



Cyngor Cefn Gwlad Cymru Countryside Council for Wales

NATIONAL ASSEMBLY FOR WALES: ENVIROMENT AND SUSTAINABILITY COMMITTEE

COMMON AGRICULTURAL POLICY TASK AND FINISH GROUP SUBMISSION BY CYNGOR CEFN GWLAD CYMRU/COUNTRYSIDE COUNCIL FOR WALES

Summary

CCW welcomes this opportunity to present evidence to the Committee's Task and Finish Group. The main points we wish to emphasise are as follows:

(i). Despite the influence of market forces, new technology and social change, the Common Agricultural Policy (CAP) remains a hugely significant influence on the behaviour of individual farmers as well as on the overall structure of the agricultural industry, the viability of rural communities and the quality of the Welsh environment.

(ii). The CAP reform debate is taking place within a much wider discussion over the scale of the CAP, the size of the EU budget and the future needs of the European Union, including the requirements of the Resource Efficiency Roadmap¹. The increase in size of the EU and the emergence of new negotiating blocs increases the probability that rather than allocated on the basis of agreed objectives, the scale of the resources available for the CAP during 2014-2020 will be based on the results of last minute negotiations over both the size and the purpose of the EU budget. The current economic situation and the increased influence of the European Parliament also have to be taken into account.

(iii). CCW's long term vision for the future of the CAP involves a fundamental shift in emphasis, such that the policy is transformed into one that focuses on the provision of a wide range of environmental public goods alongside food production. CCW favours a "green CAP" within which a strengthened Pillar 2 is used to target the provision of environmental benefits more precisely whilst Pillar 1 underpins the maintenance of ecosystem services. This reflects the approach set out in the emerging Natural Environment Framework (NEF) for Wales. In this context, the reformed CAP will be central to the delivery of a new approach to the management of land and water as proposed within the NEF.

(iv). The draft EU budget has already signalled a real term reduction of c.9% in the EU budget over the period 2014-2020. At the present time both Pillars are affected to a similar degree, but the situation may well change during the final budget negotiations, especially in light of the current financial crisis and the P2 co-financing obligations placed on Member States. Bearing in mind that the scope of P2 has already been significantly extended within

¹ "Roadmap to a Resource Efficient Europe". EC Communication COM(2011) 571 final. September 2011. Accessible at: http://ec.europa.eu/environment/resource_efficiency/

the draft RDR, a further reduction in the P2 budget is likely to mean that many M/S will need to rely on a green Pillar 1 as part of delivering against the ecosystem services agenda.

(v). With regard to the detailed proposals put forward by the Commission, CCW has the following observations:

- In terms of direct payments, the shift from historic to area payments will result in income distribution. The economic, social and environmental impacts of this are difficult to predict. In order to avoid perverse effects, it will be important to ensure that the Welsh Government has the capacity to establish a series of "sub-regions" within which a uniform basic payment per hectare can be established according to the nature of the land and the types of farming being carried out.
- The proposed Small Farmers Scheme is effectively mandatory, since if farmers opt to apply, the relevant Member State/Region will need to provide a payment of between 500 and 1000 euros per farm per annum. The administrative costs could be substantial and it would be more appropriate for Member States to be allowed to operate such schemes on a discretionary basis. In the event the scheme remains mandatory then cross compliance requirements should continue to apply to all participants.
- A natural constraints measure (formerly known as LFA) currently exists within both Pillar 1 and Pillar 2. In order for the Welsh Government to maintain its current commitment to tackling biodiversity loss, water management and climate change it will be important to ensure that the natural constraints measures remain discretionary.
- Subject to further negotiations at EU level it is possible that a greened Pillar 1 could be used to incentivise farmers to join agri-environment schemes (AES) by ensuring that they are exempt from the greening requirements in the same way as organic farmers. Alternatively, the greening measures could be used to "raise the bar" for those participating in AES, thus ensuring that RDP funds can be used to purchase an increased level of environmental benefit.
- Whilst CCW recognises the desirability of minimising the number of changes to Glastir, the proposed EU requirement that the Pillar 1 greening measures should "go beyond cross compliance" means that some further adjustments to the AWE are likely to be necessary. For instance, the modification or the removal of options 15B and 15D (grazed permanent pasture with inputs of up to 100kg of nitrogen per annum) would make it more likely that the Commission will agree with the proposition that all participants in Glastir should be exempt from the P1 greening requirements.
- In order to ensure that the Welsh Government can deliver against its environmental commitments and the proposed Natural Environment Framework, it remains necessary to secure an improved Pillar 2 budget at EU level as well as an increased Pillar 2 allocation in relation to both the UK and Wales. At the same time the Welsh Government will need to maintain its existing commitments in terms of its own resources whilst making maximum use of flexibility which allows for a transfer of funds from Pillar 1 into Pillar 2.

- The need for all Member States/Regions to maintain existing levels of agri-environmental & climate commitments, as well as ensuring that all RDP's allocate a minimum of 25% of the EAFRD contribution to the delivery of land management measures, is signalled in the preamble to the draft RDR. Ensuring this requirement is also inserted into the main text of the new Regulation would help to ensure a level playing field at European level.

(vi). In order to underpin its negotiating stance, the Welsh Government will need to carry out sufficient modelling in relation to the impact of the P1 greening measures as well the distribution of basic payments. In particular it will be necessary to ascertain if participation in the Glastir AWE is sufficient to meet the proposed Ecological Focus Area (EFA) requirement.

(vii). CCW has proposed a number of specific amendments to the draft regulations, especially in relation to the greening of Pillar 1. We look forward to discussing our proposals with the Committee.

1. Introduction

1.1. The Countryside Council for Wales champions the environment and landscapes of Wales and its coastal waters as sources of natural and cultural riches, as a foundation for economic and social activity, and as a place for leisure and learning opportunities. We aim to make the environment a valued part of everyone's life in Wales.

1.2. Some 80% of Wales is farmed. As a result, the agricultural industry has a significant role to play in helping both CCW and the Welsh Assembly Government to deliver against agreed priorities for biodiversity, landscape and public access to the countryside.

1.3. Whilst agriculture is affected by a wide range of drivers, the Common Agricultural Policy (CAP) remains a hugely significant influence on the behaviour of individual farmers as well as on the overall shape of the industry. CCW's long term vision for the future of the CAP involves a fundamental shift in emphasis, ensuring that the policy is transformed into one that is capable of supporting the provision of a wide range of public goods alongside food production. These public goods include the management of clean air and water, healthy soils, biodiversity, cultural landscapes and public access to the countryside². Central to our vision is the role of farmers in managing a range of ecosystem services, including carbon sequestration, flood storage and nutrient cycling, all of which play a vital part in underpinning agricultural productivity. This reflects the approach set out in the emerging Natural Environment Framework (NEF) for Wales³.

² The European Commission has recently commissioned a major report on public goods and agriculture. This is accessible at: http://ec.europa.eu/agriculture/analysis/external/public-goods/report_en.pdf

³ Further information accessible at : <http://wales.gov.uk/topics/environmentcountryside/consmanagement/nef/?lang=en>

2. Background

2.1. The European Commission's Communication on reforming the CAP post 2013 was published on 18 November 2010⁴. This set the context for the current round of negotiations by highlighting concerns around food security, environmental resources and climate change as well as stressing the diversity of environmental, social, economic and land management situations that exist in different parts of the EU.

2.2. The Commission's draft legislative proposals for the CAP were formally published on 12th October 2011, although leaked versions of the individual Regulations had been in circulation from mid-August onwards. The final package sets the basis for the current negotiations. It comprises seven separate draft Regulations⁵, three of which have significant implications for Welsh agriculture and the environment:

- Proposal for establishing rules for direct payment schemes for farmers (Direct Payments Regulation);
- Proposal on the financing, management and monitoring of the Common Agricultural Policy (the 'Horizontal' Regulation);
- Proposal on support for rural development by the European Agricultural Fund for Rural Development (the 'RDR').

2.3. The other four Regulations cover technical matters to do with the organization of agricultural markets and a transitional measure which is designed to ensure that modulation of direct payments can continue to take place during 2013.

2.4. The regulatory package is accompanied by an Impact Assessment (IA)⁶ of the various reform scenarios which were described in the Commission's original Communication on CAP reform back in November 2010. Both the Welsh Government and CCW previously submitted evidence in January 2011 as part of the IA process⁷. The final IA draws on the results of the EU-wide consultation process before examining more recent work by the Commission on developing the favoured "integration scenario" - under which direct payments play an increased role in providing environmental public goods (the so-called 'greening' of Pillar 1) alongside basic income support and an increased number of P2 measures.

2.5. The progress of CAP reform is inextricably linked with the ongoing debate over the size and purpose of the EU budget. The publication of the Multi-annual Financial Framework (MFF) at the end of June 2011 signalled the Commission's intention to proceed with the CAP integration scenario under which the current financial balance between Pillar 1 (direct payments) and Pillar 2 (rural development) is maintained. The MFF also reveals that the CAP budget is likely to shrink in real terms by some 9.2% over the period 2014-2020 and from 39.6% to 36.1% as a percentage of the overall EU budget⁸.

⁴ "The CAP towards 2020: meeting the food, natural resources and territorial challenges of the future". Accessible at: http://ec.europa.eu/agriculture/cap-post-2013/communication/index_en.htm

⁵ Accessible at: http://ec.europa.eu/agriculture/cap-post-2013/legal-proposals/index_en.htm

⁶ Accessible at: http://ec.europa.eu/agriculture/cap-post-2013/legal-proposals/index_en.htm

⁷ A copy of the CCW submission is available on request

⁸ "A Budget for Europe 2020 - Part I - Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions".

Accessible at: http://ec.europa.eu/budget/biblio/documents/fin_fw1420/fin_fw1420_en.cfm#doc2

2.6. Bearing in mind the current financial climate, it is by no means certain that Member States will regard the proposed reductions in CAP spending as sufficient. However, the European Parliament (EP) now has co-decision powers alongside the Commission and the Council under the Lisbon Treaty. Moreover the EP has resolved that the “amounts allocated to the CAP in budget year 2013 [the last year of the current financial perspective] should be at least maintained during the next financial programming period”⁹.

3. Key Elements within the Commission’s current CAP reform proposals

Direct Payments Regulation

3.1. In order to qualify for the “Basic Payments Scheme” (equivalent to the current SPS and worth up to a maximum of 68% of the available funds within the national/regional ceiling for Pillar 1) farmers must carry out a range of agricultural practices of benefit to the environment as well as respecting cross compliance requirements:

- Where the area of arable land exceeds 3ha, at least 3 different crops must be grown, with a minimum of 5% and maximum of 70% of eligible area in the case of each crop (Article 30);
- Permanent pasture (defined as grassland and herbaceous forage) must be maintained, although farmers will be allowed to reduce the area of permanent pasture existing in 2014 by up to 5% over an unspecified period (Article 31);
- At least 7% of the eligible hectares (excluding land under permanent grassland) must be devoted to “Ecological Focus Areas”. These can include areas of fallow, landscape features, buffer strips and agricultural land that has been planted with trees (Article 32).

3.2. Member States/Regions are obliged to use 30% of their direct payments budget to finance the greening requirements (Article 33.1). However, in the event that individual farmers fail to comply with the greening measures, the scale of the penalty remains unclear. Paragraph 26 of the preamble to the Direct Payments Regulation refers to the application of penalties under Article 65 of the Horizontal Regulation, which empowers Member States to reduce aid or exclude farmers from the relevant schemes. By contrast, Article 29 of the Direct Payments Regulation refers to the requirement that “farmers entitled to the basic payment scheme shall observe on their eligible hectares” the greening measures. Article 29 suggests, therefore, that farmers who fail to observe the greening measures will not be entitled to basic payments.

3.3. Member States/Regions must also allocate up to 2% of the direct payments budget to the support of young farmers (Article 37) and are required to establish a small farmers scheme which could account for a further 10% of the budget (Article 51.2). At the same time Member States/Regions can opt to use up to 5% of the budget to support LFA farmers (Article 35), whilst a further 5% can be devoted to “specific types of farming which are important for economic or social reasons” (Article 39). In the event that all of these elements

⁹ European Parliament Resolution of 8 June on “*Investing in the future: a new Multiannual Financial Framework (MFF) for a competitive, sustainable and inclusive Europe (2010/2211(INI)*”, P7_TA-PROV(2011)0206, Rapporteur: Salvador Garriga Polledo, para 82.

were taken up, the allocation to basic payments would reduce to just under 50% of the total budget available for direct payments in the Member State/Region in question.

3.4. Other significant elements in the draft Regulation are as follows:

- All Member States/ Regions will be required to move to an area-based system of direct payments over a five year transition period starting on 1st January 2014 and ending on 1st January 2019 (Article 22.5);
- Basic Payments in excess of 150,000 euros will be progressively reduced (by 20% for amounts of between 150-200,000 EUR; by 40% for amounts of between 200- 250,000 EUR and by 70% for amounts of between 250-300,000 EUR) and will be capped at a maximum of 300,000 EUR per farmer (Article 11).
- Direct payments will only be granted to “active farmers”. These are defined as farmers whose direct payments exceed 5% of their total receipts from non-agricultural activities. Farmers receiving less than 5000EUR per annum in direct payments are exempt from the active farmer requirement (Article 9).
- In order to strengthen rural development policy (Pillar 2), Member States will be able to transfer up to 10% from their direct payments allocation (Pillar 1) to their rural development allocation (Pillar 2). Existing requirements in terms of compulsory modulation (5%) and voluntary modulation (up to 20% in the case of the UK) will be abolished.
- Member States where the level of direct support remains below 90% of the European average (including the UK) will be able to transfer up to 5% from their rural development allocations into their direct payments budget in a process otherwise known as “reverse modulation” (Article 14).

Rural Development Regulation (RDR)

3.5. Whilst there is much that is familiar in the draft Regulation in terms of the types of policy instruments available, there are also some significant changes. These come in the form of new instruments (such as a risk management toolkit) as well as new requirements in terms of the way that Member States/Regions are obliged to construct the new generation of Rural Development Plans in the run up to 2014. In line with the Europe 2020 Strategy¹⁰, the existing long term objectives of the RDR (improved competitiveness, sustainable management of natural resources and balanced territorial development) must be met by addressing the following six EU priorities:

- Fostering knowledge transfer in agriculture & forestry;
- Enhancing competitiveness of all types of agriculture;
- Promoting food chain organization and risk management in agriculture;
- Preserving and enhancing ecosystems dependent on agriculture & forestry;

¹⁰ Accessible at: http://ec.europa.eu/europe2020/targets/eu-targets/index_en.htm

- Promoting resource efficiency and the transition to a low carbon economy;
- Realising the employment potential & development of rural areas.

3.6 All of the above priorities must also contribute to the cross cutting objectives of innovation, environment and climate change mitigation & adaptation (Article 5).

3.7. According to the draft Common Rules Regulation which was released as part of the Commission's proposals on Cohesion policy on 6th October 2011¹¹, Member States (rather than Regions) are required to prepare a "partnership contract" for the period 1 January 2014 to 31 December 2020. Such contracts are intended to cover the integrated use of all EU funding (EAFRD, ERDF, ESF, Cohesion Fund and the European Fisheries Fund) in the Member State concerned.

3.8. At the level of the Region (i.e. Wales) each Rural Development Plan will also be required to demonstrate that relevant combinations of measures (such as agri-environment, forestry, LFA, investment, knowledge transfer, risk management etc etc) will be used in such a way that all six of the EU priorities can be addressed, with targets set on the basis of a SWOT analysis of the territory concerned (Article 9). The existing system under which Member States Regions were constrained by maximum and minimum percentages of the EAFRD contribution that could be allocated to competitiveness; management of natural resources; social & economic rural development and LEADER (the so-called "Axis" based approach) will be abolished.

3.9. Other significant elements in the draft Regulation are as follows:

- Agri-environment remains a compulsory measure (albeit Article 9 now refers to "agri-environment-climate") and in a welcome change from the previously leaked version of the RDR, paragraph 28 of the preamble now refers to at least 25% of the EAFRD contribution to each RDP being allocated to the agri-environment-climate, organic farming and LFA measures;
- A renewed emphasis on knowledge transfer and advice (Articles 15 & 16) and the use of this measure as a cross-cutting theme in relation to other measures such as agri- environment (Article 29.4).
- The capacity to make payments to both farmers and foresters to cover the costs incurred and income foregone as a result of complying with Natura 2000 designations and the implementation of the Water Framework Directive (Article 31).
- A new definition of non-mountainous "areas facing natural and other specific constraints (formerly known as LFA) which is based on eight biophysical criteria under the broad headings of climate, soil and terrain (Article 33 and Annex II). Farmers who are no longer eligible for payments under the new definition can be granted transitional payments, starting at 80% of the existing payment per ha in 2014 and ending in 2017 at 20% of the existing payment (Article 32).

¹¹ Accessible at: http://ec.europa.eu/regional_policy/what/future/proposals_2014_2020_en.cfm#5

- An increased emphasis on promoting farmer co-operation (Article 36) including the capacity to contribute to the transaction costs of groups of farmers participating in agri-environment schemes at a rate of up to 30% of the sum of income foregone plus costs (Article 29.6)
- New measures relating to risk management, including compensation for losses incurred following natural disasters as well as financial contributions to mutual funds to cover compensation payments and to help with creating an “income stabilisation tool” (Articles 37-40).
- A new approach to stimulating innovation in relation to improving agricultural productivity and sustainability (Articles 53 & 61-63). This work will be taken forward by a new European Innovation Partnership (EIP) with the aim of building bridges between cutting-edge research, knowledge and technology and farmers, businesses and advisory services.

Horizontal Regulation

3.10. Whilst the bulk of the Regulation is concerned with technical matters largely of concern to Paying Agencies, there are a number of topics which have particular environmental implications:

- The role of the Farm Advisory Service has been substantially expanded, rather than being restricted to cross compliance issues was previously the case. The range of topics to be covered must now include the statutory management requirements (SMR's) and good agricultural and environmental condition (GAEC); the P1 greening measures; actions related to climate change mitigation & adaptation, biodiversity, the protection of water, animal diseases and innovation as well as the sustainable economic development of small farms (Articles 12-15 and Annex I).
- The scope of cross compliance is extended to cover both the Water Framework Directive (within 12 months from the moment that the last Member State has notified the implementation of the Directive to the Commission) and the Pesticides Directive (implementation date as per the WFD).
- To ensure consistency of interpretation all of the cross compliance standards and requirements are now organised in a single list and grouped by topics and issues (Articles 93 & 94 as well as Annex II). Two new GAEC standards have been added in order to protect soil and minimise greenhouse gas emissions. These require the maintenance of soil organic matter and the protection of wetlands and carbon rich soils.
- The common monitoring and evaluation framework (CMEF) will cover the performance of the direct payments regime (including cross compliance) and the operation of the market measures as well as the Rural Development measures (Article 110).

4. What could the European Commission's proposals mean for Wales?

4.1. Whilst much still remains to be agreed, the overall architecture of the CAP post 2013 is steadily becoming clearer. Although a substantial number of Member States, farming organisations and NGO's have significant reservations about the greening of Pillar 1¹² (albeit for widely different reasons) there is considerable support within the Commission for such an approach, with Dacian Ciolos (Agriculture), Connie Hedegard (Climate) and Janez Potocnik (Environment) stating in March 2011 that *"Greening is, alongside the redistribution of direct payments and the reinforcement of agricultural competitiveness and rural development, at the core of the future CAP"*¹³.

Basic Payments

4.2. From a Welsh perspective, one of the most significant aspects of the current proposals is the shift in the basis of direct payments, with a change from a historic approach (based on the subsidies received in the 2000-2002 reference period) to a uniform payment per hectare. The need for such a change has long been highlighted by successive Agriculture Commissioners as well as being accepted by successive Agriculture Ministers in Wales. For instance, on 5th July 2011, the Deputy Minister for Agriculture, Fisheries and European Programmes stated that *"the move to an area based and flatter Single Payment is inevitable. I cannot justify a system based on farming patterns of more than 10 years ago which also puts an obstacle in the way of young entrants"*¹⁴.

4.3. The Minister also went on to say that *"our own research has shown that area payments will mean income redistribution"*. As a member of the WG CAP reform steering group, CCW has had access to this research and it is evident that any system will create losers as well as winners. Various models have been tested in the past (including lower payment rates per ha within the LFA as per the current English scheme) but the existing draft of the Direct Payments Regulation refers to need to move to a 'uniform unit value' for all payment entitlements within a Member State or Region. Whilst this wording would appear to preclude a regional approach within Wales itself, Article 20 (1) allows Member States to "define regions in accordance with objective and non-discriminatory criteria such their agronomic and economic characteristics, their regional agricultural potential and institutional and administrative structures". It will be necessary to clarify whether this Article also permits the Welsh Government to define a number of "sub-regions" within Wales (such as non- LFA, less disadvantaged LFA and severely disadvantaged LFA).

4.4. A number of flat rate models are now being looked at by the Welsh Government and CCW understands that the results will be shared with the P1 Stakeholder Group in due course. At the moment it is clear that a simple flat rate payment for all land in Wales would lead to a substantial shift in receipts away from the lowlands (especially from those farms that were more heavily stocked during the reference period) to the uplands. The social, economic and environmental implications of this are likely to vary from farm to farm whilst

¹² "Member States fear Pillar 1 greening will complicate CAP". *Agra Europe* 20th Septemebr 2011. Accessible at: <http://www.agra-net.com/portal2/home.jsp?template=pubarticle&artid=1315565604578&pubid=ag002>

¹³ Commissioners Ciolos, Hedegard and Potocnik - joint letter to Member States on CAP reform, March 2011 (no internet link, but copy available on request)

¹⁴ Statement on CAP Reform by Alun Davies, Deputy Minister for Agriculture, Food, Fisheries and European Programmes. 5th July 2011. Accessible at: <http://www.assemblywales.org/bus-home/bus-chamber-fourth-assembly-rop.htm?act=dis&id=219203&ds=7%2F2011#dat2>

the length and the nature of the transition period (currently set at 5 years, but with a substantial front loading) will also be a negotiation issue.

4.5. The progressive reduction and capping of basic support payments seems unlikely to cause significant administrative problems in Wales since only a handful of future claims are likely to be for more than 150,000 euros¹⁵. By contrast, the new requirement to apply the current definition of the “Active farmer” test could place significant demands on the Rural Payments Division.

Areas facing natural of other specific constraints (formerly known as Less Favoured Areas)

4.6. As the Commission’s proposals stand at present, natural constraints payments could feature in both Pillar 1 and Pillar 2. Most Member States appear to feel such an approach is overly complicated and the Commission may well have included it primarily as a negotiating tactic.

4.7. In order for the Welsh Government to maintain its current commitment to tackling biodiversity loss, water management and climate change it will be important to ensure that the natural constraints measures remain discretionary within both Pillar 1 and Pillar 2. Provided the Welsh Government is able to apply the basic payment scheme on a sub-regional basis, this would appear to over-ride any benefits that might be derived from a making a natural constraints payment available under Pillar 1.

Small Farmers Scheme

4.8. The wording of Article 47.1 (“farmers holding payment entitlements allocated in 2014....., may opt for participation in a simplified scheme”) suggests that it is mandatory to establish a Small Farmer Scheme. Farmers participating in this scheme must receive at least 500 Euro and no more than 1000 Euro per annum (Article 49.3). Participants will be exempt from the Pillar 1 greening measures (Article 47.3) with Article 92 of the Horizontal Regulation proposing that their obligations under cross compliance will also be removed.

4.9. There appear to be no size thresholds specified in relation to the Small Farmer Scheme, with farms of any size able to apply depending on whether or not the payments appear to be sufficiently attractive. The environmental implications of this may be significant in the event that the cross-compliance requirements applicable to such farms are removed as proposed in Article 92 of the Horizontal Regulation¹⁶. In addition, the administrative costs involved in setting up such a scheme could be substantial.

Greening

4.10. The impact of the proposed greening measures is hard to gauge at present, not least because the Commission is proposing that it should be empowered to adopt “delegated acts” expanding on the application of the existing texts on crop diversification, permanent pasture and ecological focus areas, amongst others (Article 55). CCW understands that the Welsh Government considers that the greening of Pillar 1 is fundamentally wrong¹⁷, with environmental enhancement more properly a matter for Pillar 2. Defra shares this view, but unlike the devolved administrations wishes to reduce the current emphasis on Pillar 1¹⁸.

¹⁵ Welsh Government – personal communication

¹⁶ Some 33% of the farms in the EU 27 are under 3 hectares

¹⁷ *Welsh Government position on CAP reform – 5th July 2011. Op cit.*

¹⁸ “Britain and Poland call for radical CAP reform” September 2011. Accessible at: <http://www.defra.gov.uk/news/2011/09/20/britainpolandcapreform/>

Many other Member States and farming organisations are opposed to greening, whilst European NGO's such as Birdlife consider that the measures are insufficiently developed at present to deliver significant environmental benefits¹⁹. Nevertheless, the joint involvement of three Commissioners for Agriculture, Environment and Climate Change suggests that some form of greening of Pillar 1 remains highly likely.

4.11. The crop diversification measure applies only to those farms with more than 3ha of arable land. It may deliver benefits within intensively managed arable landscapes, but this will depend on how it is implemented. By contrast, the requirement to grow at least three crops when the arable area exceeds 3ha seems likely to discourage the kind of small arable cropping for stock feed and straw which also helps to benefit farmland birds. It may also serve to reduce the uptake of arable options within schemes such as Glastir.

4.12. The proposed restrictions on ploughing permanent pasture may not add significantly to the protection already provided by the existing EIA (Uncultivated Land) Regulations and the existing CAP requirement for all Member States/Regions to take action to prevent a significant deterioration in the total area of permanent pasture. The definition of permanent pasture under Article 4 of the new draft Regulation is very broad and includes "all grasses and other herbaceous forage that have not been included within the crop rotation for five years or longer". The preservation of large areas of recently established grassland is unlikely to deliver significant biodiversity or greenhouse gas sequestration benefits, but will reduce the ability of Welsh farmers to adopt more sustainable agricultural systems. These may involve tree planting as well as conversion to arable and horticulture (often as part of agri-environment schemes).

4.13. A more appropriate definition of permanent pasture would focus on preserving those semi-improved grasslands which are of greatest value to wildlife and/or carbon sequestration. Mapping all such areas, however, would present significant difficulties on an EU-wide basis. Alternatively, it may be easier to negotiate a change to the existing definition, perhaps by basing this on a ten year rule rather than 5 years as currently proposed. Such a definition might still place significant constraints on beneficial changes in land use, but it would provide more flexibility than the current proposal whilst still being relatively easy to apply.

4.14. The existing draft of Article 31 requires farmers to retain 95% of the area of permanent grassland existing on each farm in 2014. Setting a reference date so far into the future could well encourage farmers to plough up existing grassland during the period 2011-2104. In addition, the 95% rule will do nothing to protect the most valuable permanent pastures on many farms.

4.15. Ecological Focus Areas (EFA) appear to hold out the greatest potential for environmental gain²⁰, although it remains to be determined which requirements will be feasible in a Welsh context. Recent experience with Glastir suggests that EFA's will need to be as simple as possible. Farmers may well be left to decide on the content of their individual EFA's and seem unlikely to receive much advice on land management requirements (other than via an RIW inspection or through Farming Connect).

¹⁹ "Common Agricultural Policy (CAP) reform: Radical re-think needed to make the CAP really deliver for the environment". Birdlife International. September 2011. Accessible at: http://www.cap2020.ieep.eu/assets/2011/9/5/Tests_of_greening-BirdLife-PDF_1.pdf

²⁰ LUPG Statement on Set Aside. September 2007. Accessible at: <http://www.lupg.org.uk/Default.aspx?page=119>

4.16. The definition of permanent pasture could well have major impact on the application of the 7% EFA requirement. This appears to apply to all of the land on the holding that is not defined as permanent pasture. It has been suggested that the Commission intends for EFA's to apply arable land and temporary grassland only²¹, but this is not clear from the current draft text. Many Welsh upland farms have large areas of rough grazing which are unlikely to qualify as permanent pasture under the current Article 4 definition. As a result, farms with large areas of heathland and blanket bog could end up with a substantial EFA requirement, most of which would have to be provided on their inbye land (it would be difficult to develop additional EFA measures on heathland or blanket bog without overlapping with the existing Glastir AWE prescriptions).

4.17. In terms of the features that could qualify under an EFA, it is unclear whether any specific width requirement will apply to landscape features such as hedgerows and other traditional field boundaries. Other considerations requiring further investigation are listed in Annex 1.

4.18. An alternative approach to EFA's/the greening measures would derive from the premise that these need to be easy for farmers to follow as well as simple for the Rural Affairs Department to monitor. One possible approach would be to combine the arable and the EFA requirements and permit any land management compatible with GAEC / EIA / NATURA 2000 and other national conservation designations, but to prohibit the use of all pesticides, inorganic fertilisers, farmyard manure, slurry and other materials such as compost, sewage sludge, paper wastes and animal by-products etc on 7% of the non-permanent pasture area. Further work will be required to establish the implications of such an approach, but it is already evident that many of the possible EFA measures will need to remain in the same place for a reasonable length of time. For example, there would be little point in restricting the use of fertilisers on grassland for a single year and then allowing that land to be fertilised during the following year. In this context, however, the reference in paragraph 26 of the preamble to the Regulations to greening practices that are "simple, generalised, non-contractual and annual actions going beyond cross compliance" requires further clarification.

4.19. The interactions between the Pillar 1 greening measures and agri-environment schemes also needs to be examined. Organic farms are currently proposed for exemption from the greening requirements (Article 29.4) and whilst Natura 2000 farms are required to participate in greening they are exempt from out the requirements where these conflict with the purpose of the N2K designation (Article 29.3). In order to reduce the risk of perverse effects there appears to be a strong case for using more targeted environmental measures – with participants in whole farm AES schemes also granted exemption from the greening requirements. This would require a further change to the draft Regulations. In addition, the Commission would presumably require evidence on a case-by-case basis that the relevant AES schemes were sufficiently demanding, or else it could be argued that the Pillar 1 greening measures had not achieved their stated purpose of "going beyond cross compliance"²²

4.20. The implications and the potential environmental benefits to be derived from greening seem likely to vary according to farm type, but such an approach appears most likely to deliver significant benefits where farmers have decided not to apply for an agri-environment

²¹ Institute for European Environmental Policy – personal communication

²² Paragraph 1, page 8 of the preamble to the draft Direct Payments Regulation

scheme, but still wish to claim direct payments. The smaller the rural development budget in a particular Member State or Region, the more it will be necessary to rely on the greening of Pillar 1 in order to deliver EU objectives in terms of biodiversity, water and climate change.

4.21. At the present time, CCW considers that the key strategic question is whether the greening of Pillar 1 should be used to incentivise farmers to join Glastir (which will require an amendment to the existing draft Regulations to ensure that all participants in approved agri-environment schemes can be exempted from the greening requirements) or whether greening should be used to “raise the bar” for those participating in AES - thus ensuring that limited rural development funds can be used to purchase an increased level of environmental benefit.

4.22. Whilst CCW recognises the desirability of minimising the number of changes to Glastir, the proposed EU requirement that the Pillar 1 greening measures “go beyond cross compliance” means that some further adjustments to the AWE are likely to be necessary. For instance, the modification or the removal of options 15B and 15D (grazed permanent pasture with inputs of up to 100kg of nitrogen per annum) would make it more likely that the Commission will agree with the proposition that all participants in Glastir should be exempt from the P1 greening requirements.

Rural Development

4.23. The current emphasis in the draft RDR on knowledge transfer, farmer co-operation, investment and innovation could be used to deliver significant environmental, social and economic opportunities. At the same time the abolition of the Axis structure coupled with the addition of new measures such as risk management is likely to result in a reduced emphasis on agri-environment and climate change within many Member States. In particular, the existing RDR requires that at least 25% of the spending within each rural development plan is devoted to land management measures under ‘Axis 2’. This requirement no longer appears in the main body of the new draft RDR, although in relation to the agri-environment-climate measure, paragraph 28 of the preamble states that: *“Member States should maintain the level of effort made during the 2007-2013 programming period and spend a minimum of 25% of the total contribution from EAFRD to each rural development programme through the agri-environment climate, organic farming and payments to areas facing natural constraints measures”*.

4.24. The Wales Rural Development Plan (WRDP) underpins most public support for forestry activity in Wales. Forestry is an integral element of rural development and the draft RDR continues to provide support for land uses encompassing both increases in woodland area and the sustainable management of existing forests. The measures are designed to deliver against a range of EU priorities and include afforestation and the creation of new woodlands; establishment of agro-forestry systems; prevention of damage and the restoration of forests following forest fires and natural disasters; investments that improve resilience to climate change and enhance environmental value; investments in new forestry technologies and the processing and marketing of forest products. All of these measures will assist with the implementation of the EU Forestry Strategy.

4.25. To date Wales has not used the measure covering the establishment of agro-forestry systems. However, this could be included in the next WRDP in order to assist with the delivery climate change and carbon storage objectives as well as a number of other benefits. The suggestion is that tree planting on farms, including additional hedgerow trees, is considered under this measure. In the meantime, all of the existing forestry grants which are

underpinned by WRDP funding are in the process of being transferred into Glastir.

4.26. The reduction in the maximum rate of modulation to 10%²³ seems unlikely to create significant issues within Wales, although some administrations may struggle to make up for the lost resources unless the UK's future allocation under Pillar 2 is increased. The possibility of reverse modulation (transfers from Pillar 2 to Pillar 1 of up to 5%) within certain Member States, including the UK, may create a competition issue at European level.

4.27. As set out in the draft EU budget, the Pillar 2 budget will experience a decline in real terms over the period 2014-20. Allocations of rural development funds to individual Member States are to be determined during 2012 and will be based on "objective criteria and past performance". In the event of a decline in the Welsh allocation under Pillar 2, CCW believes it will be necessary for the Welsh Government to use the flexibility available under Article 14 of the Direct Payments Regulation to boost the funds available within the Wales Rural Development Plan. Such funds can be used to drive forward an agricultural policy based on innovation, investment, co-operation and knowledge transfer as well as underpinning increased participation in Glastir (which could be incentivised by ensuring that all participants in suitable whole farm agri-environment schemes are exempt from the Pillar 1 greening measures).

4.28. The requirement in the Common Rules Regulation for "Partnership Contracts" (which are designed to ensure the integration of all EU funding streams within a Member State holds out the prospect of an improvement in the quality of plan making, but the need to agree such contracts at UK level before embarking on the preparation of the next Wales Rural Development Plan could well result in delays. The new WRDP will no longer be constrained by the axis structure, but the need to demonstrate a much more integrated approach whereby "*relevant combinations of measures [and targets] are included in relation to the Union priorities for rural development included in the programme*" (Article 9.1.c) could present new kinds of difficulties when seeking Commission approval.

Horizontal Issues

4.29. From an environmental perspective, the new cross compliance measures, expanded farm advisory service and the requirement to monitor all of the CAP measures (rather than just those under Pillar 2) are welcome, but the inevitable consequence is that Welsh Government resources (both financial and administrative) are going to be spread more thinly. In terms of cross compliance this suggests that the regulatory emphasis should shift to those farms that appear to present the greatest risks in terms of non-compliance – in so far that such an approach is consistent with EU Audit requirements.

5. What should the Welsh Government prioritise in its negotiations so as to ensure a beneficial outcome for Wales?

5.1. CCW believes that the Welsh Government should prioritise the following issues in relation to the potential environmental impacts of the Commission's proposals:

- The nature of the Pillar 1 greening measures, in particular the detailed wording of Articles 4, 29, 30, 31 and 32;

²³ The current maximum rate of voluntary modulation (applicable within the UK) is 20%.

- The need for an adequate Pillar 2 budget at EU level as well as a satisfactory Pillar 2 allocation in relation to both the UK and Wales;
- The need for all Member States/Regions to maintain existing levels of agri-environmental & climate commitments as well as ensuring that all RDP's allocate a minimum of 25% of the EAFRD contribution to the delivery of land management measures.
- Clarifying that the new basic support payments (to be paid at a uniform rate per ha) can be made available on a sub-regional basis as well as modelling the effects of a range of alternative scenarios;
- Clarifying the nature of the transition period to be used when applying to the shift from historic to area payments;
- Examining the impact of progressive reductions/ capping of direct payments in relation to those farms currently supplying significant quantities of environmental public goods;
- The nature of the small farmers scheme and whether this needs to be mandatory within all Member States/Regions as well as providing exemptions from both the Pillar 1 greening measures and cross compliance;

6. How can Wales ensure that its views inform the negotiation process?

6.1. The timetable for the current round of CAP reform has already slipped, but following the initial Agriculture Council debate on 20 & 21 October, the expectation is for the remainder of the process to unfold as follows²⁴:

- 14 & 15 November 2011 – Agriculture Council debate on Direct Payments;
- 15 & 16 December 2011 – Agriculture Council debate on Rural Development;
- Spring/Summer 2012 - Co-decision process involving European Parliament (EP), the Commission and Agriculture Council as required under the Lisbon Treaty. The EP will refer back to its previous own reports on CAP reform²⁵;
- Spring/Summer 2012 – Implementing legislation/Commission Delegated Acts developed in parallel with ongoing debate over the wording of the new Regulations;
- Late 2012/2013 – final decision on EU budget.

6.2. This final text of the EU budget will have implications for all new Rural Development Plan's, especially if the existing draft budget is reduced by Heads of Government. Such a reduction would almost certainly have knock on effects on the CAP budget and the financing of Pillar 2 – placing many M/S in the position of having to rely on a combination of own resources and the greening of Pillar 1 to deliver the necessary management of ecosystem goods and services.

²⁴ Institute for European Environmental Policy - personal communication

²⁵ "The CAP towards 2020: meeting the food, natural resources and territorial challenges of the future". Committee of the European Parliament on Agriculture and Rural Development. Rapporteur, Albert Dess. Accessible at: http://www.europarl.europa.eu/meetdocs/2009_2014/documents/agri/pr/857/857600/857600en.pdf

6.3. This suggests that the Welsh Government needs to adopt a twin track approach:

- arguing for a properly funded Pillar 2 at EU level as well as a Welsh allocation that delivers against existing environmental targets²⁶
- ensuring that the greening of Pillar 1 provides an environmental safety net in the event that the European/national budget settlements result in the under funding of the Wales RDP.

6.4. Ensuring that Wales is able to input to the formulation of the Commission's delegated acts and the implementing regulations will be just as important as participating in the negotiations over the existing draft regulations. Modelling of the impacts of various scenarios will be essential to ensure that the Welsh negotiating position is sufficiently robust.

7. CCW proposals for specific amendments to the draft Commission proposals

7.1. In suggesting amendments that could eliminate the damaging impacts likely to arise from the draft Regulations as currently worded, it is essential to avoid creating new, and as yet unrecognised, perverse effects. Subject to ongoing work on the implications of the P1 greening measures, CCW wishes to put forward the following suggestions in respect of the Direct Payments Regulation:

- In relation to Article 29.3 (exemptions from the greening measures as applied to land designated as Natura 2000 sites) a parallel exemption should also be established in relation to all national statutory conservation designations;
- In relation to Article 29.4 (exemptions from the greening measures as applied to organic farming) a parallel exemption should also be established in relation to "*all participants in whole farm agri environmental schemes that are certified as being sufficiently robust by the European Commission*". Details of all schemes (demonstrating how they ensure that participants are required to deliver at least the minimum requirements under the greening measures) could be submitted on a case by case programme basis for agreement with the Commission.
- In relation to the crop diversification measure (Article 30), the threshold should be increased from 3ha to 10ha. (Further consideration could also be given to applying a threshold based of the % of the farm covered by an arable rotation);
- In relation to the permanent pasture measure (Article 31), the reference area should be based on "*the situation existing as on 12th October 2011*" rather than the start of claim year 2014;
- In relation to the definition of permanent pasture set out in Article 4, this should be based on safeguarding those areas of grassland which are of greatest value for biodiversity and carbon sequestration. As a fall back position, in the event that

²⁶ Wales Environment Strategy SSSI targets; GHG emissions reduction of 3% per year in areas of devolved competence; Water Framework Directive deadlines

insufficient data is available at EU level, the Welsh Government could argue for the definition to be restricted to “*land that has not been included in the crop rotation of the holding for the last ten years*”;

- In relation to Article 32.1, the wording should be amended to include the following text in square brackets: “*Farmers shall ensure that at least 7 % of their eligible hectares as defined in Article 25(2), excluding areas under permanent grassland [and other grazeable areas of a permanent nature] is ecological focus area such asetc*”. Alternatively a new form of wording could be used to make clear that the EFA provisions only apply to arable land and temporary grassland.
- As regards the application of the basic payment scheme, it will be necessary to clarify the reference in Article 20 (1) to the definition of “regions”. In particular, the Welsh Government needs to be able to establish a range of sub-regions within which basic payments can be varied in relation to the nature of the land and the types of farming being carried out;
- The provisions applicable to the Small Farmers Scheme (Articles 47 -50) should be amended to ensure this can be applied at the discretion of Member States/Regions rather than being mandatory;
- In the event that the Small Farmers Scheme remains mandatory, Member States/Regions should be allowed to define the entry criteria to ensure that they are relevant to the territory concerned;
- Article 47 should be amended to ensure that the cross compliance requirements continue to apply to all participants in the Small Farmers Scheme with the greening measures being applied to all farms in excess of a specified size threshold;

7.2. In relation to paragraph 28 of the preamble to the draft Rural Development Regulation, (*confirming that Member States/Regions should maintain existing levels of agri-environmental & climate commitments as well as ensuring that all RDP's allocate a minimum of 25% of the EAFRD contribution to the delivery of land management measures*) a parallel commitment should be inserted into Article 65 of the same Regulation.

ANNEX 1

Some specific considerations regarding Ecological Focus Areas

- Would buffer strips have to be fenced?
 - Would buffer strips require farmers to avoid the use of FYM and pesticides as well as NPK?
 - Could less intensive arable crops such as unsprayed cereals & overwintered stubbles qualify as part of an EFA along with fallow?
 - Could game cover crops qualify as part of an EFA along with fallow?
 - If a % of the farm is in organic management, could this count towards the EFA requirement or does it provide exemption for the whole/part farm under Article 29(4)?
 - Could simple and enhanced hedgerow management (Glastir options 4, 4B and 5) count towards the EFA requirement (if so, presumably the area of such hedges should be given a higher weighting than hedges without such a requirement attached?).
 - What is the definition of “landscape features” and could this extend to a 5m wide strip straddling a PROW (cf the English cross compliance requirement)
 - Could compliance with resource management plans or livestock extensification measures in relation to wetlands qualify as part of an EFA?
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