

Brussels,

FINAL MINUTES

Meeting of the Civil Dialogue Group on the Common Agricultural Policy

Date: 11 December 2020

Chair: Before the elections : Mr Jan PLAGGE (IFOAM EU GROUP)
From the elections on : Mr Henri BRICHART (COPA). Given the connection problems experienced by the new Chair, the former Chair chaired the meeting.

Organisations present: All Organisations were present, except Bee Life, CEMA, CONCORD, PAN Europe and BirdLife Europe.

1. Approval of the agenda

2. Nature of the meeting

The meeting was non-public.

3. List of points discussed

- 1) Approval of the agenda
- 2) Election of President and Vice-Presidents of the CDG Common Agricultural Policy (DG AGRI.I.4)
- 3) Ongoing negotiations, legislative acts
 - a. CAP reform, state of play (M. Niejahr, Director DG AGRI.I)
 - b. CAP recommendations (T. Haniotis, Director DG AGRI.C)
 - c. Questions and Answers (T. Haniotis & G. Schilthuis, HoU DG AGRI.C.1)
- 4) The directive on **Unfair Trading Practises**
 - a. Information from the Commission on a baseline survey (Annette Kliemann, DG AGRI.G.1, unit for Governance of agri-food markets).
 - b. Implementation of the UTP-directive. (A. Kliemann, DG AGRI. G.1)
 - c. Questions and Answers
- 5) A Vision for Rural Areas
Information from the Commission (K. Heikklä, DG AGRI.F.1)

Guidance

1) Approval of the agenda

The members of the CDG approved the agenda.

2) Election of President and Vice-Presidents of the CDG Common Agricultural Policy (DG AGRI.4)

After introductory words from the European Commission, elections were held. All three candidates (Henri Brichart – Copa – for the position of Chair and Doris Letina – CEJA and Jan Plagge – IFOAM EU GROUP for the position of Vice-chairs) were elected.

3) Ongoing negotiations, legislative acts

a. CAP reform, state of play (M. Niejahr, Director DG AGRI)

The European Commission representative reminded the members of the CDG about the General Agreement of the Council and EP Plenary vote on the CAP and underlined that an MFJ agreement has been also reached the day before.

The green architecture was at the heart of discussions both at Council and EP level. At Council level, some MS conditioned their approval of the General Approach on some specific requests on specific articles. For the Horizontal Regulation and the CMO amending regulation, Council's approach generally follows the COM proposals, with the notable exception of the duration of wine authorisation rights. At EP level, there was a difference in views on green architecture between COMAGRI and COMENVI. For eco-schemes, the EP has introduced an eco-scheme to boost competitiveness which goes beyond the environmental purpose of these schemes. The EP is also proposing far reaching changes to the CMO, modifying the safety net and market orientation of the CAP.

Trilogues have started on November 10th, with a focus on timeline and working arrangements. 6 trilogues were scheduled (3 on the Strategic Plans proposal, 2 on the Horizontal proposal and 1 on the CMO). All are preceded by technical meetings in order to ensure progress is made and ensure clarity on what each institution wants to achieve. Most changes are considered political from the EP side. The basis for discussions is the four-column document where the positions of the three institutions are reflected. Some progress has been made but there is not yet a final agreement on the green architecture. During the Portuguese Presidency, discussions on all three regulations are scheduled for the second half of January. Negotiations should be finished by spring so that the final endorsement can still take place before the summer break.

Several questions have been asked by WWF, IFOAM, Copa, ECVV, EEB.

The European Commission representative underlined the following:

- on the timing of the secondary legislation on the list of eco-schemes planned for autumn, there are still differences in views between the institutions. The idea of a delegated act empowerment for the Commission is an EP proposal. The COM is open to it, while pointing out that having a list is in the end more important than the legal form it takes. We need to make sure that eco-schemes deliver on EU

ambitions. It is less a question of timing but more a political one. The Council does not support this too much, fearing this would restrain MS freedom to choose appropriate eco-schemes on the basis of their needs.

- on the integration of Farm to Fork and Biodiversity Strategy in the CAP Strategic Plans, some EP amendments go in this direction but no discussion on this has taken place between the co-legislators yet.

- on the social aspects to be integrated in CAP, the COM is open to discuss it but has not yet reflected under which mechanism it would fit. The COM will act as a College in this respect as for all other aspects of the reform. The Council fears this will increase the administrative burden and believes that the conditionality system is not modelled according to social standards.

- on how CAP will address UTPs, reinforcing farmers' position is an overarching objective of the Farm to Fork Strategy. No significant proposals to CMO have been made as this discussion will take place in the Farm to Fork Strategy. Still, the COM will have to take a position on the EP amendments. The UTP Directive needs now to be implemented and prove it works.

- on the timing and content of next trilogues, this is in the hands of the co-legislators. The new delivery model has not yet been discussed but co-legislators have different opinions. The Council has heavily reduced the list of indicators. The COM has concerns over the compatibility of this reduction with the performance orientation of the CAP.

- on whether organic will be part of Pillar II or as an eco-scheme in Pillar I, this is up to the MS to decide as part of the subsidiarity. The maintenance of organic area can be annual and fall under PI while the convergence can fall under Pillar II. Multi-annual commitments are not an obstacle for MS to design eco-schemes.

- on the simplification and the maintenance of the competitive position on internal and external markets, the COM believes the key to unlock simplification in the CAP is with MS (also in the design of control and penalty system). The COM is keen on MS making full use of this simplification potential and had several discussions with MS about it. The Farm to Fork Strategy will address the competitiveness. The increase in ambition should not impact EU farmers' competitiveness.

- on the compatibility of eco-schemes with WTO, the COM explained that the potential incentive effect of eco-schemes as proposed by EP could raise problems as regards their Green Box classification. This has not yet been discussed. If eco-schemes are targeted in a proper way, this would not lead to their classification in the Amber Box. The COM has proposed that they can be given as a top-up to decoupled payments or calculated on the basis of cost and income foregone, which is Green Box compatible.

- on the ringfencing for BISS, the COM has not proposed any ringfencing to leave margin of manoeuvre in case some MS want to put more money into eco-schemes. This is a sensitive issue and will be discussed in the early months of 2021.

- on the eco-schemes and competitiveness, eco-schemes are primarily there to deliver on increased climate and environmental objectives, but may also have an income stabilisation effect.

b. CAP recommendations (T. Haniotis, Director DG AGRI.C)

The European Commission representative gave a presentation on this point. As part of the Farm to Fork Strategy, there is a link between the preparation of the CAP Strategic Plans and the Biodiversity Strategy and Farm to Fork.

The country-specific recommendations are based on evidence, which is generally publicly available. There are more or less 15 recommendations per country, focusing on key challenges. These provide some examples not an exclusive approach. They ensure a balance between economic, environmental and social dimensions, jointly addressing them. The recommendations offer a different state of play between countries and highlights their specific needs. This ensures flexibility but at the same time the commonality of the policy given that they are based on CAP specific objectives.

The English version of the country-specific recommendations will be released on 18th December, together with an umbrella communication, while the national languages will be available in January.

The draft CAP Strategic Plans would need to be ready by end of 2021, but a lot of work has already been done. Their design needs to be clear as well as the targets and the envisaged results, intervention strategies and financial allocation. Consultation with stakeholders is key. By the end of 2021, they need to be submitted for approval, while taking into account the recommendations. The six specific targets in the Green Deal will be discussed in the structured dialogue with Member States, with a view to translate them into national values. The Green Deal targets are aspirational, non-binding but they are there as an EU-level ambition. Baselines for the national values will be clarified in the umbrella communication. In setting them, the MS needs to take into account the efforts made and indicate the potential for improvement. Many MS already have these type of targets, on organic, for example. More technical aspects on each indication will be reflected in the CAP Strategic Plans.

Several questions have been asked by Copa, ECVC.

The European Commission representative underlined the following:

- on the relation between eco-schemes and agri-environment, the EU COM believes that eco-schemes should not bring an artificial distance between Pillar I and Pillar II, but foster synergies, combining agro-environmental delivery and income.
- on whether the eco-schemes will have a ring-fenced budget, this is very likely, and the level is now up to the co-legislators. The Commission will support an ambitious level.
- on the MS with a high level of environmental dimension but a low social one, MS should identify ways to link them together.

- on whether these general targets take into account the efforts already made, progress made is analysed and taken into account (many MS have, for example, reduced antibiotic use, therefore they would not need to do anything. Where this is not the case, MS will need to do more).
- on the lack of implication of organic farmers in the development of CAP Strategic Plans, the EU COM is very firm on the importance that all stakeholders participate in CAP Strategic Plans preparation.

4) The directive on Unfair Trading Practises

- a. Implementation of the UTP-directive. (A. Kliemann, DG AGRI. G.1)
- b. Information from the Commission on a baseline survey (Annette Kliemann, DG AGRI.G.1, unit for Governance of agri-food markets).
- c. Questions and Answers

The European Commission representative gave a presentation on this point. On 10th December 2020, the 4th implementation meeting with MS took place. The final arbitrator of any interpretation question on the Directive is the European Court of Justice.

By 1st May 2021, the Directive needs to be transposed. Eleven MS are sending this to their parliaments in view of complying with the deadline. By 1st November 2021, the Directive needs to be applied. The COM will submit an interim report to the other institutions to inform if the Directive has been transposed on time and report on some transposition choices of MS, on 1 November 2021. By 15th March 2022, MS need to provide a first annual report to the COM on how the Directive is being applied and if the Directive had an impact. By 2025, the COM needs to carry out a proper evaluation and this will be based in particular on MS annual reports.

In the beginning, discussions focussed more on the products covered by the Directive and MS asked for a list. The definition of agri-food product in Article 2 is wide and dynamic. Exhaustive list might prove problematic, as new agri-food products might be developed (e.g on the basis of products covered in Annex I to the TFEU). The definition of agri-food products has to be transposed. Today, the discussions still rather focus on the application of the Directive in terms of operators (who should be protected as operators). Article 1 states that weaker suppliers are protected against more powerful buyers (proxy for strength is the turnover). Some MS want to go beyond than that (“unfair is unfair”) and cover every supplier, independent of turnover. MS are allowed to go beyond the Directive, under the conditions of Article 9, which requires that the national rules comply with the rules on the functioning of the internal market.

Turnover is not calculated only on the basis of the agri-food production. Even if a food manufacturer produces other products, the total turnover is taken into account, see SME recommendation referred to in Article 1 of the Directive.

The Directive applies to cooperatives. E.g a cooperative might be a supplier, which, if economically weaker than the buyer in terms of turnover as stipulated in Article 1, is protected by the Directive.

If a farmer belongs to the cooperative and sells its agri-food products to the cooperative, this is likewise covered by the Directive – the cooperative is a buyer. However, not every

transaction between a farmer member and its cooperative is a sale and other transactions are subject to the cooperative statutes and derived decisions, see also Recital 17 of the Directive.

Some MS decide to go for 30 days regardless of whether these are perishable or non-perishable products.

On the issue of enforcement: suppliers outside the Union are also protected by the Directive (against EU buyers). But the Directive also applies to buyers located outside the Union, which means that EU suppliers can file a complaint at their enforcement authority against such outside buyers. An enforcement authority can adopt a decision terminating the infringement and publish this decision.

MS discuss which should be the designated authorities, often the choice is between the competition authority and an authority under the supervision of the Ministry of Agriculture.

The COM reminded the audience about the baseline survey of JR/DG AGRI in which operators in the agri-food supply chain are asked if they have been victims of UTPs. The survey will be repeated on an annual basis and hopefully will provide insight, whether the – transposed - directive is effective and UTPs are reduced. The COM encouraged participants to reply to this survey.

Upon questions, the COM representative underlined the following:

- on the payment deadline of 30-60 days (for perishable and non-perishable products respectively) and the difficulty this has been reported by some to create for the sugar and starch potato cooperatives, the COM reminded that cooperatives are covered by the Directive, if they are buyers. There is no sector derogation.

Three considerations: 1) not every transaction between a cooperative and its members is a sale. 2) MS will also transpose value-sharing exemptions to the Directive (art. 172 a of CMO Regulation, Article 3(1) 2nd subparagraph of the Directive, 3) payment is due after invoice or delivery, whatever is the latter.

5) A Vision for Rural Areas Information from the Commission (K. Heikkilä, DG AGRI.F.1)

The European Commission representative gave a presentation on this. The challenges which the rural population is facing are much larger than what can be covered by the CAP. Several negative trends affect demography, economic diversification, infrastructure and there is a general widespread rural discontent.

This initiative for a long-term vision for rural areas is supposed to take place for and with the rural communities, in a bottom-up approach. There is a need to make the best out of the supporting mechanisms and pave the way for new ones and promote opportunities. The main challenge is how to integrate young people. This vision has no intention to compete with the Rural Development programme but encompass this and use it better.

A strong response has been received to the consultation on the roadmap but also to the public consultation, which the EU COM is very happy about.

Another part of the process is the foresight analysis (using different modelling techniques to create a pathway to 2040, based on solid analysis) and the fact-based studies, including Horizon 2020 projects.

The EU COM has also organised three major events and the relevant CDGs have been kept informed. ENRD will be involved in organising future events. In March 2021, a high-level conference, with the participation of the EU Commissioners will take place.

The objective is to release a Communication in Q2 of 2021 which sets out the vision but also how to get there, using milestones. The EU COM wants to be innovative, inclusive, sustainable.

The EU COM needs examples, local stories about problems but also opportunities.

The EU COM is working on a website.

A couple of questions have been asked by CEJA, Cogeca.

The European Commission representative underlined the following:

- on the implementation of the vision, the EU COM reminded that this will include more actions (toolboxes), will try to pool resources and present new ways to use them, in a better coordinated manner.

- on the choice of the target year (2040), the EU COM explained that the foresight exercises cover 20 years in order to be not too close and not too far. Things will not stop at 2040.

- on the contribution to more qualitative jobs, the vision envisages clear opportunities and an optimistic future, which agriculture is not able to provide alone.

- on the link between rural vision and the CAP, agriculture, farming and basic services are at the heart of this vision.

4. Next steps

A meeting would be needed between February and March to make the point on the CAP trilogues.

5. Next meeting

The date of the next meetings has not been yet fixed.

6. List of participants - Annex

Guidance

DGs should ensure that all participants in a given group are informed that the Commission would be processing their personal data. They should do this via the Privacy Statement that is not only published online, but is also provided individually to each participant (e.g. as part of the email where the DG first contacts the individual concerned).

The name of Type A¹ and B² members and observers should always be included in the list of participants pursuant to Article 23 of Commission Decision C(2016)3301.

The name of Type C, D and E members' and observers' representatives may be included in the list, subject to their prior freely given, specific, informed and unambiguous consent (e.g. given in a consent form that they sign for that purpose at each meeting), in compliance with Article 3(15) and Article 7 of Regulation 2018/1725.

DGs have to be able to demonstrate that consent was obtained subject to conditions of Regulation 2018/1725 (i.e. keep a record that shows how the consent was obtained and whether it was valid).

Disclaimer

"The opinions expressed in this report represent the point of view of the meeting participants from agriculturally related NGOs at community level. These opinions cannot, under any circumstances, be attributed to the European Commission. Neither the European Commission nor any person acting on behalf of the Commission is responsible for the use which might be made of the here above information."

¹ Individuals appointed in a personal capacity (C(2016) 3301, art. 7.2 (a)).

² Individuals appointed to represent a common interest shared by stakeholders (C(2016) 3301, art. 7.2 (b)).

List of registered participants– Minutes

**Meeting of the Civil Dialogue Group Civil Dialogue Group
on the Common Agricultural Policy**

Date: 11 December 2020

ORGANISATION	NUMBER OF PARTICIPANTS
ASSUC	1
CEETTAR	1
CEFS	1
CEJA	4
CELCAA	5
CEPM	1
COGECA	7 (including Note taker)
COPA	6
ECPA	1
ECVC	2
EDA	1
EEB	2
EFFAT	4
EFNCP	1
ELO	4
EMB	1
EPHA	1
EURAF	2
Eurogroup for Animals	MANZ

Euromontana	FAYEL
Euromontana	RODRIGUES
Fefac	SPACILOVA
FoodDrinkEurope	BIGNAMI
FoodDrinkEurope	LANGGUTH
FRESHFEL	SANTOS-GARCIA BERNABÉ
Greenpeace	CONTIERO
IFOAM Organics Europe	BRISSET
IFOAM Organics Europe	KYED
IFOAM Organics Europe	METERA
IFOAM Organics Europe	PLAGGE
SMEunited	ANDRATSCH
Starch Europe	GROSBOIS
WWF	JENTGENA
WWF	RUIZ