

Brussels,

## **FINAL MINUTES**

### **Meeting of the Civil Dialogue Group “CAP”**

**Date: 14 June 2021**

Chair: Mr Henri Brichart (COPA)

Organisations present: All Organisations were present, except BeeLife, Concord Europe, EuroCommerce, Eurogroup for Animals, ECPA, SMEUnited and WWF EPO.

#### **1. Approval of the agenda**

#### **2. Nature of the meeting**

The meeting was non-public.

#### **3. List of points discussed**

- 1) Welcome and approval of the agenda
- 2) Ongoing negotiations, legislative acts – presentation by DG AGRI
  - a. CAP reform: state of play
  - b. Eco-schemes
- 3) New exemptions from controls in 2021 due to COVID – presentation by DG AGRI
- 4) AOB

#### **1) Welcome and approval of the agenda**

The agenda was adopted.

#### **2) Ongoing negotiations, legislative acts – presentation by DG AGRI**

##### **a. CAP reform: state of play**

Given the prolongation of the discussions, it was not possible to invite the Commissioner to share with the CDG members the outcome of the negotiations. This will be postponed for a later stage.

On 14 June, the informal Agriculture Council takes place as well as an SCA, with the aim of agreeing on a new Council mandate for negotiations in the super-trilogue of 24-25 June. Work at technical level continues as well.

Since the last CDG, more than a dozen of trilogues and one super-trilogue were held. Discussions continue with the hope to reach a deal under the Portuguese Presidency during the super-trilogue that will take place on 24-25 June. Should a deal be reached between the

Presidency and the European Parliament during the super-trilogue, the political confirmation of the deal by Member States is expected to take place on 28 June in the Agricultural Council. Until then, all three institutions are working together to make this possible.

Even if a deal is reached, work at technical level will need to continue to reflect the political deal. Basic acts could be adopted in the third quarter of this year and the secondary legislation by end of the year. No change is expected when it comes to a start date of the future CAP.

Although a final agreement is pending, co-legislators agreed already on a number of important issues, for example:

Active farmer: the co-legislators agreed on a compulsory application, there will be no comparison with other economic activities and the negative list will be voluntary.

Ring-fencing for young farmers: co-legislators agreed with 3% of the direct payments envelope and that interventions under both pillars can contribute to this (there is still disagreement which Pillar II interventions can contribute to the 3%, with EP only in support of art. 69, while the Council also wants art. 68 to be considered).

Flexibility between pillars: in line with MFF, but in order not to dilute the environmental and climate ambition, the ring-fencing is calculated after transfers.

Regionalisation: regional managing authorities and monitoring committees at regional levels can exist as well. Art. 94 is reinforced by clear references to regions.

The key open issues in negotiations were then summarised:

EAFRD ring-fencing: the level of ring-fencing: EP wants 37%, Council wants 35%. The contribution of Areas with Natural Constraints to this level: both agree that ANC should contribute but EP wants 40%, Council wants 60%.

Eco-schemes ring-fencing: 25% of the direct payments envelope for each year. There are many discussions on flexibilities to avoid the loss of funds especially in first years of implementation (the so-called learning period). The Council mandate also includes a rebate system (deduction in eco-schemes ring-fencing if a MS has very ambitious spending under Pillar II – AECM). For Council, it is crucial to be able to allocate unused funds to other direct payments. EP agrees with this, provided the amounts are compensated for in later years which the Council is not considering. The “floor” is the limit to the amounts which you could transfer.

Fair distribution and better targeting of support: redistribution is mandatory, also as part of the preparation of the needs assessment and intervention strategy, at a level of at least 10%. MS have flexibility to opt out by justifying that it uses other tools to achieve the objective, like small farms payments or capping and degressivity. The agreement is very close on this.

Internal convergence: EP wants 100%, Council 85% by 2026.

Social dimension: The COM has presented an alternative social conditionality mechanism which appears to be acceptable for co-legislators.

Voluntary coupled support: the envelope is still undecided (the Council wants 13+2%, the EP less). There are some small outstanding issues regarding the list of eligible products, and the decision on the EP amendment banning coupled support to bullfighting animals. There is already agreement that MS will need to describe the consistency of voluntary coupled support with the Water Framework Directive.

The link between EGD and climate tracking: the opinions of the institutions diverge. The EP wants the COM to use the quantitative targets stemming from the Green Deal (e.g. 25% of area under organic production until 2030) as a benchmark when assessing CAP Strategic Plans and that Strategic Plans are aligned to EGD. MS are opposing any attempt to make quantitative targets legally binding arguing that before they can accept any targets, an impact assessment should be carried out. Similarly for climate tracking: tracking under art. 87 is not precise enough in EP view. Council says it needs legal certainty at the beginning of the period and regarding the rules of the game.

### Discussion

IFOAM: on the link between CAP and European Green Deal: What happened to the EP AM on the organic sector asking to make organic an objective of the CAP Strategic Plans.

EFNCP: is the implementation year of 2023 threatened if no agreement is reached?

COGECA: which criteria are set for fairer distribution of payments? There is currently a difference between SAPS and BPS countries.

COPA: how would the rebate be calculated?

The European Commission representative replied that:

- the COM is putting all efforts in making sure a deal is possible by end of the month, so the EC is not considering a plan B that would entail reconsidering 2023 as the initial year of application of the future CAP.
- the EP proposed an article on organic farming but still not all specifics are known on this, it is still under discussion.
- external convergence will continue as agreed by the European Council. Redistribution will apply under both SAPS and BPS. In SAPS countries, based on hectares in order to achieve a fairer distribution of payments, whereas in BPS countries, they use payment entitlements and internal convergence to reach the same objective. The redistribute payment will play a key role in this regard.
- the rebate for deducting ring-fencing obligation works on amounts above 30% dedicated for 'dark green' interventions. This means that MS will not be able to automatically deduct 5%.

### **b. Ongoing negotiations, legislative acts – eco-schemes**

The European Commission representative gave a presentation which can be found on CIRCABC.

The CAP negotiations are not yet concluded. A final trilogue is expected to take place next week (24-25 June). There is already an advanced discussion on Farm Advisory Services, conditionality and eco-schemes.

On conditionality, almost all GAECs have been agreed after a very difficult and long discussion which started in December last year, but there are some which are still pending. The European Commission has foreseen an obligation for MS to provide farmers with a tool to improve the management of nutrients under GAEC 5, but the co-legislators agreed to make this issue part of the tasks of advisory services. On GAEC 4 (buffer strips), there is still discussion on a footnote on how this GAEC is applied to nitrate vulnerable zones. On GAEC 8 (crop rotation), the Council is requesting to include crop diversification as an alternative. On GAEC 9 (minimum share of high-diversity landscape features), the share of landscape features in arable land is still to be decided. The COM does not want to add catch crops because they bring no added value for biodiversity and complicate controls. SMR 7-9 are deleted and this was already agreed past December. The COM regrets this. The current cross-compliance is an important tool to raise compliance with the related animal health directives.

The discussion on eco-schemes (art. 28) has already finished. The legal text leaves a lot of flexibility to MS to design eco-schemes. The scope has been extended to animal welfare and antimicrobial resistance. COM is satisfied with this outcome because animal welfare is at the heart of Farm to Fork Strategy, it is impossible to talk about sustainability without animal welfare. Payments per livestock unit are possible but are limited (they can for example apply for an eco-scheme to reduce methane emissions from ruminants). The two types of payments (incentives and compensatory) are kept. There are provisions to grant the payments according to the level of ambition. MS will be allowed to design eco-schemes which will encompass a GAEC (“enhanced eco-scheme”) but payments are possible for practices going beyond GAEC. There was a small change to the baseline: a derogation period of 2 years for the new standards set in the MS, which can continue to be part of commitments. A list of areas of actions (which stem from the specific objectives 4, 5, 6, 9) has been set. These will be listed in the regulation and each eco-scheme should at least cover 2 of these areas. The ring-fencing and flexibility mechanism is pending. The COM published an indicative list. The EP wanted to have this list or a similar one in the legal framework, but finally this list will not be in the legal framework. One question which the COM often receives is if this list will be updated or if there will be a new version of the list. The answer is no, the list has been used, is being used and its purpose is purely illustrative. The COM is offering guidance to MS.

The COM published its recommendations for the CAP Strategic Plans end of last year. It also prepared for MS a Questions and Answers document on eco-schemes. For this, a third version is being created and will be published once the regulation is agreed.

A dedicated workshop on designing eco-schemes and technical aspects of their implementation took place on 25/02.

The COM organized many meetings with the MS on their CAP strategic plans (in the context of so-called ‘geo-hubs’). The COM is fully committed to accompany the MS.

The new green architecture is good for farmers and the environment, with a new possibility to have incentive payments. It brings simplification compared to greening. This is based on a strengthened conditionality as all greening measures are now in conditionality. MS have a greater say to identify actions fit for purpose, it gives flexibility and ensures a level-playing field. The design remains work in progress.

## Discussion

COGECA: how could eco-schemes address more than one objective? How would climate mitigation and animal welfare work together? Are collective eco-schemes, operated by multiple farmers possible? How can we deal with unused fund given the anuality principle?

COPA: new CAP provides for higher cross-compliance. In addition, it brings additional constraints by taking money from direct payments. It looks like farmers need to do more. Direct payments are essential for the liquidity of farmers. Is it possible to have an eco-scheme related to a specific production but not to its level? Is there an example what can be done to avail incentive option vs compensatory? If the number of ha is higher than planned, how would the payments be adjusted? How will farmers be informed of the change? How will the payments look like? Can we cumulate eco-schemes?

EFNCP: what kind of eco-schemes can fall under incentive eco-schemes? How would the payment be structured? When could a conclusion be realistically expected?

EFFAT: does the COM support the proposal of the EP on social conditionality and the penalties system?

FEFAC: if the EU wants to increase self-sufficiency in proteins, can these be part of eco-schemes? Can precision feeding be considered as well?

Greenpeace: what happens if eco-schemes only cover one area? Nitrogen pollution costs a lot. What scientific reasoning is behind the deletion of FST and SMR?

ELO: what happens if the amount is not enough to pay all farmers?

The European Commission representative replied that:

- the idea of an eco-scheme covering more than one area was a EP request to foresee practices that could be beneficial for soil and possibly biodiversity, for example. The word “in principle” has been added to this provision. Eco-schemes designed for animal welfare can only focus on animal welfare. Collective eco-schemes can be foreseen. There could be even a bonus for collective engagements. Unused funds are still to be discussed to avoid money is not used for the benefit of the environment and goes back to the budget and in this respect there are some options on the table.
- eco-schemes payments are the continuation of greening payments using funds to support the income of farmers (direct payments envelope) that engage in improving the way they farm.
- an eco-scheme can be designed on a specific type of arable area, horticulture, specific crop but the payment can only be compensatory and not incentive. Incentive payments can’t focus on specific land types. Incentive payments have to be WTO Green Box compatible: “the type of support for eco-schemes can’t target a specific crop or a specific category of crop”. Two conditions would need to be fulfilled: 1. the practice needs to address all types of farmland (main types of farmland), it should be designed following a whole-farm approach, the farmer has to engage the whole area for eco-schemes. 2. The incentive payment should be identical on all farm categories. A challenge is to have comparable level of ambition. Can accept exemptions: if the farm has a minimal part of vineyards, for example.

- maintaining the CAP budget is challenging, but in view of growing challenges part of it is conditional on doing much better on the environment.
- incentive vs compensatory: there are no pre-defined categories. MS can choose, depending on the goal. For example: ensure minimum share of non-productive features on all land could be incentivized. Incentive payments have to be the same for all farm categories but in the case of compensatory payments, they will be different (organic farming will have a different amount based on crop type, but organic farming under eco-schemes will have the same amount).
- MS will have the possibility to set a minimum and a maximum amount in the CAP Strategic Plan and play with these amounts if the uptake is lower or higher. MS will need to inform beneficiaries of these. It will be in the CAP Strategic Plans.
- the COM does not support social conditionality in the form proposed by the EP (it is not implementable and will not work in practice), nevertheless the COM supports the principle and has prepared a proposal on this.
- eco-schemes can't support standard practices, which do not have any impact on the environment, biodiversity. Protein crops can be supported via coupled support. ES could support more balanced crop rotation including leguminous crops, with an impact on the reduction of environmental effect, for example.
- precision feeding could be part of an eco-scheme.
- there are mechanisms under the proposed regulation on minimum and maximum amounts. MS can, if there is not enough funding, put in place selection systems or other systems. A level of ring-fencing of 25% is a large amount of money, but still there are MS who consider that the budget might not be enough.

The Chair underlined that farmers are not against better environmental practices but there will be pressure on farmers as income payments are reduced.

### **3) New exemptions from controls in 2021 due to COVID – presentation by DG AGRI**

The European Commission representative gave a presentation which can be found on CIRCABC.

European Commission Implementing Regulation 2021/725 was published on 5<sup>th</sup> May.

This applies to certain on-the-spot checks in relation to IACS and non-IACS measures, cross-compliance, outermost regions, smaller Aegean islands, producer organisations, fruit and vegetables, wine, vine plantings, olive oil, table olives, apiculture.

Justification: MS will still face implementation difficulties due to Covid-19 in execution and planning of on-the-spot checks, which will ultimately impact timely payments for farmers.

Previous experience in 2020 (2020/532) showed that this was welcomed by MS administrations and that derogations (which were optional) were widely used. Therefore, given the continuation of the pandemic situation, it was decided to make available a similar set of derogations for 2021. This does not directly concern beneficiaries but can lead to timely payments for farmers and be of help to paying agencies.

The Regulation provides for the possibility of substitution of physical inspections by satellite, new technologies or other evidence, flexibility in the timing of the execution of controls, and the possibility to reduce control rates.

In 2020, more than 90% of MS used 3 derogations (control rate reduction for IACS and cross-compliance, postponed control data notification). Satellite based information was widely used.

There are some lessons to be learnt: in general, the feedback from MS was positive but more support and guidance is needed to foster modernization, the number of MS which adhered to checks and monitoring doubled in 2021. There is a different modernization potential between area and animal related schemes.

### Discussion

COPA: COM should show flexibility in terms of aid payments given the situation farmers are facing this year because of Covid-19 pandemic.

The European Commission representative replied that some Member States have requested to be able to grant a higher % of advanced payments. The EC is analysing the requests.

## **4. Next meeting**

The next meeting is scheduled for 18<sup>th</sup> October pm.

## **5. 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 A<sup>1</sup> and B<sup>2</sup> 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).*

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

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

## 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."*



List of participants– Minutes

**Meeting of the Civil Dialogue Group “CAP”**

**Date: 14 June 2021**

**on Friday 19 March 2021 from 09:00 to 13:00**

MEMBER ORGANISATION	NUMBER OF PERSONS
C.E.M.A.	1
C.E.P.M.	1
CEETTAR	1
Euromontana	2
COGECA Note taker	6 1
EURAF	2
ECVC	2
CEJA	4
EEB	1
COPA Chair	5 1
EFFAT	3
EFNCP	1
ELO	4
CELCAA	5
FoodDrinkEurope	6
Greenpeace	1
IFOAM Organics Europe	3
SACAR	2



Joint Secretariat of Agricultural Trade Associations (SACAR)	1
Stichting BirdLife Europe (BirdLife Europe)	2