

Further consultation on European Parliament reports – July 2012 to October 2012

CAP2 9 – Environment Agency Wales (EAW)

Re: The Common Agriculture Policy (CAP)

Thank you for circulating the above consultation for comment. Please find our response attached.

Environment Agency Wales (EAW) recognises the importance of CAP to rural Wales. Our response to the Environment and Sustainability Committee's CAP Task and Finish Group consultation should be viewed in the context of our role as principal environmental regulator for the protection of air soil and water. We also have duties to maintain, improve and safeguard water-related biodiversity and fisheries in Wales which can be greatly enhanced through sustainable land management.

We believe the European Commission (EC) CAP Reform proposals provide the Welsh Government with a golden opportunity to champion sustainable land management and quality food production in Wales. Close dialogue with Members of the European Parliament (MEPs) and EC officials are paramount in ensuring the views of Welsh stakeholders on the future of CAP are fully represented. The Task and Finish Group needs to continue to monitor developments within the CAP negotiation process to ensure the best possible outcomes for Wales.

The European Parliament's Agriculture Committee (EPAC) draft reports make proposals for significant amendments to the EC's original draft regulations. The movement to an area based payment in Wales is likely to result in a considerable re-distribution of support amongst land managers in Wales. Moreover CAP Pillar I "greening" also pose challenges and Welsh land managers should not be disadvantaged for the good environmental work already delivered over the years through sustainable land management. Wales should be awarded the flexibility to choose the measures that best suit Welsh Agriculture and the Welsh Government's environmental outcomes.

We are disappointed at the EPAC's draft report proposal to remove the possible inclusion of Water Framework Directive (WFD) and the Pesticide Directive (PD) as Cross compliance (XC) requirement measures. Article 91 of the EC draft regulation originally stated that compliance with PD and WFD requirements would become XC requirements once all Member States (MS) had adopted the Directives. We view the draft report proposal as a retrograde step which will inhibit the Welsh Government's ability to meet national and international biodiversity targets, as well as tackle diffuse water pollution under WFD.

Our attached response considers these important issues in greater detail together with further views on the wider EPAC draft report proposals. We hope our comments will help the Welsh Government in its CAP Reform deliberations and its endeavours to deliver the best outcomes for Wales.

Chris Mills
Director, Environment Agency Wales

ENVIRONMENT AGENCY WALES' RESPONSE TO THE ENVIRONMENT & SUSTAINABILITY COMMITTEE'S TASK & FINISH GROUP ON THE COMMON AGRICULTURE POLICY INQUIRY

SUMMARY

- The Environment Agency (EA) is the principal environmental regulator in England and Wales for the protection of soil, air and water. We also have important duties to maintain, improve and safeguard water-related biodiversity and fisheries in Wales.
- We acknowledge the economic importance of Welsh Agriculture in the production of quality agricultural goods and ecosystem services to rural Wales.
- The Water Framework Directive (WFD) requires all watercourses (by 2015) to meet good ecological status/potential. In 2011, 64% of surface waters in Wales failed to reach this status¹.
- In Wales, farming contributes 60% of nitrates, 25% of phosphorus and 70% of sediments to the nation's waters². Reducing these figures would make a significant contribution to meeting European requirements.
- We do not support the European Parliament's Agriculture Committee's (EPAC) Draft Report proposals to remove WFD and Pesticide Directive as possible Cross compliance (XC) requirement measures.
- WFD delivery should be a key CAP priority and include measures that;
 - tackle soil poaching and riverbank erosion by livestock.
 - champion Water Resources (Control Pollution) Silage, Slurry & Agricultural Fuel Oil Regulation - "SSAFO" compliance, and
 - require adoption of nutrient management plans on all farms
- We support the CAP Reform control and management proposals that will adopt a "proportionate and risk-based" approach to areas where risk or error are highest.
- We believe that the requirement for farmers to control alien invasive species should continue as a CAP XC Good Agricultural Environmental Condition (GAEC) obligation. Rural Development (RD) support should also be granted for more targeted action where necessary,
- We welcome proposals that will allow farmers in existing agri-environmental schemes to automatically receive "greening" payments.
- All agri-environment schemes should deliver beyond "greening" requirements
- A wide menu of "greening" options should be adopted tailored to Member States (MS) circumstances.
- We support measures to increase co-financing rates for agri-environment climate measures and that at least 30% of RD funding be focused on such measures.
- Impact assessments should be undertaken on mandatory criteria for ANC definition.
- We recognise the merits of a national reserve and welcome measures to activate entitlements and prevent land banking.
- A voluntary Small Farmers Scheme (SFS) should be subject to XC and "greening".
- CAP support should be extended to new entrants and not only those under 40 years.
- We welcome the flexibility proposed for fund transfer between CAP Pillars. This should not distract from the need to secure a fairer share of EU RDR funding.
- We believe forestry competitiveness should be an RD objective and priority.

1.0 INTRODUCTION

¹ Environment Agency Wales Communication (2012) WFD Liaison Panels and WELSH GOVERNMENT WFD Stakeholder Forum

² Welsh Government (2011) Consultation on the compulsory Good Agricultural Environmental Condition (GAEC) to introduce buffer zones alongside water courses to tackle water pollution from agriculture

- 1.1 The EA is the principal environmental regulator in England and Wales for the protection of air, soil and water. It also has important duties to maintain, improve and safeguard water-related biodiversity and fisheries. We welcome the opportunity to comment on the latest CAP Reform developments and implications for Wales.
- 1.2 EA Wales fully recognises the importance of CAP to rural Wales. Wales receives approx €330 million under CAP Pillar I³ annually and €376.7 million under CAP Pillar II WRDP⁴ 2007 – 2013. The annual Farm Business Survey (FBS⁵) demonstrates that Wales remains heavily dependent on subsidy support to aid farming businesses.
- 1.3 Water pollution is a principal environmental concern amongst EU citizens, second only to climate change in the last Special Environment Eurobarometer in March 2008. In 2010, assessment of EU MS draft River Basin Management Plans (dRBMP)⁶ concluded that agriculture places pressures on surface and ground waters. Diffuse or point source nitrogen pollution was reported in 91% of dRBMPs, phosphorus in 90% of the cases and pesticide pollution in 69% of dRBMPs.
- 1.4 In Wales, farming is not the sole cause of water pollution but contributes 60% of nitrates, 25% of phosphorus and 75% of sediments to the nation's waters⁷. WFD should be an important CAP priority.

2.0 COMMENTS IN RESPONSE TO SPECIFIC QUESTIONS.

DISTRIBUTION OF DIRECT PAYMENTS

Question 1

Would you support the amendments as set out in the draft report or would you like to see further changes put forward?

- 2.1 We are not qualified to comment in great detail on a CAP step change transition but would support as low a starting point as possible to assist land managers re-structure their farm businesses. We note that Amendment 56 would put an onus on MS “to ensure that in 2019 no farmer entitlements are reduced by more than 30% as compared to 2014”. We would support such an amendment on the condition that the land managers restructure their farming businesses sustainably for the longer term.

ENTITLEMENTS

Question 2

Would you support Amendments 50 and 51 on widening the years within which a farmer is required to have activated an entitlement?

- 2.2 We support Amendments 50 and 51 on widening the years within which a farmer is required to have activated an entitlement. They will help land managers who activated entitlement between 2009 & 2011 but were unable to do so in 2011.

³ Figure based on the exchange of the Welsh Government's estimation of total amount of SFP received in Wales annually (approximately £292 million) at euro exchange rate of €1.14 to £1 on 11 Feb 2010.

⁴ EC Press Release, Rural Development Plan for Wales, 20 Feb 2008 [Accessed 11 February 2010]

⁵ The Farm Business Survey is a survey of 550 farming businesses from the main farm types in Wales. Only farms with a Standard Labour Requirement (SLR) of more than 0.5 are included in the sample.

⁶ Ecologic, 2010. Assessment of agriculture measures included in the draft River Basin Management Plans <http://ec.europa.eu/environment/water/quantity/pdf/summary050510.pdf>

⁷ Welsh Government (2011) Consultation on the compulsory Good Agricultural Environmental Condition (GAEC) to introduce buffer zones alongside water courses to tackle water pollution from agriculture

Question 3

Would you support the use of the national reserve for the purpose outlined by Amendment 59?

- 2.3 We support the use of the national reserve for the purposes outlined in Amendment 59. It provides a means to use the national reserve (under Article 23) to allocate entitlements to farmers who began their agricultural activity after 2011. We note however that it will need to be resourced from a finite national ceiling.

Question 4

Do you support the view that further safeguards are needed in the text to minimise the possibility of land banking?

- 2.4 We are concerned there is a danger that “Land banking” will take place under current EC proposals which will impact upon land use availability and price. We believe that “safeguards” are needed in the text to minimise the possibility of land banking and any potential negative environmental impacts. XC obligations must be met by all land managers with agricultural projects affecting permanent pasture and semi-natural areas and uncultivated land robustly screened in line with Welsh Government’s Environmental Impact Assessment Regulation dictates and Wales’ 2003 permanent pasture baseline data.

“GREENING”

Question 5

Do you support the proposal set out by amendment 69?

- 2.5 We welcome proposals that will allow land managers in existing agri-environmental schemes to automatically receive “greening” payments. Provided measures undertaken through agri-environmental scheme participation go beyond “greening” requirements then land managers should be recognised for their actions.

Question 6

Do you support the Group’s view that it should continue to push for a wider menu of “greening” options to be contained in the final regulation?

- 2.6 We support a wider menu of “greening” options. The Welsh Government needs to be awarded the flexibility to choose options that best support Welsh Agriculture. Whilst sustainable land management schemes (such as Glastir) are imperative in meeting WFD requirements, they are voluntary and not implemented nationwide. Given the extensive geographical nature of water body failures in Wales, CAP Pillar II measures alone will not deliver the levels of improvements required. CAP Pillar I “greening” measures have an important role in WFD delivery. A clear distinction is needed however on what needs to be delivered through CAP Pillar I ‘greening’, CAP Pillar II sustainable land management and CAP XC, including GAEC.

SMALL FARMERS SCHEME

Question 7

Do you support an amendment to make the Small Farmers Scheme Voluntary?

- 2.7 We believe the Small Farmers Scheme (SFS) should be voluntary but also that it be subject to CAP XC and “greening” protocols. We would be concerned if SFS

participants were exempt from “greening” and faced less stringent XC. While SFS participants may be small in nature, poor environmental performance on their holdings can undermine the fundamental principles of CAP Reform and sustainable land management. We believe that all farm enterprises (regardless of size) should champion high environmental standards and performance.

Question 8

What are your views on Amendment 104?

- 2.8 We note EPAC’s desire to increase the funding farmers receive under a voluntary SFS from 1000 € to 1500 €. If implemented then close synergies should be developed with the advisory services available under Farming Connect to raise environmental performance alongside CAP XC and “greening” protocols.

YOUNG FARMERS

Question 9

Do you support the Group’s view that support should be provided to all new entrants and not only those under the age of 40?

- 2.9 We believe support should be granted to all new entrants and not only those under 40 years. Any new entrant to farming has the potential to offer new working ideas and improve the richness of the Welsh farming industry regardless of age.

Question 10

Do you support the intentions of amendments 86 and 87?

- 2.10 We note the aims of amendments 86 and 87 in developing objective and non-discriminatory criteria on eligibility support. We believe that new entrants should be supported provided they possess skills that can help re-invigorate the industry and tackle future environmental challenges. Synergies should be developed with Farming Connect to aid skills development critical to long term business viability.

ACTIVE FARMER

Question 11

Would you support the use of a negative list to define Active Farmer?

- 2.11 We acknowledge the complexity associated with the “active” farmer definition and welcome the EPAC’s proposal to introduce a negative list of activities and businesses who would not be eligible for direct payment support. We believe that the “active” farmer definition should be linked to “active” land management and production.

Question 12

What are your views on this Amendment and how it relates to new entrants?

- 2.12 We note that Amendment 31 aims to amend the Article 9 “active” farmer definition to ensure legal persons who “*were not engaged in agricultural production activity in 2011*” do not receive future direct payment support. Greater clarity is needed on its impacts on new entrants and land managers who have diversified.

FLEXIBILITY BETWEEN PILLARS

Question 13

What are your views on the proposal to allow the UK to transfer an additional 10 per cent from Pillar I to Pillar II?

- 2.13 We welcome the flexibility proposed to allow the UK to transfer an additional 10% funding from Pillar I to Pillar II. It is essential that sufficient Pillar II funding is available to help land managers deliver on the challenges of climate change and ecosystem services. However this should not distract from the fundamental need for Welsh Government and the UK Government to secure its own fairer share of EU RDR funding.

Question 14

What are your views on the proposals to allow MS to transfer some funds not used for areas of natural constraints and “greening” under Pillar I to Pillar II?

- 2.14 Unused CAP Pillar I “greening” and Areas of Natural Constraint funds should be transferred to Pillar II. These funds could then be used to promote sustainable rural communities, deliver improved environmental outcomes and ecosystem services. Current EU funding arrangements already significantly disadvantage Wales compared with other EU MS and place an enormous pressure on the Welsh Government to make its own resources available to ensure a meaningful programme of actions under the Wales RDP. It is unclear whether the same level of domestic support will be available in the future therefore difficult budgetary decisions will have to be made.

DRAFT REGULATION ON RURAL DEVELOPMENT

OBJECTIVES AND PRIORITIES OF RURAL DEVELOPMENT (RD)

Question 15

Would you support the addition of the competitiveness of forestry as an objective and priority for rural development funds?

- 2.15 We believe that the competitiveness of forestry should be an objective and priority for RD funding alongside wider land use management in Wales.

SPECIFIC MEASURES

The Task and Finish Group would particularly welcome views on;

Question 16

Amendments 24 and 27 which would enable MS to make retirement payments to any farmers permanently transferring their holding to another farmer if the farmer retiring is over 65 and has practised farming for at least ten years; and

- 2.16 No comment

Question 17

Amendment 28 which would allow MS to provide funds to act as guarantees for land lease contracts for young farmers to facilitate access to long term leases.

- 2.17 No comment

AGRI-ENVIRONMENT AND CLIMATE

Question 18

What are your views on these proposed amendments?

- 2.18 We support Amendments 41 and 42 provided permission is granted under Pillar I enabling land managers in existing agri-environment schemes to automatically qualify for “greening” payments. The amendments will prevent double funding confusion between the pillars and emphasise that all agri-environment schemes go beyond minimum “greening” requirements.

Question 19

Would you support the inclusion of increased co-financing rates for agri-environment climate measures?

- 2.19 We are not qualified to comment in great detail on the most appropriate co-financing rate. However we note the greater prominence now given to agri-environment and climate measures within on-going CAP Reform discussions. This is in recognition of the growing environmental challenges now facing modern Society and the crucial role land managers will have to play in adapting and ameliorating its impacts. Sufficient resources need to be secured to allow land managers to farm sustainably and deliver on the important ecosystem services agenda.

Question 20

Would you support the requirement that MS should spend at least 30 per cent of their RD funds on agri-environment-climate measures?

- 2.20 We believe that MS should spend at least 30% of their RD funds on agri-environment-climate measures. MS should be awarded the additional flexibility to determine a higher percentage rate if their respective RD programmes require.

AREAS OF NATURAL CONSTRAINT

Question 21

What are your views of this suggested amendment?

- 2.21 We note that amendment 46 calls on the EC to present a legislative proposal for mandatory criteria to define areas of natural constraint. We support the amendment to allow additional time for a full impact assessment to be undertaken.

DRAFT REGULATION ON FINANCING, MANAGEMENT AND MONITORING OF THE COMMON AGRICULTURAL POLICY

Question 22

What are your views on these amendments?

- 2.22 We support the amendments proposed that will require MS to ensure any management or control systems established should be “*proportionate and risk based*”. We believe that on the spot checks should be focussed in areas where the

“error risk” is highest. This builds on Welsh Government’s own Working Smarter initiative aspirations.

- 2.23 We welcome the proposal for a “warning” system concept to be introduced under which an initial warning letter would be enacted in cases of first non-compliance. We also note the proposal for penalties only to be applied where non-compliance is unequivocally attributed to the beneficiary concerned. Whilst recognising the merit of such a proposal we would be concerned if its introduction compromised the use of penalties (where justified) and negatively influenced the integrity of the inspections process when establishing XC breaches.
- 2.24 We believe MS should be awarded the flexibility to tailor the warning system accordingly to MS and regional circumstances. Close synergies need to be forged with the advisory services offered through Farming Connect to champion good farming practices and prevent the need for initial warning letters.

Question 23

Are there any other amendments that you would like to see?

- 2.25 We are currently delivering a programme of WFD investigations. In May 2012 Reasons for Failure data identified agricultural pollution as the top issue in Wales⁸. Approaching 155 water bodies currently fail because of pollution from agricultural activities, including livestock poaching, erosion of river banks and fields, run-off from grassland and arable fields, tracks and the farm yard, and poor management of slurry. We continue to highlight the need to strengthen CAP XC to secure a better balance between the CAP Reform Pillars to maximise environmental returns. CAP XC should;
- tackle soil poaching and riverbank erosion by livestock,
 - require the adoption of nutrient management plans on all farms, and
 - champion Water Resources (Control Pollution) Silage, Slurry & Agricultural Fuel Oil Regulation - “SSAFO” compliance.
- 2.26 SSAFO compliance includes;
- storage facilities hydrologically located at least 10m from a water course,
 - slurry storage facilities must effectively contain all of the slurry produced on the farm and are not leaking or in danger of over flowing,
 - storage facilities must have an effluent collection and containment system that is not allowed to overflow.

ELECTRONIC IDENTIFICATION OF ANIMALS

Question 24

Would you support such an amendment to the draft regulation?

- 2.27 No comment

WATER FRAMEWORK DIRECTIVE AND PESTICIDES DIRECTIVE

Question 25

What are your views on these amendments?

- 2.28 Under Article 93 of the CAP Horizontal Regulation it states that;

⁸ Environment Agency Wales (2012) Living Waters for Wales – communicating our approach

“Directive 2000/60/EC of 23 October 2000 establishing a framework for Community action in the field of water policy will be considered as being part of Annex II once this Directive is implemented by all MS and the obligations directly applicable to farmers have been identified”.

- 2.29 We welcomed the EC’s initial desire to include WFD and Sustainable Use Directive for pesticides within XC. It provided a mechanism by which CAP could better target measures for WFD delivery. We are therefore disappointed that the EPAC’s Draft Reports now propose to remove WFD and Pesticide Directives as XC requirements. With approaching 64% of Welsh surface waters failing EU WFD good ecological status/potential in 2011⁹ we believe WFD should be a CAP XC priority.

GOOD AGRICULTURAL AND ENVIRONMENTAL CONDITION

Question 26

Do you agree with the amendment proposed to GAEC 8?

- 2.30 The existing Welsh Government CAP XC ‘GAEC C’ Factsheet requires farmers to *“take reasonable steps to prevent the spread of Rhododendron, Giant Hogweed, Japanese Knotweed and Himalayan Balsam”*. Farmers and land managers are therefore already helping to control invasive alien species in line with the good farming practice outlined in the factsheet. However we believe more can be done without necessarily entailing excessive costs notably through controlled livestock grazing in specific areas to help control the spread of Himalayan Balsam and Japanese Knotweed. We therefore question the interpretation that alien invasive species control is “very costly” to all individual farmers.
- 2.31 The Alien Species Directive is currently under development and CAP has the potential to provide an important incentive for landowners to deliver the increased commitments for the management of invasive non-native species that the directive is likely to require. The requirement for farmers to control alien invasive species should continue as a CAP XC GAEC obligation. Given Climate Change and the increasing threat from existing and new alien invasive species RD support should be made available for more targeted action, where necessary.

3.0 Conclusion.

- 3.1. To deliver WFD outcomes, future CAP and RD funding needs to champion sustainable agriculture and highlight the need for all farm sectors to improve environmental performance. The CAP proposals provide a broad platform that has the potential to allow Welsh agriculture to become a world leader - delivering benefits for land managers and the environment.

Land Quality Wales 19 September 2012

⁹ Environment Agency Wales Communication (2012) WFD Liaison Panels and Welsh Government WFD Stakeholder Forum