COUNCIL OF THE EUROPEAN UNION

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AGRI 181

NOTE

from :	General Secretariat of the Council
to :	Special Committee on Agriculture
Subject :	Simplification of the Common Agricultural Policy beyond 2013

Delegations will find attached a note submitted by the Netherlands and Danish delegations.

These delegations have communicated to the Secretariat that, to date, the note has the support of Belgium, Bulgaria, Czech Republic, Germany, Spain, Estonia, Finland, Ireland, France, Latvia, Lithuania, Luxemburg, Austria, Poland, Portugal, Romania, Sweden and the United Kingdom.

The Netherlands' delegation has been invited by the Presidency to present the note to the Special Committee on 7 March 2011.

With a view to the Council (Agriculture and Fisheries) of 17 March 2011, the Presidency will invite delegations to confirm their positions on this note at the Special Committee on Agriculture at its meeting of 7 March 2011.

Simplifying the Common Agricultural Policy (CAP) beyond 2013 - a contribution to the debate and a proposal for key principles to be applied

Introduction

On 18 November 2010 the Commission presented the Communication on the CAP towards 2020 'Meeting the food, natural resources and territorial challenges of the future' (COM (2010)672 final). The Communication mentions the need for further simplification, but fails to indicate or elaborate how substantial simplification might be achieved.

Regardless of the final policy content of the CAP post-2013, there is general agreement amongst Member States that the future regulatory framework must be much simpler than at present. It is an ongoing priority requiring continuous attention that has been confirmed in several Council discussions. The European Parliament confirmed its commitment to the further simplification of the CAP in its resolution adopted on 18 May 2010.

The objective of the Commission's Smart Regulation Programme, is to minimise the administrative burdens for farmers and businesses and the implementation and operational costs for national authorities. To do that we need the simplest possible regulatory framework that is consistent with our policy objectives and with good financial management.

Real regulatory simplicity can only be ensured and maintained by enshrining some overarching principles into the policy-making process. This is essential as we move towards redesigning the CAP - a CAP that is future orientated and a CAP that contributes to the EU 2020 Strategy.

In the Council of June 2010 a group of 18 Member States underlined the urgent need for further simplification of the CAP (AGRI 243, 11499/10). This paper sets out below the essential principles that we consider need to govern the policy-making process in order to bring about meaningful simplification of the CAP. Each principle is followed by some specific examples to illustrate how it might be applied – these are not intended to be exhaustive.

We encourage the Commission to reflect these principles in the legislative proposals for the new CAP and to use them as evaluation criteria in the accompanying Impact Assessment. At the same time, any new proposals must include measures to ensure a smooth transition from the current CAP to the future CAP, at minimum cost and to prevent distruptive effects to recipients and delivery bodies.

Proposed key principles

1. **The CAP 2014-2020 must overall be simpler and cheaper for national authorities to administer, and have reduced administrative costs for recipients. Any increased cost or complexity to specific measures can only be justified where the benefits outweigh the costs. In that case compensation must be found elsewhere.**
   - The Commission must assess the impact of the new regulations and guidelines on recipients and on national authorities (e.g. looking at additional effort and resources needed; payment speed and accuracy; increased risk of disallowance). This is to be done as new proposals are developed.

- An acceptable justification for increased cost might include better targeting of funding towards the provision of public goods, or a reduction in risk to EU funds – providing these benefits exceed the costs of achieving that.

2. **A risk-based approach should be applied to all controls on both administrations and recipients. This means that controls are reduced where the administration has demonstrated that they have a robust system of controls in place, or the recipient has a good track record. Equally, controls should - as is already the case - be increased where systemic problems have occurred.**
   - We must incentivise good performance from administrations and recipients through lighter touch controls and enforcement. This means applying a risk-based approach to selection for audits, inspections, etc (but using random samples to identify the level of risk).
   - For example:
     - Reduce the control rate (number of audits and level of detail) for Member States (MS) with well-functioning audit systems.
     - Allow MS to reduce the level of on-the-spot controls, administrative checks and audits where controls are demonstrably effective and error rates are low.
     - Adopt risk-based audit methodologies having regard to relevant factors (e.g. size of grant, level of claimant irregularity, quality of Paying Agency's internal control).
     - Allow 'public supervision on private control' where possible and appropriate.

3. **Give Member States the discretion and flexibility in programming and to define the detailed control, monitoring and evaluation of schemes in a manner appropriate to their particular circumstances, providing they can demonstrate that the policy measures taken are effective.**
   - For example:
     - Allow MS to change/remove cross compliance where there are low breach rates or where the legislation concerned already provides for systematic controls.
     - Allow MS more flexibility to define national land eligibility and entitlement allocations.
     - Allow MS to enter into performance contracts with associations of farmers to increase the effectiveness of area based objectives by recognizing these associations as a single beneficiary.
     - Adopt a more flexible design for Pillar 2, with fewer restrictions than imposed by the current Axis structure.
     - Removing the obligation for a separate National Strategy Plan by strengthening the Community Strategic Guidelines and ease the programme approval process. Approval can be based on a limited set of essential conditions and guarantees that the outcomes can and will be delivered. In envisaging the Common Strategic Framework for different policies we should not lose the simplification potential, which could be achieved through the abolition of mandatory National Strategy Plans.
     - In moving towards common strategic planning for different policies the general rules of different policies/funds should be harmonized, e.g. on VAT.
     - As in the European Social Fund and European regional Development Fund we should extend the possibility to cover the costs of some projects in the form of flat-rate payments based on standard unit costs or lump sum payments, e.g. training seminars, etc.
     - Apply less frequent monitoring requirements, combined with well-timed and ongoing evaluation and ensure that all (Pillar 2) indicators are meaningful, justified and appropriate.

4. **Apply greater proportionality to controls and penalties.**
   - Tailor sanctions on national authorities and on recipients more closely to the nature of infringement. Maintain strong penalties for repeated breaches once the MS or recipient has been made aware of the issue.
   - Apply a proportionate level of accuracy and detail to requirements, e.g.
     - apply minimum necessary levels of accuracy rather than greatest possible level of accuracy.
     - data collection and statistical requirements should be kept to the minimum volume, detail and accuracy necessary to meet the policy objectives ('need to know, not nice to know').
   - Link disallowance to the quantifiable risk to the Fund, using flat rate disallowance only as a last resort. Any disallowance must recognise the representative nature of the sample used[1]. Think about a broader role of the Conciliation Body.
   - Avoid a minimalist interpretation of regulations where the outcome is unaffected.

5. **Provide full transparency and clarity of all roles and responsibilities, and put in place mechanisms for providing the necessary clarity if there is any uncertainty about the interpretation of EU requirements.**
   - Apply the principle of smarter regulation to produce legislation that is clear, understandable, explainable and as much as possible unambiguous.
   - Abolish obligations that (may) have become obsolete.
   - Set out roles and responsibilities of all involved from the outset in the regulations, rather than through ongoing amendment in guidelines. Consult fully with MS before issuing guidelines on detailed rules for applying regulations and provide MS sufficient time for implementation.
   - Provide greater transparency about the Commission's approach to risk management.
   - The Commission should take a more preventive approach to enable Member States to take corrective measures before it becomes necessary to apply financial corrections, e.g.
     - Provide MS with guidance on the Commission's interpretation of regulations and guidelines when requested, including assessments of MS' compliance.
     - Offer MS the use of preventative audits.

6. **Maximise and incentivise the use of technology.**
   - Allow MS flexibility to make greater use of online (application) tools, remote sensing, etc.
   - The Commission should serve the best example to others by maximising the use of modern technology.

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[1] Commission audit samples are usually selected on the basis of risk, where the greatest chance of error is likely to be found. The error rate established from such a sample will not be representative of the rate of error across the WHOLE fund.