NOTE
from: Slovenian delegation

to: Council

Subject: 23rd Conference of EU Paying Agencies – conclusions
(Ljubljana, 28-31 May 2008)

Delegations will find attached a note from the Slovenian delegation on the above mentioned subject.
23rd Conference of EU Paying Agencies – conclusions

A. Introduction

The 23rd Conference of Directors of EU Paying Agencies was organised in the framework of the Slovenian Presidency to the Council of European Union in the first half of 2008. With activities running from 28 to 31 May 2008, the Conference was organised in the facilities of Grand Hotel Union in Ljubljana, while the closing session took place in the Brdo Congress Centre. For the first time in history of this kind of regular meetings, the 23rd Conference assembled delegations from all 30 Member States and Candidate Countries. Including the representatives from the EU institutions (European Commission, European Court of Auditors and Court of Justice of the European Communities) 154 delegates in total attended events in the framework of the Conference.

The main objective of the Conference was to provide for the first review of the declaration of assurance (hereinafter: DAS) concept after the Clearance of Accounts exercise, the first one in accordance with the new guidelines for certification of the EU Paying Agencies. In the context of this objective, both the Conference’s agenda and a set of lecturers have been conceived. The Conference also addressed other topics, such as:
- Costs of controls (recent development on a long term project of a group of Member States),
- Recent developments in case law in the field of CAP & experience of Member States in procedures before the Court of Justice,
- E-subsidies: Slovenian e-business model,
- Other issues commonly included in agendas of the conferences (Panta Rhei report, announcement of the next conference in the framework of the French Presidency etc.)
B. The main outcome of the plenary

In line with expectations, the plenary session discussion focused on the main topic of the Conference – DAS issue and culminated in a very intensive debate. In the presentation of his views on guideline no. 4, Dr. Vojko Antončič, member of the European Court of Auditors, highlighted some doubts over the reliability of the DAS, in particular regarding some “contradictions” among opinions of different controlling bodies.

In the conclusion of plenary discussion, the Directors of the EU Paying Agencies stressed and agreed that the DAS is a positive step towards a further improved accountability of the Paying Agencies and represent a valuable and sufficient instrument providing true added value for the Paying Agencies in order to assure that their work is in conformity with new guidelines. In the first year of application, the DAS has already contributed to important progress, although the full value of the DAS is yet to come, given that this instrument (as well as its perception) is still in an early stage of development and, therefore, further improvement is to be expected. In this light, it seems that there is no need to develop further controlling tools.

C. Conclusions of the workshops

Workshop I: First year of the application of new guidelines for certification of Paying Agencies (particularly guidelines No. 2, 3 and 4)

1. Declaration of Assurance

Following the first year of signing the DAS by Directors of the EU Paying Agencies it can be established that it presents a positive element towards the strengthening of internal control system of Paying Agencies. Besides, every effort made by Directors of Paying Agencies, better cooperation within Paying Agencies as well as between Paying Agencies, Certification Bodies and the European Commission was achieved during its preparation.
2. Audit of the DAS
The workshop discussed the need to audit the DAS, bearing in mind that the European Commission can easily check DAS's credibility by comparing the statement and the findings of Certifying Bodies.

3. Audit of debts
Issues connected to the recognition of debts, audit approaches with audit regarding completeness of debts and inclusion of conclusions from testing of debts in the audit opinion should be the topic of discussion between Certification Bodies and the European Commission, while the results of the discussion being the basis for amending the guideline No. 3 Audit Strategy, the part dealing with debts.

Workshop II: Recent developments in case law in the field of CAP & experience of Member States in procedures before the Court of Justice

1. General observations:
The Court's jurisprudence is conceptually inhomogeneous due to the difficulties of interpreting casuistic legislation and varying constitutional traditions of Member States. CAP cases: 5-15% of the ECJ docket, the Court always tries to derive general rules from concrete issues (“small cases make good law”).

2. Recommendations to the Member States:
For Member States to adapt to the situation (burden of proof on Member State but review of the Commission’s reasoning) by insisting on the Commission giving precise and clear findings from the beginning of the audit, as this enables review and prevents the shifting of positions.

Insist on impact assessment of new regulations and on respect for legal certainty that precludes ex-post reinterpretation of the rules.