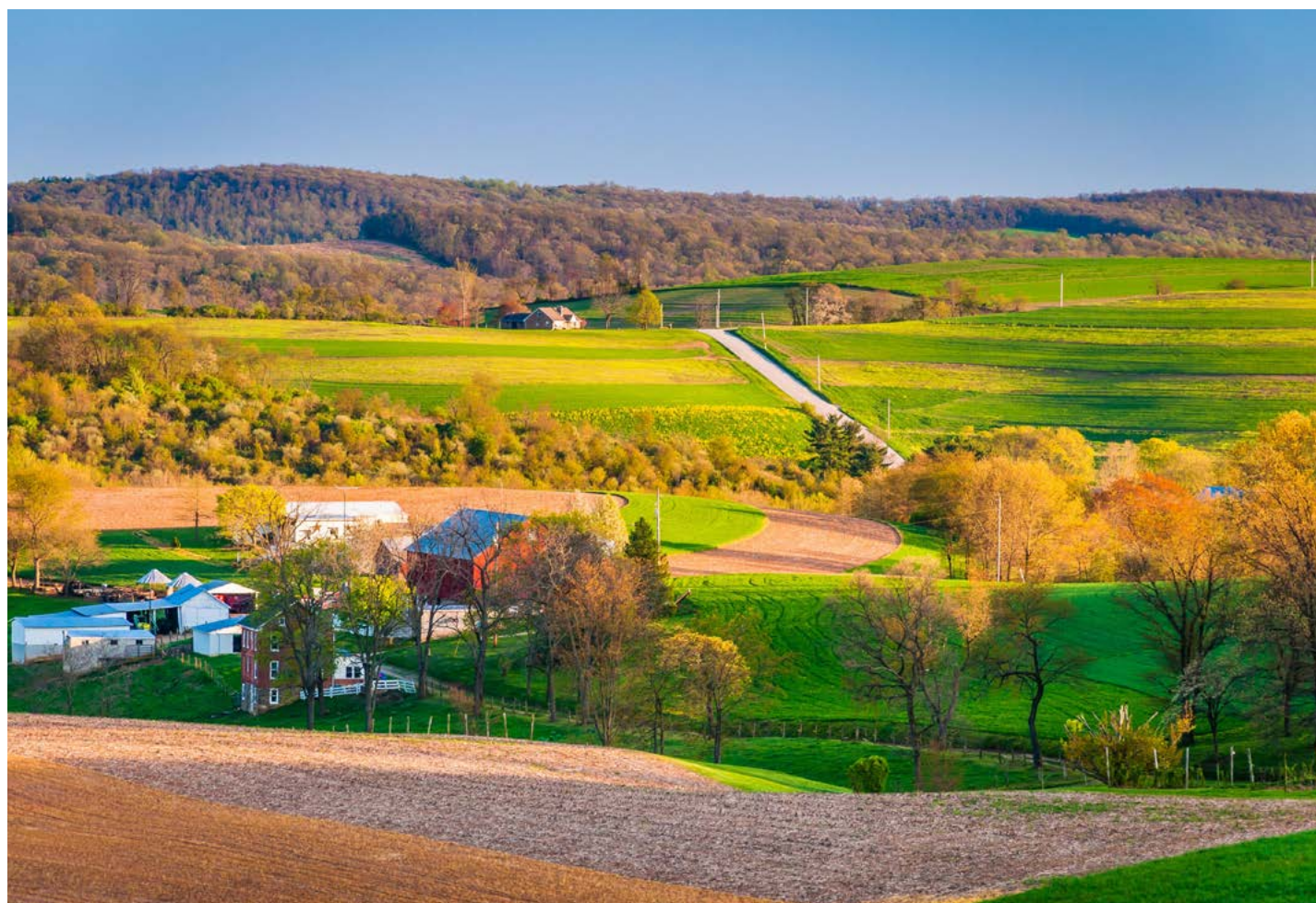
Scores of regulations are likely to be finalized in the coming months as USDA and other agencies seek to get them in place, likely by June, Russell said. One he expects could fall into that timeframe are those on biotech issues and how gene editing will be dealt with since the biotech rules have not been touched for years.

The [issue of biofuels is one that will also be present in 2020](#) as EPA has small refinery exemptions to consider for the 2019 compliance year, which many believe could have some political overtones for the November elections.

“I think you will see the administration come with an aggressive infrastructure to get E15 fuel into more gas stations across the country,” Russel predicted. “I look for that in early 2020 and to be implemented soon after that.”

But he does not expect the biofuel issue itself will be the deciding factor for rural areas of the country in November. “I think they will look at this in totality,” he explained. “They will look at what happens with the US-China deal and whether China is buying what they say they will. If they are, then I think there will be a price response and a positive response with farmers. They are happy to see USMCA. They are happy to see the US-Japan deal.”

So, the 2020 elections remain as a backdrop for a policy year ahead for US agriculture that may not have the big items to focus on, but plenty of other issues that will keep the sector focused and engaged as the year unfolds. And there will be many opportunities for issues important to the sector to potentially rise and fall in the weeks and months ahead.



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EUROPEAN AGRICULTURE POLICY »

Under pressure, but still fighting: The World Trade Organization and global farm trade

by Chris Horseman

The World Trade Organization – the body which underpins and regulates billions of dollars of agri-food trade each year – is in crisis.

The negotiating functions of the Geneva-based organisation are sclerotic to the point of virtual ineffectiveness, with only a handful of relatively minor new agreements having been agreed since its inception in 1995. It is also beset by arguments about its function, its structure and its funding.

And, with effect from December 10 2019, its key role as an arbiter of trade disputes between member countries is non-operational, with the retirement of two members of the Appellate Body, the body to which disputed panel verdicts are referred. Their retirement, and the Organization's failure to replace them, leaves the Body inquorate and hence unable to function.

Underlying these bare facts is the wider issue of a crisis of confidence in the multilateral trading system, which can probably be traced right back to the failure of the last big WTO reform initiative – the Doha Round, which aimed at updating rules to limit agricultural trade distortions, as well as initiating action in many other areas.

The Doha process ground to a halt in 2008, prompting the US, the EU and other major global players to focus their trade policies increasingly on bilateral and regional free trade agreements. This strategy has been embraced particularly by the EU, which now has 41 FTAs in place with some 72 partner countries.

Around one-third of total external EU trade is now governed by one of these FTAs, and this is one of the reasons why European agri-food exports have grown consistently in recent years, creating an agri-food trade surplus of some €22 billion.

But it also means that the 'default' WTO provisions – the legally-bound import tariff ceilings to which all members must commit – have accordingly become less critical for economic growth, and the urgency of making progress in WTO negotiations has accordingly diminished.

US hostility leaves WTO dispute settlement system hamstrung

The EU continues to proclaim its belief in the importance of a multilateral rules-based trading system – but this commitment is much more lukewarm on the US side.

Washington has long had problems with

the WTO and the way it operates, but since the election of President Donald Trump in late 2016, this unease has morphed into something closer to outright hostility. The Trump administration strongly prefers to negotiate with its partners on a bilateral basis, where it can leverage its obvious economic strengths, and it sees many aspects of the multilateral system as being unfairly weighted against US interests.

It has a particular issue with the WTO Appellate Body (AB) – the committee to which members can appeal if they are unhappy with the outcome of a panel report under the Organization's Dispute Settlement process. The US claims the Body has been going beyond its remit by issuing verdicts which de facto establish precedents for future trade law disputes, rather than simply making technical reviews of specific panel reports, which (according to Washington) is what the AB was initially created to do.

Its response has been a cynical one – blocking the appointment of new AB members when existing members retire, to the point where now only one of the nine AB posts is filled. The Body's rules require at least three members to hear each appeal, so until new members can be appointed, the system is non-functional.

A committee led by New Zealand's WTO Ambassador, David Walker, has been attempting to find a way out of the logjam, by putting forward proposals for reforms to the AB system which would satisfy US demands and persuade the Trump administration to lift its veto on new appointments – but, so far, to no avail.

Trump's trade wars

Not that the US has had a problem with using the dispute settlement and Appellate Body system to pursue its own agendas with its trading partners. In October 2019, the dispute settlement body gave the US permission to impose as much as US\$7.5 billion in trade sanctions on the EU for continuing illegal subsidies to its Airbus consortium. At the end of 2019, these 25% tariffs were taking their toll on EU exports to the US of butter, cheese, wine, olive oil and a wide range of other products.

The broader concern among trade officials, however, is that the WTO is increasingly powerless to prevent the escalating trade

Underlying these bare facts is the wider issue of a crisis of confidence in the multilateral trading system, which can probably be traced right back to the failure of the last big WTO reform initiative – the Doha Round



war between the world's two largest economies – the US and China.

Since 2017, the two countries have imposed tariffs on more than US\$450bn worth of each other's exports – and China has chosen to target in particular US exports of key agricultural commodities such as soya, beef and pigmeat. This has been to the short-term benefit of alternative suppliers to the Chinese market, and has cost the Trump administration almost US\$25 billion so far in [compensatory payments to American farmers](#) to offset the loss of a key export market.

The differences between the respective economic models of the two countries has been the catalyst for much of this trade tension.

The original architects of the WTO's rules could never have anticipated the rise to prominence of China's brand of state capitalism, which combines powerful economic expansion with strict controls in areas like data and information flows. The more liberal, private sector-focused economies which have traditionally formed the core of the WTO membership have yet to find adequate answers to the specific challenges posed by Beijing.

Deal on agriculture at next WTO ministerial?

A critical moment for the WTO in 2020 will come when the Organization holds its 12th Ministerial Conference in the hitherto obscure city of Nur-Sultan in Kazakhstan.

There will be hopes that the ministerial will find some resolution to the key issue of the dispute settlement process – but with Trump in campaigning mode in advance of the November 2020 presidential election, the chances of US concessions on this issue look slim.

On the agriculture side, renewed efforts will be made in 2020 to find a deal to impose new ceilings on trade-distorting domestic support payments. This is an initiative which began almost 20 years ago, as part of a tripartite agenda for agriculture within the ill-fated Doha Round. But while export subsidies have now already been banned, and multilateral rules to improve agricultural market access are currently regarded as politically unfeasible, WTO officials still harbour hopes of reaching agreement on curbing government farm subsidies.

In the few months between the Davos business forum in January and the Nur-Sultan ministerial in June, the WTO agriculture committee is hoping to negotiate a deal to cover new disciplines on domestic support.

Member countries with historic patterns of agricultural subsidisation have been able to retain these entitlements as 'Amber Box' payments, while newer members, and most developing countries, are only allowed to fall back on '*de minimis*' subsidy payments, which can account for up to 5% to the value of production (or 10% for developing countries).

But the way the *de minimis* rules are structured means that as the value of production rises over time, so does the headroom for increased subsidy payments.

Startling research recently tabled by Australia and New Zealand suggested that total entitlements to domestic support payments across all WTO countries, which amounted to some US\$740 billion in 2016, could soar to \$2 trillion by 2030 – simply because of the elastic *de minimis* entitlements. Already, China and India, both of whom self-identify as developing countries, are ranked first and third respectively in the list of top WTO subsidisers to agriculture, with the EU and US coming second and fourth respectively.

The challenge will therefore be to find a way of 'decoupling' the growth in agricultural production value from rising subsidy entitlements, possibly by imposing new ceilings on all forms of trade-distorting support.

Dodging the political minefields

Key to an agreement in this area will be measures to address the various other overhanging issues in the domestic support arena, such as India's demand for a 'permanent' agreement to exclude its public stockholding programme from WTO subsidy limits, and the demands of West African countries for specific and accelerated disciplines on cotton subsidies.

The agenda is a heavily-loaded one, littered with political minefields, and it would be a major achievement if WTO members could achieve even a relatively limited agreement on domestic subsidies at Nur-Sultan – especially given the need for unanimous agreement on all points under WTO decision-making rules.

But perhaps this broader context of fear for the future of the rules-based global trade system offers precisely the best hope for a deal on agricultural subsidies.

Most governments around the world are desperate to be able to point to an agreement which demonstrates that the WTO still has relevancy in the 21st century, and that rumours of its demise are indeed premature. The coming year will demonstrate how far governments are prepared to compromise in order to bring that about.



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EUROPEAN AGRICULTURE POLICY ›

How the glyphosate debate is shaping agrifood policy and practice

by Peter Rixon

There was no let-up in the moves against glyphosate, the world's most widely used herbicide, throughout 2019 as it continued to face intense scientific and regulatory scrutiny in the wake of the 2015 statement by the International Agency for Research on Cancer (IARC) that classified the substance as "probably carcinogenic".

The heated debate over the safety of the herbicide glyphosate has triggered conflicting scientific opinions, street protests, court rulings, bans and transparency legislation in Europe throughout 2019. In fact, it is hard to underestimate the effect this one active substance has had in the agrifood arena this year and will continue to have throughout 2020.

The European Food Safety Authority (EFSA) again confirmed during 2019 that glyphosate residues in crops do not prevent a risk to consumers, although data gaps did not give the herbicide a completely clean slate.

But an EFSA opinion, and equally, any similar statement from the US Environmental Protection Agency (EPA), was not going to slow down what appears to be the sure and steady march towards glyphosate's eventual exclusion from Europe's food production chain.

Alongside EFSA's opinion, more studies came out during the year throwing doubt on the herbicide's safety, with one linking the chemical to endocrine and developmental effects. A separate study by the University of Washington found that the herbicide could increase the risk of getting the risk of non-

Hodgkin lymphoma (NHL) by 41%.

The EU reauthorisation process for glyphosate opened again on December 15th in preparation for a renewal decision in 2022. The 2019 start to the process is set because applicants seeking to renew the product have to submit an application three years before its' renewal.

In August 2019, France was already looking to gather data on glyphosate ahead of the start of the re-authorisation process, which is being handled by a group of Member States rather than one rapporteur because of the workload involved.

The controversy surrounding the product this year has further raised questions over all agrochemicals and a European Citizens Initiative (ECI) has been launched to phase out all agrochemicals in the EU by 2035

A successful outcome for glyphosate product manufacturers appears unlikely at this stage as [Germany](#), [Austria](#) and [Luxembourg](#) all announced this year that they would be banning the herbicide within the next three years.

In the case of Germany, a full phase-out period runs up to the end of 2023 and Luxembourg looks to ban the chemical in 2021. [Austria's plan to outlaw glyphosate in 2020, however, has stalled.](#)

[France](#) has already said it would be banning glyphosate from the end of 2021 and Germany's move, along with France's ongoing stance, has [prompted widespread protests by farmers.](#)

Farmers unprepared

Largely, [farmers have appeared unprepared](#) to farm without the product, such is their dependency on the spray and the governments planning bans have not apparently communicated effectively any satisfactory alternatives to glyphosate. NGO the Soil Association has argued that so-called "[Integrated Pest Management](#)" will help farmers to transition away from glyphosate but farmers are not happy with this saying they will be having to return to the plough and to a way of farming that emits much more CO₂.

The controversy surrounding the product this year has further raised questions over all agrochemicals and a European Citizens Initiative (ECI) has been launched to [phase out all agrochemicals in the EU by 2035.](#)

The proposed petition calls on the Commission to support farmers during a pesticide phase-out period by, if the called-for legislation is approved by: prioritising small-scale, diverse and sustainable farming; supporting a rapid increase in organic crop farming practices; and enabling farmer-based training and research into farming that is free of pesticides and genetically modified crops.

Particularly in Europe, environmental NGOs are keen to remove products like glyphosate. Awareness grows about the [impact that agriculture is having on biodiversity](#) and figures are released [showing bird and insect numbers plummeting across the continent.](#)

Bayer's robust defence

Bayer, the German company that bought

out Monsanto, the developer of glyphosate-based Roundup, has [stuck to its guns in defending the product.](#)

The number of court cases against Monsanto has increased to around 18,400 as more and more people in the US claim they have developed cancer from exposure to Roundup and are seeking damages from the company for its failure to warn of the alleged risks.

Most dramatically in May 2019, a California state jury ordered Bayer-owned Monsanto to [pay some \\$2 billion](#) in damages for failing to warn a couple about the potential cancer risks from its glyphosate-based weedkillers.

The case was brought by Alva and Alberta Pilliod, a California couple who filed suit against Monsanto in 2017, alleging nearly 30 years of frequent use of the company's Roundup herbicide caused them both to develop non-Hodgkin's lymphoma. The couple, both in their 70s and both in remission, say they used the herbicide without protective gear and believe their illnesses were linked to Monsanto's products.

In the face of the lawsuits, Bayer's Liam Condon, the president of Bayer Crop Science, [explained the company's strategy](#) in October 2019.

"One part is Plan A, going through the court system. Depending on how things play out, there may be multiple appeal levels, and it is possible it may end up with the US Supreme Court. We are prepared to go through the entire court system. That could take many, many years," Condon said.

The debate over glyphosate has also triggered a challenge to the EU regulatory approvals process, with one French NGO suing to prove that the approval of the herbicide was evidence that the authorisation was flawed. However, the European Court of Justice (ECJ) found against the NGO, called Voluntary Reapers of GMOs.

In its ruling, the [ECJ said there was no evidence](#) that the EU agrochemical registration Regulation's (1107/2009) criteria were insufficient to permit an objective determination of active ingredients and to ensure that the substances responsible for the action of

products are the ones that are assessed for risks.

The ECJ also played its' role in the saga when, on March 7, it [forced the European Food Safety Authority \(EFSA\) to publish studies](#) that lay behind the authority's favourable assessment of glyphosate. This laid down the ground rules for the new transparency requirements that will be introduced after a revision of the general food law regulation.

MEPs backed the [greater transparency](#) requirements in April by throwing their support behind a Regulation that makes industry publish the studies that it submits for applications to authorise regulated products, such as additives, pesticides, genetically modified organisms or food contact materials.

While applicants can claim confidentiality for some data, for example on the manufacturing or production process, any information relevant to safety has to be publicly disclosed, making the studies and the risk assessment process open to third party scrutiny.

Bayer responded to the transparency drive in by [making publicly available all](#)

[107 Bayer-owned glyphosate safety study reports](#) that were submitted to the European Food Safety Authority (EFSA) as part of the EU authorisation process of the substance.

Whilst France and Germany have passed legislation to ban glyphosate, the UK has yet to do so. It has focused more on Brexit and its Agriculture Bill that seeks to phase out subsidies to farmers and replace them with grants for environmental measures.

However, even in the UK, glyphosate is making a quiet exit as the number of local authorities move to greatly reduce or ban the use of the product on their green areas.

Notably, the London borough of Hackney has hugely reduced use and are not replacing the use with another chemical. Croydon has stopped use in parks and green spaces, Brighton has greatly reduced spraying and Hammersmith & Fulham, Plymouth, Hampshire and Cornwall County councils are reducing and stopping use.

Exeter City Council announced in October it would be trialling alternative methods of pest control after passing the motion: "Glyphosate is deemed 'probably

carcinogenic to humans' by the World Health Organisation's International Agency for Research on Cancer (IARC). The exposure route (breathing in or by absorption through the skin) is currently unclear. Two recent high profile court cases in the United States have resulted in Monsanto which manufactures glyphosate under the trade name 'Roundup' being successfully sued by individuals for causing their cancers."

The motion continued: "Discussions about the use of this weed killer by local authorities have, until recently, been more concerned with the financial considerations of alternatives rather than the health and safety and biodiversity implications. However, this is now changing and a number of cities and local authorities in this country and abroad have taken a variety of measures to limit or exclude the use of glyphosate herbicide for the treatment of weeds".

Motions like these can be expected to pass in towns and cities throughout Europe in 2020 and whilst Bayer may continue to fight in the courts to prove the safety of the product, it may well find that no-one will be buying it regardless of the outcome.





EUROPEAN AGRICULTURE POLICY »

Post-2021 Common Agricultural Policy: Towards further delays in the reform process?

by Pieter Devuyst

In 2019, slow progress in the CAP reform negotiations forced the European Commission to propose a one-year transition period for the EU's farming policies. Continued uncertainty around Brexit and stalled EU budget negotiations could lead to further slips in the timetable in 2020.

At the end of October, the European Commission published the [draft rules](#) to extend the current Common Agricultural Policy (CAP) for the 2014-2020 period to the year 2021.

If the one-year transition gets approved by co-legislators, the EU's next farming policy will only be implemented in January 2022

instead of 2021, as was foreseen under the Commission's [original reform proposals](#).

This means we now have to speak about the post-2021 CAP reform instead of post-2020.

By proposing the transition period, the EU executive formally recognised that the

legal acts underpinning the new farming policies were not going to be adopted by January 2020.

However, it had already become clear long before that temporary arrangements would be needed to avoid disruptions in the policy support to farmers in 2021, given the continued delays in the negotiations in both

the Council and the European Parliament.

MEPs avoided complete re-start

The discussions in the European Parliament were not being helped by a change of office.

After intense and prolonged negotiations, the members of the Parliament's Agriculture Committee (AGRI) voted their first positions on the Commission's CAP reform proposals at the beginning of April.

They managed to agree on a large number of amendments to the three key Regulations for the [Strategic Plans](#), the [Single Common Market Organisation](#) and the policy's [Horizontal aspects](#).

But as the MEPs needed a long time to finalise these changes and [postponed key deadlines](#), the files could not be put before the plenary before the European elections on May 23-26 and become the Parliament's first common position on the policy reform.

This was problematic because in principle, all legislative work that only reaches the Committee stage expires at the start of a new legislature, which took place on July 2.

In September, the [newly elected AGRI members](#) eventually asked the Parliament's leadership to maintain the positions prepared by their predecessors and forward them directly to the full plenary.

One month later, the Conference of Presidents – consisting of the President of the European Parliament and the leaders of the political groups – [approved this request](#) and thereby avoided a complete re-start of the internal negotiation process.

The parliamentarians nevertheless agreed to re-open a limited number of key articles, mostly under the Strategic Plans legislation, in order to accommodate the views of new members in the Agriculture and Environment Committees, which have [shared competence](#) over the file.

Former Agriculture Commissioner Phil Hogan had strongly encouraged the MEPs to build on these previous positions, as the severe delays in the discussions had been [frustrating](#) him and his cabinet.

The full Parliament is now expected to consider the three files in early 2020, most likely in January or February, with hopes of

a plenary vote by June 2020 before entering into trilogues next summer.

Council talks blocked by budget and Brexit

At the Council, the rotating Presidency of Romania (January – June 2019) had made it its [key priority](#) to reach a joint position on the future CAP by the end of its term, but failed in this endeavour due to continuing disagreements between the member states on [key elements of the reform package](#).

The following [Finnish Presidency](#) (July-December 2019) was much more careful in its ambitions, aiming to make “as much progress as possible” in the negotiations and reach a ‘general approach’ by the end of the year “if the situation allows it”.

However, this outcome was never likely to happen, as a majority of national agriculture ministers explicitly tied their decision on the next CAP to the funding for the policy.

For tactical and strategic reasons, the member states refuse to adopt a common position on the CAP until there is clarity on the next EU budget for 2021-27.

But national leaders in the European Council did not manage to agree on the Multi-Annual Financial Framework (MFF) for 2021-27 yet, despite the Commission's insistence to strike a deal on the bloc's finances by the end of the year.

The budget talks have been strongly disrupted by the uncertainties around Brexit, which therefore also put a brake on the CAP reform negotiations.

The EU executive tried to break this deadlock by repeatedly [putting pressure](#) on the decision-makers to make urgent progress on the MFF negotiations, but without much success.

Transition approved on time?

The co-legislators were well-aware of these blocking factors and had been waiting a long time for the Commission to present its CAP transition proposals to deal with the expected delay.

As early as in February, some MEPs had [warned](#) that the CAP reform may not be completed by 2020 and a transitional programme would need to be implemented for the year 2021.

For tactical and strategic reasons, the member states refuse to adopt a common position on the CAP until there is clarity on the next EU budget for 2021-27

Afterwards, several [other parliamentarians](#) and [agriculture ministers](#) explicitly asked EU Agriculture Commissioner Phil Hogan for temporary schemes to avoid interruptions in CAP measures and funding.

For months, Hogan openly maintained that there was “[still some time to get the business done](#)” on the reform package, but his cabinet and administration were already preparing the transitional settlement behind closed doors.

The one-year transition package that was eventually presented by the Commission consists of two draft Regulations.

The first one – the so-called “flexibility proposal” – is the more technical component that includes provisions to ensure the functioning of mechanisms such as [financial discipline](#) and possible [transfers](#) between the two CAP Pillars.

The EU executive aimed to get this part adopted by the Council and Parliament by the end of 2019.

The co-legislators also voiced their willingness

to accept these technical elements quickly through a “fast-track” procedure.

As it stands now, they will only miss this deadline by a short delay.

The Council’s Special Committee on Agriculture (SCA) already approved the agreement without changes and sent it to the Parliament. If confirmed by MEPs, the “flexibility proposal” would come back to the Council for final adoption in January 2020.

Meanwhile, the EU executive foresaw more time for the second proposal, the “transitional proposal”, hoping that it will be approved by the summer of 2020. This more political component is aimed at ensuring the continuity of CAP support under both pillars in 2021 and easing the transition towards the future Strategic Plans.

However, some [Agriculture MEPs](#) already indicated that they will need more time for this dossier, which is likely to be amended.

If both parts of the transition package do not get approved before the end of 2020, there is a risk that farmers will have a gap in their CAP support in 2021.

Towards a delay of two or three years?

But even if the co-legislators manage to work out an agreement on the transition on time, they might need to approve another transition shortly afterwards.

[Most MEPs](#) and [some member states](#) already expressed concerns that the proposed one-year extension to the current CAP will be insufficient to cope with the delays in the reform negotiations.

Again, the ongoing talks on the EU budget and the Brexit process could cause further slips in the timetable for the new CAP.

The MFF discussions are now expected to [continue well into 2020](#), and it could even prove difficult to let all players agree on the precise figures by the middle of next year. As long as these talks have not been settled, the Council will not even adopt its first position on the future CAP design.

Moreover, it remains to be seen whether the deadline for Brexit, which paralyses EU decision-making on the budget, will not be extended again to a date beyond January 31.

Another transitional year would mean the next CAP could only enter into force in 2023 – a scenario already [anticipated by IEG Policy](#) in August.

French Agriculture Minister Didier Guillaume even told IEG Policy in September that the transition period could last [up to three years](#) – a vision recently shared by the agricultural think tank [Farm Europe](#).

As the end of the next EU budget period is still fixed at 2027, this begs the question if it would be useful to have a new CAP in place for just three years or four years.

This possible outcome would be strongly at odds with the more long-term approach for the EU’s farming policy envisaged by the new Agriculture Commissioner [Janusz Wojciechowski](#).



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EUROPEAN AGRICULTURE POLICY »

New European Commission banks early success on its Green Deal

by Steve Gillman

The European Commission is introducing a new growth strategy for Europe with a core focus on sustainability which looks set to shape European food and agriculture for years to come.

On November 27, the new European Commission was voted in by the European Parliament, marking an end to a dragged-out affair that began in August when its president, Ursula von der Leyen, won MEP approval for the top EU job.

During her campaign trail she announced her plan for a European Green Deal, hoping to ride the environmental wave that swept across the Parliament elections in the summer. She said this is Europe's "new-growth strategy" and includes a range of aspirations that will impact food and agricultural policy into 2020 and beyond.

Its spearheading plan is to make the EU the first climate-neutral bloc by 2050. Von der Leyen is already planning to sign this commitment into law as early as March 2020. By October, the new Commission want to publish plans to increase greenhouse gas reduction targets for 2030 to at least 50%.

This will certainly have implications for the EU's agriculture sector, which accounts for around 9% of the bloc's current emissions. But a lot of discussions in Brussels have centred more around agriculture being a solution to climate change by

[capturing emissions](#) in soils and crops.

These discussions look to manifest in the next CAP when the Commission, Council and Parliament try to agree on what green farming practices should be supported in the final Strategic Plans.

Strategic Plans are part of the proposed CAP reform and will require member states to detail how they will meet different sustainable farming standards set at an EU-level.

On December 11, Von der Leyen published

“The Commission’s refusal to strengthen its CAP reform proposal is a missed opportunity to align the CAP with the EU Green Deal”

Celia Nyssens, agricultural policy officer, European Environmental Bureau (NGO)

key details about the European Green Deal, revealing it will leave the core CAP reforms untouched, instead relying on member states to submit strong [CAP Strategic Plans](#) that “fully reflect the ambitions” of her EU vision.

[Eco-schemes](#), a voluntary scheme for additional green payments, were singled out in the document as a key tool to incentivise farmers to store carbon in the soil and enhance nutrient management to reduce emissions. Member states are obliged to implement eco-schemes as part of their Strategic Plans.

The Commission have also been supporting trials to accurately count farming’s potential in capturing carbon in agricultural soils and rewarding food producers for that too. This is known as [carbon farming](#), and certainly a key word to watch out for in 2020.

Beyond Emissions

The European Green Deal’s ambition goes beyond agriculture as a source of emission reduction, it will also push for sustainable practices to be included in Strategic Plans that reduce resource depletion and boost ecosystem health, amongst others.

The working document highlighted “precision agriculture, organic farming, agro-ecology, agro-forestry and stricter animal welfare standards”.

The new EU Agriculture Commissioner, [Janusz Wojciechowski](#), said that [organic farming](#) is a natural partner for the European Green Deal’s sustainability ambitions and will put forward an action plan to grow the sector across the bloc.

Wojciechowski will use EU promotional funds to drive demand for organic produce in member states, where he said consumption is generally low, varying from less than 0.5% to 10%. The action plan will likely support research and development of new organic techniques to protect food from pests and diseases.

The Green Deal also plans to “eliminate all sources of pollution” and calls for an increased level of ambition to reduce the use and risk of chemical pesticides, fertilisers and antibiotics.

This will also be a key focus of the farm-to-fork strategy, a part of the Green Deal

that aims to shape more sustainable agrifood chains.

[Stella Kyriakides](#), the new Commissioner for Health and Food Safety, said pesticide, fertiliser and antimicrobial reduction is also a key focus of this strategy. The Cypriot politician added that it may include targets for tackling food waste as well as further actions to protect farmers’ position in supply chains and promote sustainable food consumption.

The CAP will be used to help the EU meet the ambitions of the farm-to-fork strategy, she said, but the exact form this takes will depend on discussions in the following months between stakeholders.

An initial draft proposal of farm-to-fork strategy will be published in Spring 2020. IEG Policy understands that any policies within it will not be finalised until the CAP reforms are agreed upon by member states.

How green is the deal for agriculture?

Von der Leyen banks a lot of the European Green Deal’s agriculture success on member states’ embracing the sustainability elements within the next CAP.

But national governments are currently trying to [water down](#) the thresholds of some standards in the Strategic Plans, like Good Agricultural and Environmental Conditions (GAEC).

The Commission’s overall proposal for the next CAP has also been criticised by [researchers](#) and the [European Court of Auditors](#) for setting the bar too low to effectively address the environmental and climate challenges the EU faces.

If member states are successful in lowering the bar even further it could see the Commission pass the next CAP’s climate and environmental ambition to those who are currently trying to weaken it.

“The Commission’s refusal to strengthen its CAP reform proposal is a missed opportunity to align the CAP with the EU Green Deal,” said Celia Nyssens, agricultural policy officer at the European Environmental Bureau, an NGO.

Wojciechowski said the Commission focused on member states’ Strategic Plans for greater environmental ambition because of

the slow progress in the negotiations on the next CAP. He wants to avoid changing the CAP reforms because it risks further delays to the decision-making process.

The EU executive already foresees that the next EU farming policy will only enter into force in January 2022, instead of in January 2021, with the think tank [Farm Europe](#) predicting it could be delayed until 2023 or 2024.

When the next CAP is finalised the Commission's Green Deal aspirations will rest in its power to approve member states' Strategic Plans.

If this is how the situation will unfold then the political battleground in the coming years will shift more from the CAP reforms itself to what member states' propose in their Strategic Plans.

The New Commissioners

Wojciechowski outlined agriculture's role in the Green Deal during his first public appearance as the new EU Commissioner for agriculture. He also took the opportunity to talk about what else he plans to focus on during his mandate.

The Polish politician wants greater protection for families working in agriculture after growing up on a farm and seeing the economic difficulties rural communities face. He said that the EU has lost almost four million farms since the beginning of the decade and wants to curb the trend of consolidation by supporting young farmers get more access to land.

This is also a driver behind his plans to defend the Commission's budget proposal for 2021-27, and back member states wanting an increase, which would see CAP funding remain at €365 billion, at least.

Wojciechowski said sustainability demands placed on the agriculture sector are another reason the EU needs stronger financial support for farmers, adding that if the EU wants the European Green Deal to succeed then food producers need to be incentivised to contribute.

Both Wojciechowski and Kyriakides will be responsible in helping deliver the food and agriculture goals behind the European Green Deal, but the Cypriot seems to have most of the responsibility of the farm-to-fork strategy.

Kyriakides is also planning to increase actions against food fraud, endocrine disruptors and improve animal welfare conditions.

The two of them will also have to explain how they will help the EU become climate-neutral in 30 years to Frans Timmermans, vice-president of the European Commission in charge of the European Green Deal.

Timmermans has a reputation for being a tough political mover and shaker, which suggests the Polish and Cypriot commissioners may have to fall into line with his level of thinking. When Timmermans was announced as the boss of the European Green Deal NGOs welcomed his appointment because of his bold vision for the future of the EU.

Wojciechowski and Kyriakides were hopefully listening to Timmermans when he presented the European Green Deal to MEPs. Here, he said "if we want to fulfil our commitments under the Paris Agreement, and limit the rise in temperature to 1.5C, we will have to increase our efforts."





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EUROPEAN AGRICULTURE POLICY »

EU-Mercosur deal to fuel further debate about sustainable trade

by Steve Gillman

The trade deal between the EU and Brazil, Paraguay, Argentina and Uruguay, otherwise known as Mercosur, has been shrouded in controversy from the moment it was announced. Events over the next year risk fuelling further debate as well as feed into new discussions on the nature of sustainable trade.

It took twenty years of negotiations until a free trade agreement was reached between the EU and Mercosur countries.

It has the potential to create the world's largest free trade area – covering a population of 780 million. But the Commission may have been blindsided by Mercosur's economic allure since the trade agreement has been immersed in negative press ever since it was announced in June 2019 – from member states, European farmers and NGOs alike.

Already, the Austrian and [Irish Parliament](#) rejected the free trade agreement in symbolic national votes and they could soon be joined by France, Slovakia and Luxembourg who threatened to block the deal once it reaches their governments for approval.

While some concerns are based on fears of incentivising further destruction of the Amazon, objections from France and Ireland firmly rest in the economic threat the trade agreement poses to their

agriculture sectors, in particular, to the beef industry.

The terms of the agreement mean the EU will allow an additional [99,000 tonnes](#) of Mercosur beef into the bloc. European beef farming groups compared the deal to the final nail in their sector's coffin considering Brexit, [lower EU demand](#) and weaker prices.

[Pekka Pesonen](#), secretary-general of Copa-Cogeca, the EU's biggest farm lobby, said in

front of MEPs that the entire agriculture sector is going to pay for this agreement, particularly food producers in other sensitive sectors such as poultry, sugar, cereal, rice, honey and citrus fruits.

All the while, environmental groups have remained adamant that the EU is incentivising agriculture expansion in Mercosur, which they claim will drive further deforestation in South America and, in the process, intensify the climate and biodiversity crisis.

According to the World Wildlife Fund, cattle ranching accounts for about 80% of deforestation in the Amazon.

The agreement was also a motivating factor for wider farmer protests in France, Ireland, the Netherlands and Germany. As more EU-Mercosur debates unfold over the next year, it is a safe bet to predict it causes further unrest into 2020.

Commission to play the long game

It is looking very unlikely that the EU-Mercosur trade deal will be ratified any time soon. Lawyers from both the Commission and Mercosur bloc still have to scrutinise the text before it is completely finalised.

After that it will be translated into all EU languages which may take several months, perhaps even dragged out until 2021 considering the amount of industries it covers on both sides of the Atlantic.

Only then will the Commission submit the agreement for approval by the Council and Parliament, where national level debates will begin to take centre stage.

This, however, gives the Commission time to develop a strategy to build enough EU-level support to ensure the Mercosur trade deal survives. If the Commission fails it means a lot of man hours and brain power down the drain, which would certainly leave the EU executive, and its new Trade Commissioner, Phil Hogan, red-faced.

The Commission will also be feeling extra pressure not to let another international trade deal slip through their fingers following their failure in getting the EU-US Transatlantic Trade and Investment Partnership (TTIP) over the line.

More debates should appear throughout 2020 in the European Parliament and Council which the Commission will be already planning to use as a platform to start building more support.

Carrot versus the stick

The rhetoric in these debates will unlikely change from what we have seen so far, which can be boiled down into two schools of thought; the carrot or the stick.

The Commission has had to focus more on defending the trade agreement by saying it will incentivise the South American bloc to pursue sustainable development and address the different environmental and social issues in the different countries, such as deforestation and human right violations in Brazil.

And by next spring the Commission may go on the offensive after they release a sustainability impact assessment of all its trade deals, including the EU-Mercosur agreement. This will surely be used to reinforce and add new ammunition to their current arguments.

“Trade does not happen without rules,” said Sandra Gallina, a senior trade official at the Commission who was responsible for negotiating the EU-Mercosur agreement. “If you want to enter our market you must abide by our rules.”

Speaking at an event in Brussels, Gallina was referencing that any product coming into the EU must meet specific criteria and standards as well as a code-of-conduct, adding that this is one of the greatest powers the EU has to drive sustainable development around the world.

At another event in the [European Parliament](#), Gallina argued that the sustainable development chapter of the EU-Mercosur trade agreement is one of the most stringent chapters of its kind.

While the fires in Amazon dominated headlines, the Commission defended the Mercosur deal by saying the chapter binds Brazil into implementing the Paris Agreement on climate change, which includes a pledge to stop illegal deforestation in the Amazon by 2030 and legal commitments to protect forests.

In general, those opposed to the EU-Mercosur deal in Brussels, such as the

According to the World Wildlife Fund, cattle ranching accounts for about 80% of deforestation in the Amazon

European Greens, believe the sustainable development chapter of the agreement is “toothless” and does not include enforceable measures that will improve the [social](#) and environmental situation in any Mercosur country.

Luciana Ghitto, a trade researcher from the University of Buenos Aires, who the Green’s funded to analyse the agreement’s texts, said the deal will deepen Mercosur countries’ dependency on exporting agrifood products and “extractivist practices” which would “lead to higher deforestation rates”.

This has seen the emergence of the loudest ‘stick’ argument, which is to [ban all imports](#) from Mercosur that can be linked to deforestation in the Amazon.

As more debates take place throughout 2020 these carrot and stick arguments will become louder. They will also begin to bleed into greater debates on the future of trading with the EU.

Sustainable trade takes next step

At the official launch of the European Green

Deal’s key proposals, Commission President Ursula von der Leyen said that the EU will ensure that all future trade deals include a sustainable trade chapter.

“We will help our economy to be a global leader by moving first and moving fast,” she said at the official launch of the strategy, adding that the chapter is part of her plan to set the standards for sustainable growth across the world’s value chains.

The EU-Mercosur and the EU-Canada Comprehensive Economic and Trade Agreement (CETA) deals already had a sustainable development chapter, but this could see more ambitious policies finding their way into new, and maybe existing, agreements.

Von der Leyen has already promised to introduce a border tax for unsustainable imports into the EU while Hogan has hinted at an increase in trade defence strategies that will build “sustainability and climate criteria” into them.

This, they said, will incentivise non-EU

countries to comply with the bloc’s sustainability standards.

But according to the Institute for European Environmental Policy, such measures have historically been used “to protect declining industries, rather than to drive sustainability”. They recommend weighing the pros and cons of such trade measures carefully to ensure a positive impact is achieved and prolonging unsustainable industries is avoided.

No matter how ambitious the Commission’s sustainable trade vision may end up being, carrot arguments will only go so far.

Gallina admitted the bloc needs to improve how it enforces EU standards, which should be a serious cause of concern for the Commission since they will never be able to neutralise the opposition’s stick arguments without effective border checks.

It also leaves Von der Leyen’s new trade vision facing an uphill struggle to rebrand itself as anything more than a carrot out of reach.



Image: Alexandros Michailidis / Shutterstock.com

Food Commodities

Agribusiness



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- **Foods** - beverages, canned & frozen foods, fresh fruit & vegetables, dried fruits & nuts and spices & exotics
- **Biofuels** - ethanol and feedstocks
- **Plus** policy, weather and transportation

YOUR WORKFLOW, OUR CAPABILITIES

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Calculating risk, understanding long-term market movements and responding to volatile price changes are key to your success. Stay ahead of the market with the widest range of global price forecasts and supply & demand data available.

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- **News and headlines** across the commodities and food sector, from pricing changes and weather impacts to trade disputes and regulation, and more
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- **Market forecasts** providing an outlook on future supply-demand balances
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