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Mr Phil Hogan
Member of the European Commission

SIMPLIFICATION: THE FINNISH CONTRIBUTION

Dear Phil,

Finland very much welcomes the emphasis the Commission is putting on simplification of the Common Agriculture Policy. The implementation phase of the previous reform showed, that there is, both in the basic legal acts and the implementing and delegated acts, considerable potential for simplification.

We appreciate and fully share the approach that the proposals for simplification should not touch the basic outline of the Common Agricultural Policy. We also agree that the financial interests of Community need to be protected. However, one can pose a question, where the correct balance lies in this respect. We think that there are rules, which could be made more flexible and more practical without causing any significant risk to the Funds.

We think that it is correct to focus on simplification from the farmers' point of view. However, there are also measures, which can bring benefit both to farmers and other actors in the rural areas and food sector, as well as to the national administrations. For example, using a risk based approach in all the controls in the food chain would be logical and reduce administrative burden for both the farmers and administrations.

In this letter we put forward our ideas on simplifying the current rules under Direct Payments, Single CMO, Horizontal Regulation and Rural Development as well as their implementing rules. We fully understand that some of these proposals cannot be implemented quickly, but we raise them in any case in order to begin a thorough reflection on them.

Our main proposals for simplification are the following:

Direct Payments

Greening

Greening payment is a very important new element in the CAP. It provides several environmental benefits. However, its requirements contain many details, which cause extra concern and bureaucracy for the farmers and the administration. Especially the following three issues have been raised in the discussions among farmers in Finland.

- 1) Permanent grassland: The rules of permanent grassland, especially the reconversion obligation, have caused the threat that farmers will plough their grassland areas, which have been seen as temporary grassland until now. This is not a desirable situation with regard to the environmental objectives.

The reconversion obligation constrains the farmers' right to decide on their own actions. Farmers perceive this as a violation of their legally protected rights. Because of this, in the future it may be difficult for livestock farms to find arable land they could lease as the lessors may fear that the status of the arable area they have leased may change into permanent grassland. All farmers are afraid that the value of their grassland area will decrease.

For these reasons the rules should be made more flexible, more in line with the local cultivation practices or thoroughly reconsidered, or even revoked, as the rules themselves seem to have opposite effects than their aims.

- 2) Ecological focus area (EFA): More subsidiarity should be given for the Member States as regards the details of EFA. Farmers cannot understand why all the details are established in the EU-level, e.g. a maximum crown diameter for trees in Article 45 of the delegated act 639/2014. These kind of detailed rules should be deleted.
- 3) Crop diversification: The rules on cultivation period for crop diversification are burdensome for both the farmers and the administration and it should be deleted. The number of crops would be considered on the basis of the crops declared in the aid application. Crop diversification could be controlled based on 100 % cross-checks and those verified with on-the-spot checks, which would be done at the time when most of the eligibility criteria can be checked.

Active farmer

Although Finland understands the aim of the rules on active farmers, this aim could be reached in the different way than regulated at the moment. The so called negative list (Article 9(2) of Regulation 1307/2013) causes lot of bureaucracy for the farmers and the administration. It is estimated that only minor share of the farmers are excluded from the direct payments based on this rule. However, this rule causes confusion for all farmers. Instead of excluding certain beneficiaries from the payment schemes, the areas of airports and the like should be excluded. Instead of the negative list, administrative and on-the-spot controls are sufficiently effective to ensure that aid is not paid for the areas of airports, permanent sport grounds etc.

Single CMO

Marketing Standards

To some extent the marketing standards are necessary. They are a common agreement between different operators to define the quality or authenticity of the product. Marketing standards also have a close connection preventing fraudulent trading and from that aspect it is essential to have official definitions.

The fundamental question is: are these marketing standards needed at the EU level or would the international (UNECE or Codex) standards be enough and meet the needs?

Almost all products that have EU marketing standards are also foodstuffs. So they are covered by EU food law (178/2002) and regulation of food information to consumers (1169/2011). In these regulations it is clear that the food business operators are responsible for food safety and authenticity, as well as for correct information given. The Commission should compare these regulations (marketing standards and food regulations) and clarify if there really is a need for separate regulations.

At the moment no risk-based approach in inspections and sampling is applied and the competent authority performs controls that should be on the responsibility of the operator in its own-check controls.

Rural Development

Commission interpretation on the permanence of the payments during the programming period

The Commission has made an interpretation on the permanence of certain payments under the Rural Development Programme, which is problematic. According to this interpretation the agri-environment-climate-premium for a given beneficiary as set in his contract should not change during the contract period. The same interpretation also applies to payments for areas facing natural and other specific constraints. Due to this interpretation the Member States may, due to precautionary reasons, fix the premium at a lower level than the costs of the operation.

In our opinion the Member States should be given adequate tools to adjust and limit the total expenditure in measures, where no selection criteria are applied. Because it is difficult to predict the uptake of the operations, it should be possible to adjust the premia when the uptake is known. This could be done by using a coefficient to reduce the premia per hectare in the total target area of the measure or some other way that is transparent and ensures an equal treatment of the beneficiaries.

Without the option of using coefficients, the exercise of caution to ensure sufficient funding for the whole programming period will lead to under-compensation relative to the levels of costs as the Member States have to prepare for a situation where the target area may be exceeded.

Horizontal Regulation

Towards a risk-based approach in the controls

A risk-based approach should be applied to all controls of farmers and also within the farm. This means that controls could be reduced, where the farmer has a good track record or the already controlled agricultural parcels have revealed no risk or only minor irregularities. In these cases there is no need to extend the sample or extrapolate the result if the sample is based on risk analysis. Similarly, controls should be increased - as is already the case - where systemic problems have occurred.

Administrative penalties

Administrative penalties for farmers should be tailored more closely according to the nature of the infringement. There should be a general limit (at least 5 %/ 5 animals), where no administrative penalty applies, but the payment is made up to the eligible amount only. The IACS system has proven very effective and the Court of Auditors has also noticed this, which is why the general limit should be 5 % before any administrative penalty applies.

Animals subject to penalties in cross compliance regarding the system for the identification and registration are also subject to penalties in the administrative and on-the-spot checks of the payment scheme (voluntary coupled support, for example). This kind of double sanctioning due to one and the same animal and the same error should be deleted.

Surface areas approved by the administration

It is very important to reduce the bureaucratic burden for both the farmers and the administration caused by remeasurement of areas that have been measured earlier and which may give different results depending on the devices and procedures used. The recently digitized surface areas should have the status of surface areas approved by the administration so that the farmers are able to trust these areas without any fear of penalties when they are using these areas in their applications. The newly measured area would, of course, be used for the following years (if it is above the new 2 % tolerance).

Advance payment of direct payments

Especially in the northern conditions we need a possibility to pay advances concerning also direct payments after the administrative checks.

Due to the climatic conditions farmers in the northern countries commonly sow spring crops and they also often have to make late changes to their sowing plans. Moreover, the scattered location of parcels and the long distances in the northern conditions make control work quite time-consuming. The control of greening measures has also shown to be very complex and time-consuming. Due to all these reasons the controls get started quite late and they take time. This means that in practice the advance payments for direct payments cannot be used at all, as they can be paid only after finishing all the checks. Therefore the payments for area-related basic payments under the I pillar can only be started in the beginning of December. The delay on payments may lead to severe liquidity problems amongst farmers.

We propose the following solution: since we don't in direct payments have in practise the possibility to pay advances when the administrative checks and OTSC's take such a long time, we need a possibility to pay advances already after the administrative checks have been done. As the EU contribution on advances is first paid by national financing, the subsequent reimbursement from the EU budget could be made only after the change of the financial year, i.e. beginning on 16 October. In this way all the payments from the EU budget would be done during the same budget year. If necessary this possibility could be limited to concern only those Member States which have an acceptable error rate (to be defined) during the previous control.

Cross compliance

The system of cross compliance should be analysed thoroughly. What are its benefits relative to the administrative costs to farmers and administration? Is it equitable, especially for farmers in different production sectors (animal husbandry/crop production) or for farmers in different Member States since some of the requirements are based on very general standards (e.g. on Regulation 178/2002) and thus may cause differences in their implementation among the Member States? It should also be analysed if the system of control of cross compliance is cost-effective.

Quite often farmers feel that the penalties relating to cross compliance are too strict. It should be possible to give an early warning in the case of all minor non-compliances found for the first time, not only when a remedial action can be taken.

It also seems that at the moment the penalties relating to cross compliance are not equitable and proportionate, especially for farmers in different production sectors (animal husbandry/crop production). When, for example, farms with only few animals but hundreds of hectares of arable land have a non-compliance in animal-related cross compliance requirements the penalty is applied to all area-based payments (direct payments and rural development payments). The situation is different compared to a farm with just a few hectares and hundreds of animals and where the non-compliance concerns the area-related cross compliance rules.

In the Annex to this letter you will find more detailed proposals for simplification as well as their justification.

Yours sincerely,

Petteri Orpo
Minister of Agriculture and Forestry