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SIMPLIFICATION AND BETTER REGULATION IN EU'S AGRICULTURAL POLICY

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ABSTRACT

There is existing evidence on the importance of good governance for economic development. Good governance is not subject to universal agreement as it involves value judgment. Six indicators based on the World Bank's data set are, however, widely used. Among these indicators - voice and accountability, government effectiveness, regulatory quality, control of corruption, rule of law, and political stability - this paper focuses on Regulatory quality that is the ability of the government (EU) to formulate and implement sound policies – such as sound agricultural policy - and regulations that permit and promote private sector development and internalization of externalities.

From the regulation point of view a general governance challenge for agricultural and rural development policy is the fact that agriculture is subject to a variety of market failures (environmental externalities, income disparities, structural peculiarities, research and development) and thus e.g. to the question: who is responsible for providing and paying public goods (A key aspect in the multifunctional European agricultural model). While trying to solve the high number of problems having emerged over time, the Common Agricultural Policy (CAP) became more and more complex in both the 1. – market policy - and the 2. - rural development - pillar. This complexity has reached such a high level at which simplification is required so that better regulation at local, national, regional and EU level can be guaranteed.

The aim of the paper is to focus on the assessment and systematization of different simplification approaches regarding the two pillars of the CAP and the comparison of interests and needs of different stakeholders.

A review is made on the ways in which simplification results in better regulation. The analysis of documents and the literature helps me to describe the processes and expected results of the simplification. Besides by means of qualitative analysis future prospects and tendencies are to be foreshown.

1. INTRODUCTION

1.1. Good governance – regulatory quality

There is existing evidence on the importance of good governance for economic development. Good governance is not subject to universal agreement as it involves value judgment. *Six aggregate indicators capturing political, economic, and institutional dimensions of governance* based on the World Bank's data set are, however, widely used (Kaufmann et al. 2006). Among these dimensions - *voice and accountability, government effectiveness, **regulatory quality**, control of corruption, rule of law, and political stability* - this paper focuses on Regulatory quality that is the ability of the government (EU) to formulate and implement sound policies – such as sound agricultural policy - and regulations that permit and promote private sector development and internalization of externalities.

Regulation -needed to achieve the aims of public policies - such as Common Agricultural Policy in the European Union - enable governments to protect economic and social values. In order to create regulation of high quality enhancing the credibility of government processes and the welfare of society a multidisciplinary approach is required. Regulation as a legal instrument has to be adapted to the real world complexities (globalization, technology change) in a way which ensures the best possible economic performance the prevention of imposition of unnecessary burdens – most of all additional costs - on business (farmers), citizens (as taxpayers, contributors to the EU's common budget) and public administration.

Better regulation addressing the whole life cycle of policy (inception, design, legislation, implementation and review) and involving both the regulatory and the executive authorities helps decrease costs and helps avoid situations when market distortions dominate. *Better regulation could be equipped with a wide range of tools – impact assessment, simplification, consolidation and consultation.* The effective use of these tools under appropriate administrative and organizational structures at EU and national level and the action with taking into account the principles of necessity, proportionality, subsidiarity, transparency, accountability, accessibility and simplicity deliver welfare gains and a higher level of competitiveness.

2. METHOD AND MATERIAL

The aim of the paper is to focus on the assessment and systematization of different simplification approaches – as tools of the better regulation - regarding the two pillars of the CAP and the comparison of interests and needs of different stakeholders.

A review is made on the ways in which simplification results in better regulation. The analysis of documents and the literature helps me to describe the processes and expected

results of the simplification. Besides by means of qualitative analysis future prospects and tendencies are to be foreshown.

3. RESULTS

3.1. Better regulation in the EU

In the EU the demand for the completion of the single market was the very source the starting-point of the desire to make better regulation or in other words to simplify regulation (1985). Serious initiatives were, however, taken at first through the adoption of a protocol annexed to the Treaty of Amsterdam (1995) and later on at the Lisbon European Council. *The EU set itself the goal of becoming the most competitive and dynamic knowledge-based economy in the world. In achieving it the role of better regulation was emphasized.* So the set purpose of the Lisbon European Council (2000) was to have the regulatory environment simplified based on a strict strategy. Following the Lisbon Summit a Resolution on improving the quality of regulation within the European Union was approved and according to this resolution a high-level advisory group – the Mandelkern group – was set up. By 2001 this group of experts taking part in preparing the strategy for further coordinated action identified *six main aspects of a successful better regulation programme: policy implementation options, regulatory impact assessment, consultation, **simplification**, access to regulation, and effective structures.* (Mandelkern group, 2001) Based on the work of the Mandelkern group several documents have been prepared and a significant leap forward has been taken since 2001.

In July 2001 the ‘European governance’ White Paper drew attention to improving the quality, effectiveness and simplicity of regulatory acts. It claims: After carrying out a comprehensive analysis whether regulatory decision is needed at all the right type of instrument such as regulations, “framework directives” has to be chosen. Furthermore legislation is often not enough that is formal rules have to be combined with non-binding tools such as recommendations, guidelines or self-regulation. Implementing measures may be prepared even within the framework of co-regulation. In certain cases the use of the open method of coordination (cooperation, exchange of best practice, common targets and guidelines) is suggestible. (EC, 2001)

After the White Paper the following Commission Communications were published: Better lawmaking (2002), Updating and simplifying the Community Acquis (2003), Better regulation for Growth and Jobs in the European Union (2005), Implementing the Community Lisbon programme: A strategy for the simplification of the regulatory environment (2005), A strategic review of Better Regulation in the European Union (2006). In the meanwhile an Action plan: Simplifying and improving the regulatory environment (2002) and an Inter-institutional Agreement on [Better Lawmaking](#) (2003) (Common commitments and objectives of the three main European institutions in the field of better regulation.) was produced, too.

Once again: *the key target of the strategy (set in the abovementioned documents) to create better regulation, to improve the regulatory environment is the enhancement of competitiveness, reinforcement of growth and sustainable development.* “Better regulation contributes to achieving growth and jobs, while continuing to take into account the social and environmental objectives and the benefits for citizens and national administrations in terms of improved governance. This also means that, both for existing legislation and for new policy initiatives, the extent of the legislator’s intervention should remain proportionate to the political objectives pursued.”(EC, 2005a) Furthermore the way of the legislator’s intervention has to be well-chosen so that the objectives – the increase of benefits for economic agents and the whole society can be met. Better regulation, the streamlining of the EU’s regulatory environment with initiatives (ways of intervention) such as codification, consolidation, simplification of existing legislation and the evaluation of likely economic, social and environmental impacts of new regulatory proposals creates incentives for businesses (it might have an impact on higher employment and/or productivity) cuts red tape and contributes to efficient application and enforcement. All these initiatives have to be focused, however, at the right administrative level as competences of the EU are shared with the Member States to different extent depending on the policy areas. By taking all that into account the adaptation of economic agents is facilitated rapidly and to a sufficient extent.

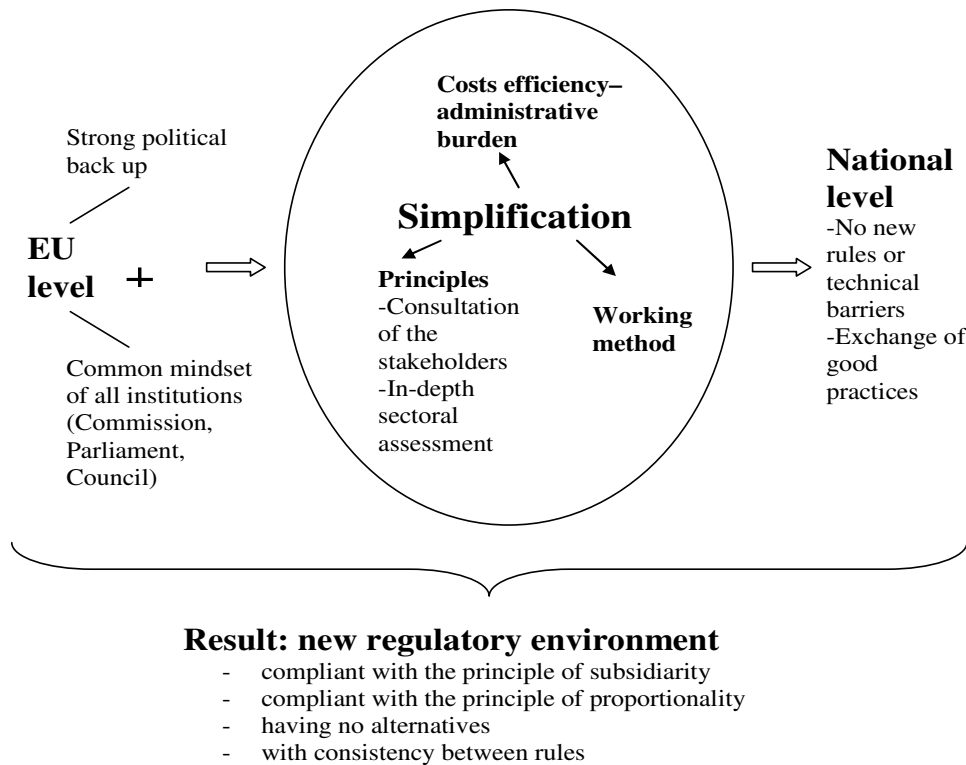
According to the Strategic review of Better Regulation in the European Union (EC, 2006): “There has been a marked increase in efforts to regulate better since the adoption of the Integrated Guidelines of Growth and Jobs in March 2005.... Most progress is being made with regard to the measurement of administrative costs and reduction of burdens.... only a relatively small number of countries systematically carry out integrated impact assessments for new legislative proposals.... While about half of Member States have developed a comprehensive simplification programme, many ad-hoc initiatives (e.g. on e-government, one-stop shops and central registration offices), are being launched.”

3.1.1. Simplification of the regulatory environment

According to the Commission Communication ‘Implementing the Community Lisbon programme: A strategy for the simplification of the regulatory environment COM (2005) 535’ a *broad consultation* with Member States and stakeholders was carried out to start the simplification process. In key areas for business competitiveness (company law, financial services, transport, consumer protection, waste) a *rolling programme was launched based on the stakeholders’ practical experiences.* Besides the need for an approach based on *continuous in-depth sectoral assessment* was expressed. During the process the overall effectiveness of the legislative framework for the sector concerned and the room for further simplification has to be defined.

At EU level the Commission plays a very important role in simplification. To make its own work more efficient the Commission intends to use different methods. But its strategy has to be supported by all institutions and Member States at the same time.

Figure 1 Factors effecting successful simplification



Methods of simplification

1. Repeal – repeal of irrelevant or obsolete legal acts followed by repeal of corresponding national implementing measures, in addition:

- Lighter Community regulatory environment can not be cancelled out by new national rules and new technical barriers (what is deregulated at EU level can not be regulated at national level).
- Systematic introduction of “review clauses” (or “sunset clauses”) to prevent obsolescence

2. Codification – results in reduction in volume of the legislation, provides more readable and legally secure texts, facilitates transparency and enforcement

3. *Recasting* - simultaneously amends and codifies a legal act
4. *Reinforcement of the use of information technology* - helps to reduce administrative burden by accelerating procedures, trimming paper flows, making the law apply more uniformly and reducing the risk of error
5. *Modification of the regulatory approach*
- *Co-regulation* - often a cost efficient and expedient method: tremendous reduction of policy intervention by public authorities before marketing of products (CE marking), technical harmonization of European standards limit the content of EU legislation there is a great reliance that only safe products come onto the market extension of this approach to as many sectors as possible (Quality standards for agricultural goods ?)
 - *From Directives to Regulations* - enable immediate application, all actors are subject to the same rules at the same time, focuses attention on concrete enforcement of EU rules

Table 1 Actions taken in the simplification rolling programme

Horizontal legislation – cross-sectoral impact – by policy area				
Action - Method of simplification	2005	2006	2007	2008
Recast	Business statistics	Company law Copyright Custom rules Public procurement State aid Taxation	Accounting Company law Eco-auditing Environment Ozone Layer	Taxation
Codification		Company law Health and safety Industrial property Insolvency	Accounting Labor law	
Repeal		Public procurement Regulated professions		
New regulation	Free movement of workers	Customs code		
Revision/Review	Health and safety	Environment (waste) Public procurement	Environment emissions from industrial plants	

Sectoral legislation – agricultural and foodstuff industry – by policy area				
Action - Method of simplification	2005	2006	2007	2008
Recast	Organic farming Plant health Quality policy Radiation protection	Common market organizations Egg marketing standards Foodstuffs State aid Wine	Feed / animal nutrition Foodstuffs	
Codification		Common market organizations Radiation protection		
New regulation		Potato starch		
Revision/Review	Quality policy Sugar	Energy crops Fruit and vegetables	Cross-compliance Fruit and vegetables – regional implementation	Dairy sector Dried fodder

Source: based on COM/2005/535 (EC, 2005b)

3.1.2. Regulatory requirements in the CAP

From the regulation point of view a general governance challenge for agricultural and rural development policy is the fact that *agriculture is subject to a variety of market failures* (environmental externalities, income disparities, structural peculiarities, research and development) and thus e.g. to the question: *who is responsible for providing and paying public goods (positive externalities) related to agricultural activities or the absence of those*. It is considered as a key aspect in the multifunctional European agricultural model. As for the European agriculture: it is not enough if the governance ensures that certain conditions for the market forces do work. For efficient functioning of agricultural markets and particularly for the provision of positive externalities (e.g. maintenance of landscape) effective non-market institutions (e.g. intervention, support from the common budget) are needed as well. The social demand for positive externalities and the abolition of the negative ones provided by farmers /during agricultural activities and the functioning of the Common Agricultural Policy itself have resulted over time in such a complex regulatory framework that imposes substantial administrative and financial burdens on agricultural economic agents.

Furthermore agriculture has an impact on the European Food Industry as well, that is the most important industry in the EU in terms of turnover (around 800 billion Euro, 13,6% of the total) and the largest industrial employer with an estimated 4,1 million people. All these

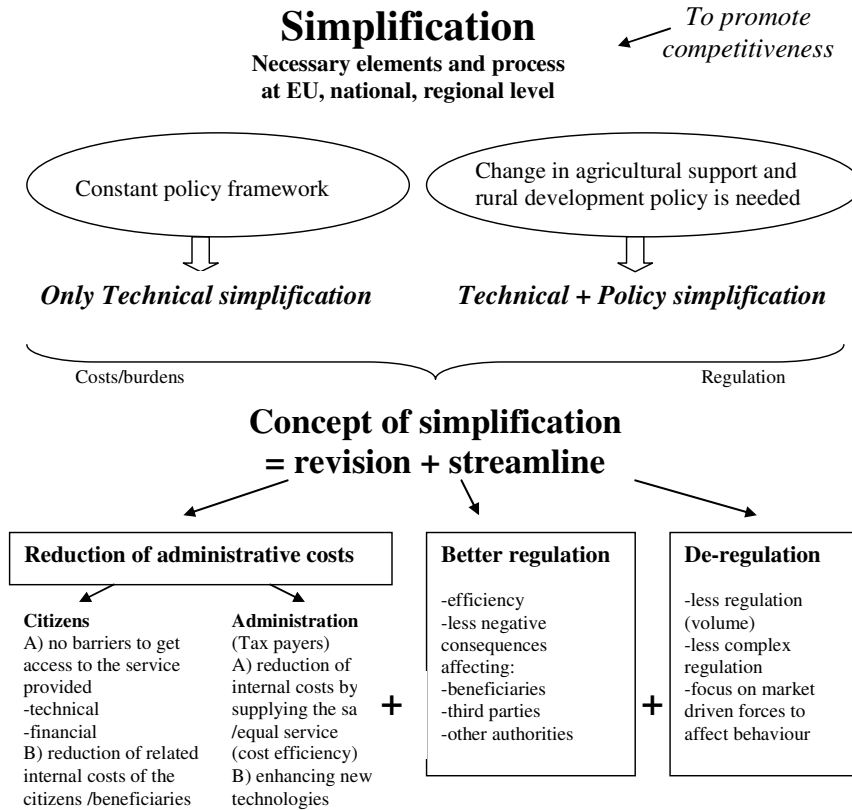
explain that agriculture - playing itself an important role in the Lisbon Strategy - has to provide an attractive environment for businesses and to do so an important step has to be taken towards better regulation and simplification.

3.1.2.1. Simplification of the CAP

The Common Agricultural Policy (CAP) plays a unique role among sectoral policies due the fact that it is principally regulated and financed at Community level. As agricultural products are substantial elements of the internal market, the rules of this single market have to apply to these products as well. As for the aids in agriculture, trade with third countries and further liberalization in world trade common approach and even common rules have to be imposed so that a level playing field without unfair competitive advantages and at the same time with protecting public interest and ensuring accountability could be created. (2005c)

The CAP as a fully integrated common policy replaces a significant amount of national legislation and has developed its own comprehensive political and legal framework. The dense set of rules and measures may increase the risk of failing to meet policy objectives, endanger the sound expenditure of Community funds and the acceptance of CAP measures. In spite of this fact the CAP has become more and more complex in both the 1. – market policy - and the 2. - rural development – pillar over time. The complexity of the policy itself has been the origin of the complex legislation that has reached a high level by now. The implementation, the enforcement of measures is time-consuming, difficult and costly. Management and control might entail handling of high number of fraud. Business environment is burdened by high administrative costs and thus farmers and other operators in the sector are less competitive. To change the situation without making controls less effective and protecting the Communities financial interest henceforward simplification (Figure 1) has been required.

Figure 2 The complexity of simplification



The Commission has launched various actions since the mid-1990s. It worked together with national authorities and so systematic analyses were carried out in 1997–2000 (suggestions from Paying Agencies), and in 2001-2003. Both horizontal actions and policy-related actions were performed.

Horizontal actions:

- Cleaning up of agricultural rules – screening of the acquis – 2003-2004: programme of updating and simplifying the Community acquis;
- State aid rules – since 1999 simplification and more transparency – e.g. incorporation of most state aid rules into the Community guidelines for state aid in the agriculture (OJ C 232, 12.8. 2000. p. 19);
- Reporting – reduction of the number and frequency of reports, improved use of IT tools.

Policy-related actions:

- 2003 CAP-reform – Single Payment Scheme – decoupling of direct support from production with mandatory cross-compliance obligations;
- Single Area Payment Scheme for new Member States – granting a flat rate per hectare;
- Rural Development for 2007-2013 – simplification of the content, scope and implementation – setting clear priorities and streamlining of programming;
- CAP financing – single legal text – 2 funds (EAGF, EAFRD)

In conformity with the Commission Communication on Simplification and Better Regulation for the Common Agricultural Policy of 19 October 2005 horizontal actions are in other words technical exercises and the policy related actions (meaning deep change in the political process) are policy simplification :

- **“technical simplification** (i.e. within a constant policy framework) implies revision of the legal framework, administrative procedures and management mechanisms to achieve streamlining and greater cost-effectiveness and attain existing policy objectives more effectively, without changing the underlying policies;
- **‘policy simplification’** reduces complexity through improvements to the agricultural support and rural development policy instruments. It may be described as ‘policy development with simplification implications’. Impact assessment has a particular role to play here.” (EC, 2005c) (As for the latter policy objectives have to be clear so that the legislation does not become complex.)

In accordance with the abovementioned Commission Communication an Action Plan for the simplification of the (CAP) was set up in 2006. The primarily technical simplification „aims at complementing the agricultural reforms by focusing on revision of the legal framework, administrative procedures and management mechanisms to achieve streamlining and greater cost effectiveness, without changing the underlying policies.” (EC, 2006b)

The concrete measures proposed by DG AGRI (proposals for legislative change) will have an immediate impact for farmers, traders and national administrations.

Table 2 CAP simplification –Action Plan

Sector concerned	Area	Type of action	Impact on
All sectors concerned by differentiated export refunds	substitution of proof of importation for differentiated refunds and exemption from proof of import	Horizontal	Traders National administration
All sectors concerned by export licenses	application for an export license		Traders
Support for outermost regions	aid to the smaller Aegean islands		Farmers
Direct payments	-parcel size for coupled payments		National administration Farmers
	-condition for using land to activate payment entitlements		
All sectors concerned by export of agricultural products receiving refunds or other amounts	simplification of Physical checks of export declarations		National administration
All sectors concerned by import tariff quotas managed by a system of import licences; tenders for export refunds; tenders for public storage; exports refunds.	simplification of standard periodic agricultural instruments		Operators National administration
All sectors and structural, environmental schemes of aids	simplification of operative events and exchange rate for amounts, prices or aids	Horizontal	Traders National administration Farmers
All sectors	ISAMM (Information System for Agricultural Market Management and Monitoring) project		Traders National administration Farmers
All sectors	the AMIS-Quota project		National administration
All sectors concerned by private storage	horizontal rules for private storage of agricultural		Operators National

Sector concerned	Area	Type of action	Impact on
	products		administration
All sectors	simplification of the framework of Promotion of Agricultural Products		Administration
All sectors concerned by export refunds	horizontal rules for establishing a tendering procedure concerning export refunds for certain agricultural products		Traders National administration
All sectors	horizontal rules for management of import tariff quotas for agricultural products managed by a system of import licenses		Traders National administration
All sectors concerned by import tariff quotas managed by a system of import licences (excepted bananas)	the AMIS Web Direct Payments (AWDIP) project		Administration
Dried fodder	conditions for support under the dried fodder CMO	Sectoral	National administration Farmers
Eggs and poultry	rules for the labeling of eggs		National administration Farmers
Beekeeping	actions in the field of beekeeping		Operators National administration
Direct payments, aid for energy crops	energy crop support conditions		National administration Farmers
Direct payments, land use of land used to activate set aside entitlements	use of set aside land in case of exceptional climatic conditions		National administration Farmers

Source. Based on EC, 2006b

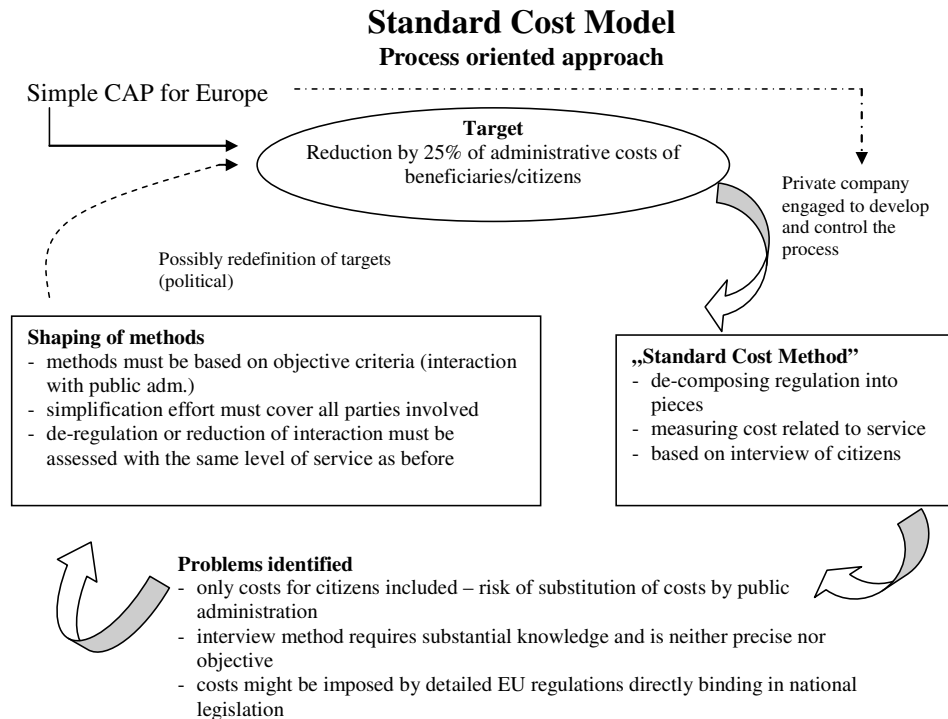
3.1.2.3. Simplification and competitiveness

The word “competitiveness” has been mentioned several times in this paper as ultimately that is the main driving force of the need for reducing administrative burden as a key target of simplification within the better regulation process.

The concept of competitiveness is often used in economic literature (there are several competitiveness theories) but there is no unified interpretation of it. When defining the reasons for existing competitive advantages at firm, industry, national and EU level (that implies more than comparative advantage) different factors have to be taken into account: the supply side of the market system, the demand, historical chance and the role of the government that is the role of European institutions and among others their intention of making better regulation environment resulting in less administrative burden and so ensuring higher cost-efficiency. Cost-efficiency is a good competitiveness indicator.

In the EU Member States and the European Institution share the responsibility of suppressing unnecessary and disproportionate administrative burdens threatening with real negative economic impact, reduced competitiveness. To take the first step towards reducing administrative costs there is a need for clear definition and identification of these costs. The identified categories have to be measured and then they can be reduced. To measure, assess these costs a common EU methodology had to be developed. The common methodology ensures that national data are comparable, extrapolation is facilitated, the need for methodological arguments of figures is minimised and focus on policy objectives is supported. The EU has developed the Standard Cost Model.

Figure 3 Standard Cost Model



Source: Hauge Pedersen, 2006

In the context of the Standard Cost Model all the costs of complying with regulation, (exception of direct financial costs/ long term structural consequences) can be divided into ‘substantive compliance costs’ and ‘administrative costs’.

Administrative costs are the costs incurred by enterprises, the voluntary sector, public authorities and citizens in meeting legal obligations to provide information on their action or production, either to public authorities or to private parties. Information – that either has to be transferred to public authorities or private parties or has to be available only for inspection or supply on request – is *either information that would be collected by businesses even in the absence of the legislation or information that would not be collected without the legal provisions*. The latter is considered as administrative burden and a part of it can not be eliminated totally as certain objectives of the legislation and prescribed level of protection defined in the Treaties has to be met. The question is whether it occurs in an effective way or not. (EC, 2007)

The assessment of administrative burden for each measure is based on desk research, interviews, questionnaires, work of panels and experts. The assessment process has the following phases:

- Identification of information obligations
- Identification of the regulatory origin and target groups
- Identification of required actions and their frequency
- Identification of the relevant cost parameters
- Outlook for the future
- Assessment price per action and their total number.

After the assessment in the category of administrative costs to be reduced common principles has to be followed:

- Reduce the *frequency of reporting* and align the frequency of reporting across different related pieces of legislation, where possible;
- Eliminate *overlaps*
- Require *electronic* and web-based reporting using intelligent portals where possible;
- Introduce *thresholds for information requirements*, limiting them for small and medium sized companies wherever possible, or rely on sampling
- Consider substituting information requirements on all businesses in a sector by a *risk based approach* – targeting information requirements on those operators that perform the highest risk activities;
- *Reduce or eliminate information requirements* where these relate to substantive requirements that have been dropped or modified since the information requirement was adopted
- *Provide official clarification* of complex pieces of legislation that may either slow down business activities, or require acquiring legal expertise.

The application of the standard cost model is highly justified e.g. in the case of agricultural actors who have to fulfil cross-compliance requirements. Cross-compliance as an excellent example can prove that its rules can be simplified and thus there are possibilities to reduce administrative costs.

4. CONCLUSION

The key target of the strategy to create better regulation, to improve the regulatory environment is the enhancement of competitiveness, reinforcement of growth and sustainable development. In the middle of globalization and liberalization the European agricultural sector with less cost-efficiency compared to the Overseas has even relevant disadvantages against the industry or service sector. That is the reason that all cuts in red tape (administrative burdens) following the simplification of the regulatory environment are of substantial importance so that agricultural operators, farmers and traders can become more compatible. Extra burdens imposed on agricultural agents originating from

compliance with unnecessary rules or compliance with legislation to an exaggerated level could be considered as not justified implicit taxation.

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