

**The Jean Monnet Seminar Series**

**MALTESE AGRICULTURE IN THE  
EUROPEAN UNION**

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# **The Jean Monnet Seminars**

The Jean Monnet Seminars are an initiative of the Jean Monnet Chair and the Malta European Studies Association. They are an intrinsic part of the fabric of European Studies development at the University of Malta, bringing together scholars in the field for the purpose of constructive debate and thinking on the main issues in European Integration. The assistance of the European Commission is gratefully acknowledged.

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# MALTESE AGRICULTURE IN THE EUROPEAN UNION

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## **CAP Under Attack**

The recent repeated defeat in the ratification process of the Treaty establishing a Constitution for Europe has suffered a partial eclipse at the hands of the on-going war between the British and the French over the question of rebates and the question of farm subsidies. No sooner was the enlarged Union trying to find answers for why the French and the Dutch had rejected the Constitutional Treaty than it was open war between the British Prime Minister and the French President over the relevance of either.

On the one hand the farm subsidy system has been denounced as damaging the developing world. In 1999 European leaders had agreed to change the CAP and to offer a plan for liberalisation of trade to the new round of World Trade talks.

On the other side of the Channel the argument goes that because of the system of rebates the United Kingdom will be exempted from two-thirds of the cost of enlargement.

But the British Prime Minister insists that both the rebate and the CAP are “anomalies” of an outdated budget that does not do enough to encourage economic growth or help poorer EU countries in Eastern Europe. Mr Blair suggested that the £3.4 billion-a-year rebate paid to the British by the EU is linked to the abolition of the CAP. Gordon Brown, the Chancellor of the Exchequer, explicitly linked the CAP to starvation in Africa and suggested that it is hypocritical of the EU to talk of aid to the Third World while denying fair trade to its farmers. This would involve the outright abolition of the CAP, which has been the main financial operation of the EU since its inception. It would also sharply reduce the amount each country has to contribute to the EU budget. “We should be opening our markets and removing trade-distorting

subsidies and in particular, doing more to urgently tackle the waste of the CAP by setting a date for the end of export subsidies.”

The EU institutions are now faced with a lack of agreement on an overall financial package from 2007 to 2013. Implementing CAP reform and organising rural development programmes requires a stable financial framework.

This brings the basic framework guaranteed by heads of state and government at the European Council held in Brussels in December 2002 into disarray. The budget ceiling of the CAPs ‘first pillar’ - direct payments and market measures - was fixed until 2013. This deal was part and parcel of the agreement to go ahead with the enlargement. No enlargement could take place without stability on the CAP. So review of the arrangement before 2013 means re-opening a deal on which there was general agreement made in the very recent past.

The EU Commission insists the CAP is already reforming itself. In general, price support has been turned into direct payments, and direct payments are turning into the Single Farm Payment. At the same time, more and more weight has been transferred from the first ‘pillar’ of the CAP to the second pillar, rural development. The relationship between the two is shifted - *giving more weight to competitiveness on market premises, innovation, landscape preservation* etc. It makes strong sense to support farmers’ incomes rather than to stimulate production, and to lock in on high standards of environmental care and animal welfare. This will encourage an agriculture that responds energetically to the market and to public expectations.

## **Common Agricultural Policy and Protectionism**

Section 4 of Chapter II of Title III<sup>1</sup> of the Treaty establishing a Constitution for Europe makes it mandatory on the Union to “define and implement a common agriculture and fisheries policy”.

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<sup>1</sup> Articles III-225 to Article III-232

These provisions are meant to be improved upon and eventually supersede Title III of the Consolidated Version of the Treaty Establishing the European Community. The aim of the common agricultural policy is to provide farmers with a reasonable standard of living and consumers with quality food at fair prices. The way these aims are met has changed over the years. The key concepts now are food safety, preservation of the rural environment and value for money.

It all started fifty years ago when the founding members of the Union had emerged from a decade of food shortages, as a result of the devastations of World War II. The Maltese Islands, far removed from the ambitious project of a Common Market, have had to face similar, if not some more acute problems, accentuated by the insularity and relative scarcity of arable land that was progressively eroded by urban expansion.

The Treaty of Rome created a common agricultural market for the original members, France, Germany, Belgium, The Netherlands, Italy and Luxembourg. And the market was to be backed up by a policy, whose main objectives included the following:

- to increase agricultural productivity;
- to ensure a secure food supply at reasonable prices; and
- to give the agricultural community a fair income.

For two decades or more, the Common Agricultural Policy (or “CAP”) met these objectives without obvious strain. Domestic prices for farm *produce were kept high through punitive import tariffs, export subsidies, and intervention buying when markets came under pressure.*

However, the negative outcome of this policy was a steadily increasing overproduction and a corresponding increase in spending. As a result, policy had to change direction in 1992.

Guaranteed prices were cut - with compensation in the form of direct payments to farmers - and portions of arable land were “set

aside”. Over the last few years, there have been further shifts in the context in which the CAP has operated - prompting the Union to think again. Perhaps the most obvious of these has been the European Union’s enlargement. Last year, 10 new member states joined the Union, bringing the number of member States up to 25, with another two due to follow.

All new entrants have added to the breadth and complexity of the EU’s political and economic landscape. This growing diversity is welcome, but it does bring fresh policy challenges.

Another motive for change is the need to avoid future overproduction. And while emphasis on productivity and quantity is falling, as consumers grow richer they want more quality for their money. That means goods marked out by taste, nutritional value, production method and origin - and free of harmful bacteria.

Finally, public opinion is saying very clearly that it requires European farming to look after our rural areas for the good of all. EU citizens want clean air and water, attractive landscapes, opportunities for recreation - not excessive use of pesticides and the destruction of biodiversity.

### **Agriculture in Malta**

In 1956 the Maltese legislator recognised the importance of agriculture in this country, and the need to protect it. It was very evident, that agriculture on it’s own without State help could not survive. Hence the *Agriculture and Fishing Industries (Financial Assistance) Act of the 28<sup>th</sup> January 1956*.

The purpose of that Act is to empower the Minister responsible for the Department of Agriculture with the approval of the Minister responsible for finance, *to make arrangements for the provision of financial assistance for persons engaged in the agricultural and fishing industry. Assistance may be given with regard to the agricultural industry, in connection with the acquisition of livestock, machinery, tools, implements, equipment, fodder, seeds, fertilizers, insecticides, fungicides or any other thing which in the*

*opinion of the Minister is useful to the agricultural industry, or in connection with the acquisition or improvement of land or the improvement of animal husbandry.*

Usually assistance took the form of a loan. But, if the Minister is satisfied that the object for which the assistance is sought would effect an appreciable improvement in the industry, he may authorize assistance to be given by way of grant, or partly by way of loan and partly by way of grant, so long as the amount of grant shall not exceed one-half of the price or expense involved.

This law ushered into this country the era of State Protectionism that persisted (and still persists for a while) until Malta's accession into a wider and bigger market and the competitive situation in the E.U.

The titanic struggle between the forces of free trade and protectionism is well known. More often than not, free trade policies served the interests of certain specialist sectors of the economy to the detriment of the poor and the unskilled. Protectionism on the other hand served the purpose of rich nations against the poor.

But in small and particular economies like that of Malta, protectionism had the enhanced result of isolating the agriculture industry from the rest of the world and created an artificial economy that will have to face severe tests of resilience once the defence barriers are removed.

Financial support under existing legislation takes different forms. Small and medium sizes enterprises (SME) face a number of disadvantages and challenges in obtaining credit to in order to invest for the future of their enterprise.

- Farming, of course always remains a high-risk undertaking, and therefore at a particular disadvantage compared to others. The quality of the produce depends very much on climate variation, and other elemental factors, which are

beyond anticipation even with the application of the most accurate and advanced of scientific methods.

- Another factor that seems to militate against farmers is their relative isolation, leading to extra production costs.
- Lack of security in the underlying business assets does not encourage investment. It would appear that only about 16% of the farmers own the estates they occupy. Consequently questions of security and collateral may arise.<sup>2</sup> This was the reason why the Maltese legislator went some way towards protecting the tenant farmers in 1967.

The Ministry for Rural Development and the Environment has initiated various schemes to help farmers finance their projects.

1. The MRAE Funded Loan Subsidy helps those farmers who are able to secure loans<sup>3</sup> for any business development activity up to LM10,000. The MRAE subsidises the payment of interest charged<sup>4</sup> on the loan but does not secure the loan.
2. But the MRAE also operates through the APS Bank the fully funded Interest Scheme through which farmers undertaking specific projects obtain a loan of up to Lm12,000 over a period of ten years fully funded by MRAE. The interest is paid directly to the bank. The MRAE does not secure the loan, and the assessment on the farmer's ability to repay the loan is undertaken by the Bank.
3. A third scheme is the Fodder Transport Compensation Scheme for Gozitan Farmers. This scheme is operated by the Ministry for Gozo and aims at alleviating the comparative disadvantages of the Gozitan Farmers. Through this scheme, compensation is handed out on the cost of transporting livestock feed. Gozitan farmers can also

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<sup>2</sup> Agricultural Census

<sup>3</sup> from three Commercial Banks, APS,BOV, and HSBC.

<sup>4</sup> First 4.5%.

obtain permits that enable them to freely transport their livestock and livestock feed.<sup>5</sup>

Another protectionist measure taken by the Maltese Government came in the form of the Agricultural Leases (Reletting) Act in order “to regulate the reletting of agricultural land and to provide for matters connected therewith and ancillary thereto”.

Very conspicuously, however the Maltese State failed to protect agricultural land and agriculture in general from its most tenacious enemy: Urban development.<sup>6</sup> To this day, even with establishment of such a lugubrious, although entrenched institution such as the MEPA (Malta Environment and Planning Authority) indiscriminate desecration of our countryside is taking place with the blessing of an institution which now includes a monitoring arm to protect the environment.

The Malta Structure Plan contains a chapter on Agriculture, Horticulture and Fisheries, with relative policies to improve these sectors of the economy. A section on Rural Conservation Areas proposes to afford necessary protection and enhancement of the countryside and the Structure Plan designates a series of Rural Conservation Areas in which no urban development can take place.

If the Maltese Government of 1967 had the interest of the Maltese agriculture at heart, considerations of urban development should not have been an issue in a suit between a landlord and a tenant.

What is even worse, the parameters of the 1967 law pit the progressive and visionary farmer against the forces of stagnation. The taking back of land for agriculture purposes by a landlord from

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<sup>5</sup> Vide Rural Development Plan for Malta 2004-2006 p. 68. Free transportation permits received by farmers to carry their agriculture produce to the Pitkali markets and those carrying feed for farmers and fish for fishermen totalled 3806 in 2001, with an overall value of LM22,701

<sup>6</sup> [2] Section 4 (2) (b) authorises the Rural Leases Control Board to allow the lessor's application for the resumption of possession of any agricultural land if he requires the land, provided it is not irrigable land, for the construction thereon of buildings for dwelling, business or industrial purposes.

a tenant requires the test of hardship. If the landlord was a better-off farmer with more tumoli of land and better equipment and income,<sup>7</sup> he stands no chance of regaining the land, and pushing forward with his projects. The test of hardship means that if the small-time farmer needed the few mondelli of land for his household purposes, (on which his household depends), the chances are that the latter's hardship would be greater than the landlord's. A ridiculous situation indeed! Because if the emphasis here is on farming and agriculture, the adjudicating body should not look at the farmer but at the farming. So there again did the Maltese legislature have farming as a priority?

Agriculture in the Maltese Islands faces home-grown and characteristic obstacles that are difficult to circumvent:

1. The ageing farming population makes it hard to introduce innovation and development. There is, and there has always been in the last decades, a declining amount of attractiveness in the farming industry for young people, who prefer more attractive job opportunities in other sectors.
2. Land fragmentation caused by the local inheritance laws makes it harder to cultivate on a large scale.
3. Farms in Malta are normally small and their structure usually makes them economically not viable.
4. There is the question of recovering possession of land let to a part-time or small-time farmer discussed further in this paper.
5. The low level of assets in terms of capital and property makes investment difficult.
6. Coupled with all that, are the poor marketing skills (as most farmers rely on what they have learnt from their ancestor).
7. Poor sense of business management (e.g. total income, not profit, is the motivating factor, leading to inefficient use of resources) and an inefficient distribution system with mark-ups are added drawbacks.

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<sup>7</sup> Meaning also better means of production.

It has been established that the situation of Maltese Agriculture is considered as largely unsustainable, regardless of EU accession.<sup>8</sup> It would also appear that the greatest threat to the survival of Maltese agriculture is the fact that it supplies consumers with high-priced and low-quality produce. Regardless then of the new realities connected with Malta's accession to the EU, a reversal of known practices and policies is very high up on the agenda. The key words are "sustainable growth" and sustainable development of rural Malta in such a manner as to increase economic competitiveness within the international market system, but in a context which takes into consideration the local situation, both as regards the environment as well as the social and the cultural dimensions of the Maltese islands.

It has been rightly stated that the significance of agriculture to Malta is neither its economic nor employment contribution, but rather its significance in maintaining the landscape (which has a secondary economic impact though tourism) and maintaining the cultural tradition.<sup>9</sup> Therefore, maintaining agriculture as a part of the Maltese economy and the Maltese way of life can be achieved

1. either through encouraging the farmers to achieve personal financial viability in a manner consistent with the protection of the environment and the landscape;
2. or subsidising the farmers to act as guardians and suppliers of the environment whereby, although not intrinsically viable, farming would remain as part of the heritage, for landscape and tourism purposes.

Maltese agriculture faces formidable challenges once the traditional protectionist defences have been lowered. It is a similar story that is told with regard to domestic manufacturing. Maltese agriculture has developed behind protective barriers and therefore is hardly prepared to face the challenges of a larger and a more open economy. The protection that farmers received in the past

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<sup>8</sup> "Malta's accession to the EU: Challenges and opportunities for a small scale, multifunctional agricultural sector", CIHEAM-IAM, Bari 2000.

<sup>9</sup> The Rural Development Plan For Malta 2004-2006, p. 74.

encouraged them to venture into areas of production in which they could not hope to compete without overseas farmers in a more open economy and on a level playing field. The nationalist government of the 60s used tariffs and other protectionist measures to give a breathing space for the industry to be able to catch up with development and possibly research. In the end the Maltese Agriculture industry would be able to compete on the international markets and sustain itself. The set goals, if there were any, were never achieved, because there was never the impetus and the dynamics to make the agriculture industry in this country innovative and competitive enough to meet the demands of a broader market. That is, unfortunately, the spectre facing the industry to day.

Governments tried to increase the production levels. This, of course, made good political strategy, good sense as well as good husbandry. It gives one a sense of security to know that one could depend on the local food supply, especially in times of emergency. But then protective measures had the obvious result of annihilating the commercial reality and efficiency.

All this of course meant that the Maltese consumer had to pay a higher price for food or locally manufactured products without any comparison as regards quality and standards. This then had a negative effect on the economy. We lost our competitiveness. Consumers seek higher wages to finance their purchasers of high priced and low quality goods.

This situation was unsustainable. Malta and Gozo could not be isolated economically. The policy behind Malta's accession to the EU must have been stimulated by the knowledge that Malta needs to access the global economy in order to survive and grow. That meant a whole revolution in economic terms.

The outlook now changed completely. With regard to agriculture, although seeing the scope and scale of the sector it could have been feasible for government to continue to subsidise and protect it in order to maintain the achieved levels of production, it was also obvious that such protection has negative results both as regards

competitiveness and the quality of production. The spectre facing the Maltese farmers is that for decades they have been educated in the mentality that government is always there to give a helping hand, and now they have to face the vicissitudes of an open and competitive market, for which they are ill-prepared.

### **The Agriculture Lease (Reletting) Act 1967**

It is time to ask how far, and to what extent, does local legislation such as the Agricultural Leases (Reletting) Act remain a useful tool to advance agricultural policy. Or has it become an anachronism in this day and age?

For the landlord to resume possession of the agricultural land, unless the tenant agrees in writing both as regards the termination and as regards the compensation due, he has to apply to the Rural Leases Control Board.<sup>10</sup>

One of the particular functions of the Rural Leases Control Board is to evaluate the greater hardship between the tenant and the landlord in cases where the landlord “requires the agricultural land to be used for agricultural purposes by himself personally or any member of his family personally for a period of not less than four consecutive years starting immediately following the date of termination”.<sup>11</sup> In such a situation however, it would not be lawful to allow the lessor's application if the tenant proves that the agricultural land in question is an important source of his and his family's livelihood and if the Board is satisfied that the tenant would suffer a greater hardship than the lessor were the application to be allowed.<sup>12</sup> The law imposes on the Board the obligation to perform a “balancing act” between the respective hardships.

Although the case-law<sup>13</sup> of the Board on this subject is quite copious, it manifests an appalling omission in that no guidelines

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<sup>10</sup> Art.2 thereof.

<sup>11</sup> Section 4 (2) (a) of the Act

<sup>12</sup> Proviso to subsection (2).

<sup>13</sup> Case-law in this case may be a misnomer. Jurisprudenza is a better term.

were ever established. The Board went along and decided the issues arising on a case-by-case basis, and no clear principles have emerged from the case law in its forty-year history. It is obvious that the purpose of the law is to protect the use of agricultural land.<sup>14</sup> The difficulty arises when both the landlord and the tenant require the land for agricultural purposes. What sort of hardship is the Board to take into consideration? Should considerations of agricultural policy come into it? Should the protection for agriculture and the tenant who works the land be extended also to “small farming” tenants and “part time” farmers who make use of the land to grow the agricultural produce necessary for their household. Should these be favoured more than the ambitious and enterprising farming operating within the framework of E.U. farming policies, and who would certainly qualify for aid under the obtaining regime?

These are relevant questions, more so when the number of full-time farmers in Malta is diminishing, and those for whom agricultural land is “an important source of his and his family's livelihood” are becoming fewer and far between. Those who could be considered as full-time farmers have braced and geared themselves with modern machinery and technology to face the challenge that the single European market is now offering them.

The recent re-composition of the Board, from a three-man team to a one-man band is not an indication that the legislator had these forthright considerations in mind. Sometimes the legislator trades off matters of principle for those of efficiency. However this law remains an example of an interventionist policy of the State in favour of an industry that needed protection. A lot has changed since 1967 both on the local scene as well as in the EU. One has got to ask the question whether the same political and social reasons that existed in 1967 still exist to-day, and which theoretical inspiration should the Board get to decide cases before it.

It is possible that judicial discretion is influenced by the social situations that produced the legislation in the first place. But this

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<sup>14</sup> Section 2 of the Act defines “agricultural land”.

should not always be the case. It should not remain static. Once a law is promulgated, it acquires a life of its own. It should remain a good reflection of the change that progressively takes place in every society. The political and social conditions obtaining in 1967 are not those of today. The state of agriculture is not the same, neither on the local scene nor on the European scene.

But the purpose of that Act was not to protect agricultural land and agricultural tenancies. Considerations of urban development preceded the conservation of agricultural land. If the landlord requires the agricultural land, provided it is not irrigable land, for the construction thereon of buildings for dwelling, business or industrial purposes, no questions of hardship or indeed any other consideration precluded the owner from resuming possession. Here indeed the legislator did not give equal consideration to agriculture as he did to urban development or building for industrial purposes. In the sixties, housing shortage and industrial development were priorities that the government of the day had to attend to with urgency. But should that be done at the expense of agricultural land? The only exception was of course, irrigable land, because water is the source of life and vegetation.

## **Conclusion**

There were those who came out with the idea that the traditional distinction between social problems and the political system has become obsolete.<sup>15</sup> It is also possible that any vision of the legal order has to be based and subsequently justified by the social conditions that produce it or put it into being. Legislation with a definite social aim in view (and which legislation does not have a social content?) was the result of the action of the State, which all along was embracing a “socialist” view of social reality. It is therefore within this sphere of things, that one has to locate the

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<sup>15</sup> Horowitz and M. Liebowitz, “Social deviance and Political marginality”, *Social Problems* Vol. 15, winter no. 3 (1968). “Behaviour which in the past was perceived as social deviance is now assuming well-defined ideological and organisational contours . . .”

“raison d’etre” of the Agricultural Leases (Reletting) Act. The Rural Leases Control Board is the offspring of a particular social and political situation, both within the shores of these islands, as well as on the international or European theatre. The same parameters as to method and scale of operation in the agricultural sector are definitely transformed. To what extent must the Board, as an adjudicating body, take account of the reality of a changed world especially as far as the question of hardship is concerned?

In matters of agriculture, one must necessarily address the question of production, and also the methods of production. One has also to appreciate that in a capitalist system the methods of production were to a large extent determined by the traditional legal concepts of ownership and use of the land, the legal structure that determined ownership of the land as a means of production. Certainly one does not admit for one moment that this law (or any other law) should allow for an inefficient use of land against considerations of relative hardship. In the new millennium, with Malta's accession in the EU, the vision that should be taken of this piece of legislation must be in consonance with the visions and strategies that the Maltese State has set for itself. Certainly, no authority in this country has the license to depart from the established laws and legal regime, but within the latitude of a discretion it is expected that an adjudicating body such as the Board would take notice and account of the sign of the times.

In the seventies the Marxist-Leninist, theory of socialism influenced a lot the minds of social reformers and innovators. Europe knows different and wider dimensions after the crumbling of the Berlin Wall. Malta now is part of that reality. Profit from property determines the reallocation of capital resources and reinvestment to complete the circle of production and reinvestment for ultimate product, which is offered to the consumer. Engels had announced a new era based on rent control, and the disappearance of profit as the mechanism on which the capitalist system

operated.<sup>16</sup> That era is now history. The new orientation of the CAP towards a value for money consumer orientation sets the stage.

Therefore it is within the latter day concepts of value for the lands and by striking the balance between what are the requirements of good husbandry and giving the local industry the required elbowroom to address itself to the challenges, that groundwork for a formula should be sought. Proper guidelines should draw on the philosophy of the new CAP that gives consumers safe food at a fair price and value for money. It is also true however that within the limits established by law, the Rural Leases Control Board very often has to perform the judgement of Solomon, to decide between the real (and relative) hardship and the apparent one. The choice is usually between two competing types of hardships - the small "part-time" activity that benefits no one except the tenant and his immediate family, or the genuine industry that strives to perform also in the internal market? Hard decisions these, or simply a question of priorities?

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<sup>16</sup> F. Engels "The Origins of the Working Class in England" in Marx and Engels on Britain (Foreign language Publishing House, 1962)