

DRAFT MINUTES OF THE MEETING OF THE CIVIL DIALOGUE GROUP ON “DIRECT PAYMENTS AND GREENING” ON 7 MAY 2015

1. APPROVAL OF THE AGENDA

The Chair communicated that item number 7 of the agenda (Information on the upcoming evaluation of EFA) was cancelled by COM. The Chair informed the group that the Chairmanship prepared the meeting with the COM in March 2015, thus the agenda had to be flexible. The modified agenda was approved.

2. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING, OF THE RULES OF PROCEDURE, OF THE STRATEGIC AGENDA

EEB asked to add to the minutes of the previous meeting EEB's intervention concerning GAEC and landscape features. COM reminded that the draft minutes were circulated and members of the group had 15 days to request changes. Nevertheless, COM asked EEB to send this comment in writing for the Chair to revise the minutes. The revised minutes were approved.

COM explained that Rules of Procedures (RoP) were foreseen by the COM decision. The draft RoP were originally prepared by COM, comments from members were included and a new version was published on CIRCABC. COM recalled that RoP were intended to provide guidelines to manage the meetings, rules for the minutes, communications, etc. and they were valid for 7 years.

EEB asked for a clarification on art. 4 of the RoP “Working Groups *ad hoc* rules”. COM explained that there were 2 types of WG:

- 1) WG set up on a temporary basis to analyse a specific question, upon a decision by the Chairmanship and COM;
- 2) Forecast groups to draw statistics/estimates about markets.

This CDG did not discuss the possibility to set up such a group until then.

BirdLife asked COM to put the annotated agenda on CIRCABC and possibly also the PPT presentations before the meetings.

COM agreed to publish the annotated agenda. On the other hand, PPT presentations were not made available before the meeting on purpose, to encourage people to attend the meeting. They would be available after the meeting.

The Chair recalled that RoP were identical for all CGDs. RoP were approved.

The Chair recalled that the draft strategic agenda was prepared by the Chairmanship on the basis of the inputs of this CDG and it was circulated several times. She thanked everybody for their contributions. The strategic agenda was approved. The Chair highlighted that the strategic agenda was meant to be a flexible document, to be updated when necessary to be in line with the EU institutions political agenda.

3. CALENDAR OF MEETINGS FOR 2015

The Chair announced that the (provisional) date of the next meeting of this CDG would be 28 October 2015 but she warned that confirmation would only be sent 6 weeks before the final date.

She also recalled that this CDG met 2 times per year.

4. IMPLEMENTATION OF THE NEW RULES

❖ COM presented the outcome of notifications on direct payments. Please see PPT presentation “The CAP towards 2020. Implementation of the new system of direct payments MS notifications”.

COM clarified that COM assisted MS when taking the decisions to implement the reform. However, only the European Court of Justice remained responsible for the interpretation of the rules. COM announced that a detailed document on notifications would be available at the end of May 2015. COM was still working on the notifications due by 31 January 2015.

BirdLife asked information on funds resulting from the reduction of payments and capping.

COPA observed that decisions were taken quite late, which led to problems and delays in the application. COPA asked if the implementation was happening according to the plan.

Via Campesina lamented that, with 30% unemployment in Andalusia, landowners and bigger farms were the ones receiving high payments.

COGECA asked which simplifications in terms of claims and controls were foreseen by the small farmers scheme.

IFOAM found that few countries used the ANC payment in Pillar 1 and asked if this was linked to an increase of funds under Pillar 2.

COM explained that, according to the mechanism for reduction of payments and capping, money cut from DP would be transferred to RD at the same time of flexibility between Pillars but these amounts were on top of flexibility between Pillars. Concerning the timing, COM said that notifications were received by the deadline. There were political issues and questions at times, but the implementation should have been finalised before the aid application started. The direct payments Committee voted on 23 April 2015 to postpone the aid application deadline by 1 month for those MS who needed it. On the distribution of aid, the CAP targeted several payments to small farmers, disadvantaged areas, etc. and included measures such as the reduction of payments/capping, redistributive payment, etc. The Common Monitoring and Evaluation Framework (CMEF) would allow COM to evaluate the impact of the entire CAP reform. COM recalled that small farmers benefitted from simplification in terms of the claims because they were exempted from greening, among other things. The presence of a targeted measure for ANC under Pillar 2 might have limited the use of this measure under Pillar 1.

❖ COM presented the outcome of notifications on greening. Please see PPT presentation “The payment for agricultural practices beneficial for the climate and the environment - Greening - Main choices from MS notifications in 2014”.

EEB raised the problem of ploughing sensitive permanent grassland; asked COM to publish the letters sent to MS in the context of notifications; asked COM to publish national equivalent schemes to greening; commented that the Dutch biodiversity scheme for the purpose of greening equivalence included soybean and allowed for the use of Plant Protection Products (PPPs); asked to present an EEB study on biodiversity and NFC at the next meeting of the CDG.

COPA asked if it was possible to add catch crops to the national list before 1 August 2015.

EURAF asked information on the eligibility of forestry to the Basic Payment Scheme and raised the problem of tree density in Mediterranean areas of Europe.

BeeLife commented that EFA was a very good idea for pollinators but allowing PPPs was negative. BeeLife also volunteered to present a study at a future meeting of the CDG.

ECVC pointed to the perverse effect of ploughing up permanent grassland, which meant that the measure was not effective. ECVC asked for extra incentives for farmers in sensitive grasslands and asked whether COM was monitoring environmentally sensitive permanent grassland (ESPG).

COGECA recalled that the protection of environmentally sensitive grasslands had been in place for several years and that it was forbidden to convert those grasslands in the EU.

COPA stated that EFA was not only about biodiversity but also about water protection.

BirdLife said that EFA was meant to be for biodiversity as outlined in the regulation.

COM announced that it will publish a note on notifications but it was not sure that the communications with MS could be made public. COM recalled that it will release a specific study on greening and the results of the CMEF of CAP. COM specified that notification forms were closed, thus COM was not expecting changes unless MS needed to come back on specific points. New notifications were due in August 2015. Equivalence for the purpose of greening had to be approved by COM. COM would start an evaluation of greening and would look at greening in details. The simplification exercise was broader than greening.

❖ COM made a presentation on “The active farmer provisions”.

BirdLife asked for information on the notifications concerning the definition of the minimum activity.

Via Campesina stated that the Active Farmer provision should be the first tool to distinguish “fund-hunters” from real farmers who farmed the land.

COM clarified that there must be a minimum agricultural activity for the farmer to be classified as active and receive DP. Since DP were decoupled from production, the farmers could just keep the land in good conditions without the obligation to produce.

❖ COM made a presentation on “The young farmer payment”.

COGECA asked if, given that Croatia joined the EU 2 years ago, it was possible that the 5 year-rule did not apply to Croatian young farmers.

COGECA recalled that young farmers support was available under both Pillars. The approval of RD programmes in Italy was late, so the set up as young farmer under Pillar 1 would happen before the set up under Pillar 2. What was the starting date and the link between aid entitlements in Pillar 2 and Pillar 1?

CEJA asked if the additional criteria set by MS could be reviewed on an annual basis.

COM explained that the young farmer measures under both Pillars were two different but complementary mechanisms. The setting up condition was not linked to subsidies but to the date when the young farmer started the activity. MS must define what is the date of setting up. MS notification on young farmer were due by 1 August 2014. It was not the intention of the legislators to see the rules change, instead the objective was stability. The young farmer payment was an annual, 5 year- payment. If there were requests for modification by MS, COM would assess them on a case by case basis.

The Chair wished that this payment would reach young farmers and encourage youngster to enter the agricultural sector.

❖ COM gave a presentation on “Voluntary Coupled Support (VCS)”.

FDE expressed worries that VCS to starch potatoes could distort competition in the EU. FDE asked whether figures on aid/hectare would be available and what could COM do on competition distortions.

COPA asked for information on derogations to the funding for VCS.

EFNCP expressed its favour of coupled support when beneficial for environment. EFNCP asked what was the justification of the payment in the other cases and if COM was carrying out any monitoring.

BirdLife asked how much of beef and veal production in the EU received VCS.

ELO recalled that sugar quotas would end in 2017 and there would be distortions of competition in the EU. ELO asked if any counter measures were foreseen.

COM said that VCS was justified by a difficulty in a sector and its objective was to maintain the level of production, not to increase it. Since there were 259 VCS applied in total, it would take time to estimate the total amounts of aid by sector. In case VCS encouraged production, it would be declared non-conform and COM could intervene. MS could also revise their choices if market conditions changed. A higher % for VCS than 8/13% was allowed by the EU Regulation but it had to be linked to historic payments and COM had to approve this choice. The procedure for approval lasted 4 months after completion of the notification, so one notification was still under discussion.

COM stated that MS must respect a list of requirements if they wished to assign VCS, including the specific reasons to support a particular sector. Except when the % of coupled support was higher than 8/13%, no formal approval by COM was foreseen. Nonetheless, COM systematically evaluated MS notifications and the relevance of support to the objectives. MS had to provide detailed information on the difficulties facing the sector. COM confirmed that there would be an *ex post* monitoring and evaluation, once sufficient experience with implementation was available. The structural impact of the end of sugar quotas was not yet happening, so there was no evidence of additional distortions due to coupled support.

❖ COM gave a presentation on “How to read certain definitions”.

COPA reminded that, for the land to be eligible, it was decisive for the crop to be on the ground, i.e. to actually have the roots in the soil. However, there are cases where there could be one crop on the ground and one on substrate in sequence.

Without putting into question the importance of permanent grassland, COPA warned that the 5 year definition of permanent grassland would oblige farmers to plough, unless rotation on arable land was considered temporary grassland.

COPA lamented that farmers had not gotten final information on permanent grassland. Besides, the rules were putting into question agricultural practices and the logic of crop rotation on arable land. COM should look at the definition of permanent grassland because it was causing contradictions and problems which farmers did not want.

COPA asked if MS could derogate from the definition of calendar year, since the farming season is usually October-September.

EFNCP welcomed that the new definition of permanent grassland included wood pastures, but recognised that this led to increasing pressure by auditors and stricter rules. Active farmers who had grazing animals were obliged to remove shrubs and landscape features, in order not to lose eligible areas. EFNCP called for keeping these pastures eligible.

EURAF asked to clarify why afforested areas were considered eligible areas but agro-forestry not.

COPA asked if minimum activity on permanent grassland required animal production.

EEB sad that it was unfortunate that the guidance document on permanent grassland was coming late and asked COM to share the document with this CDG.

COM indicated that it was up to the Member States to decide the sequence of crops. With regards to the calendar year, COM referred to the concept of predominance of agricultural activity. Unwanted effects of rules, such as in the case of permanent grassland, would be taken into account at the appropriate moment. MS had to describe the local practices and identify those areas in the LPIS.

COM indicated that agro-forestry could sometimes be eligible (pro-rata) and it received support under Rural Development. If there was no agricultural production on permanent grassland, there should be a maintenance activity at least.

COM clarified that the guidance document on permanent grassland concerned the definition of permanent grassland, the ESPG and the rules on the ratio. The guidance document would not change the rules in the Regulations, but it would address implementation questions raised by MS. The new, broader definition of permanent grassland required MS to classify this land. The European Court of Justice (Sentence C47/13) concluded that the succession of grass after 5 years implies a classification as permanent grassland, regardless the fact that the grassland has been ploughed and reseeded with grass. This also meant that ploughing is allowed in grassland followed by reseeded of grass. DG AGRI was waiting for the opinion of COM Legal Service and would give some indications to MS on types of grass which qualified for permanent grassland. Cereals were in any case not in the scope of permanent grassland but it was unclear whether leguminous plants like alfa-alfa or clover were. COM was informed by national Ministries and by some producers' organisations on the conversion of some areas of temporary grassland.

5. MAIN NEW ASPECTS REGARDING IACS RULES AND PRINCIPLES

❖ COM gave an "Introduction to IACS and its main element, the LPIS".

COPA explained that the aid application was sent e.g. on 17 May on the basis of the available information at that date, but new photos came in June. 2% was an important threshold but was it enough for very small parcels? COPA suggested that this was combined with a minimum absolute size.

COPA asked when the updating of maximum eligible area took place.

EFNCP warned that the reduction coefficient applied to parcels with trees meant that some farmers would see their number of entitlements reduced.

COM explained that the 2% stability threshold was based on materiality threshold used by European Court of Auditors (ECA). The more margin to deviate COM would allow, the more the farmers' aid application would be fuelled with wrong information. On the spot checks (OTSC) would check the exact area and in case of bigger threshold, the farmer might over-declare areas. COM did not plan to allow bigger margins. Farmers could contest the area established by the paying agency. There weren't EU rules for updating the maximum eligible area. Some MS did it every year. The farmer was responsible to correctly declare the area, even if the paying agency had not yet updated the LPIS (e.g. farmer should correct the area if he built a house).

❖ COM made a presentation on the "EFA layer".

CEJA asked how to consider gaps in EFA.

EEB asked how collective EFA was controlled and if there was a layer for landscape features.

BirdLife expressed concerns on over-reliance on satellite images to determine the areas. Some areas actually grazed were excluded from eligible areas.

COM replied that, in case of collective implementation of EFA by maximum 10 individual farmers, all farmers would have to declare EFA individually in their aid application, since EFA must be individually and unambiguously identified. The EFA layer contained all potential EFAs.

❖ COM made a presentation on "Aid applications"

The Chair welcomed that the aid application was updated and contained alerts, since it was important to facilitate applications. The Chair asked how much MS could learn from each other and how much COM worked with MS.

EURAF asked any record of new afforestation schemes from 2009.

COGECA said that Italy was already working on the GIS application and that it was good to have this tool. However, it was unlikely that farmers would use this technology in the short term, as they needed the expertise of a technician.

EFNCP recalled that different types of trees were eligible because they produced fruits which could be grazed. However, if fodder fell from the tree, was the tree also considered to be eligible or did the animal have to eat from the tree directly?

COM replied that it organised missions to MS and dissemination of best practices. COM recognised that farmers needed to get used to a new system but what the information itself to be sent to paying agency was not new and there was much pre-established information. COM mentioned that MS (paying agencies) shall provide a system of ex ante checks for the single application. This meant that every applicant had a “guarantee” that his/her single application did not include any mistake, which could be detected by such a systematic check. COM argued that to keep the best level of correct applications was a main goal of CAP.

❖ COM made a presentation on “Focus on the On The Spot Checks (OTSC)”

COPA said that France introduced a new requirement to declare the different crops inside a parcel. Was this a EU compulsory rule? What were the risks (e.g. impact of the weather on the crops cultivated) and possible penalties?

COPA reminded the importance of notice for inspections. Besides, COPA asked that the penalty regime take into account farming logic and unintentional mistakes, e.g. tags falling off the animal very easily because they are meant to do so for animal welfare reasons.

COGECA raised the problem of uniform control periods for crop diversification across the EU.

COM reminded that the crop diversification declaration should preferably be as correct as possible but COM would only check if the shares (not the crop itself) were correct. For VCS over-declaration was sanctioned. Check of residues was fine for crop diversification. The reduction of control rate to 3% for certain payment schemes was only possible if error rate was <2% and geo-spatial application was in place (mandatory from 2018 anyhow) or to 1% if error rate was <2% in 2 preceding years and a very good LPIS. Notice of inspections would jeopardise controls. 1% was the minimum control rate for cross-compliance except for bovine and ovine identification. No tolerance was foreseen in cross compliance but Working Document on natural losses. Important that MS evaluated the quality of ear tags.

❖ COM made a presentation on “The new GAEC framework”

EEB complained that the establishment of retention of habitats (GAEC7) was deleted since green infrastructure was needed. EEB asked how COM would check that landscape features were maintained. EEB made the example of France that wanted to exclude hedges from cross compliance features. Could COM control this?

BirdLife asked if JRC database was publicly available. It reproached the lack of a EU level playing field for cross compliance.

EURAF asked if there was coherence of landscape features across the Pillars of the CAP.

EFNCP asked to clarify in which way small farmers were excluded from cross compliance.

COM clarified that rules to protect landscape features were maintained and now included bird nesting, thus being even broader. COM would make sure that landscape features in danger would be effectively protected. COM had no formal decision power to define features but could interact with MS and follow up implementation. JRC database was available to MS but stakeholders could request access to COM. JRC could indeed cross check information from cross compliance database and LPIS.

Cross compliance was the baseline for Pillar 2 measures, thus coherence was desirable but it was not foreseen in the Regulation. Small farmers exempted from administrative penalties, but non-respect of SMR implied fines.

The Chair told the participants that, if they still had questions, they could send them in writing to COM which would provide a response.

6. SIMPLIFICATION

COM gave a presentation on “Simplification of the CAP. State of play & next steps”.

EEB warned that simplification should not be done for the sake of simplification. Simplification should not be a tool to deviate from the political objectives. EEB denounced lack of transparency in the process because environmental organisations had not been consulted and would have welcomed instead an official public consultation to involve all stakeholders in the process.

BirdLife asked to have information on MS and MEPs’ demands on simplification.

Via Campesina also asked to be informed on what was going on on simplification. It recommended that simplification is done at the same time that regulations are established. Via Campesina asked if there was a hidden CAP reform behind this process.

COPA made a distinction between the problems with implementing the reform for the first time (delayed information to farmers required flexibility in the first year) and the simplification exercise. Simplification did not mean less environmental protection. Besides, simplification did not concern greening only, but it was a broader exercise: e.g. active farmer definition.

COM clarified that there was no intention to weaken the environmental objectives and 1 of the guiding principles was exactly that proposals that endangered the political agreement would not be accepted. COM assured that involvement of all parties was recommended to both MS and MEPs by the Commissioner for Agriculture himself. The Council made a summary of proposals. COM did not make an overview of the 600 pages contributions. There would be no EP own initiative report.

Disclaimer

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