



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 27 April 2009**

**9103/09**

**AGRI 192**

**NOTE**

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from : General Secretariat of the Council  
to: Council

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No. prev. doc.: 8709/09, 7932/09  
No. Cion doc. : 7771/09 - COM(2009) 128 final

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Subject : Communication from the Commission to the European Parliament and the Council "A simplified CAP for Europe - a success for all"

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Delegations will find attached a note from the **Danish, German, Estonian, Irish, French, Latvian, Lithuanian, Netherlands, Polish, Romanian, Finnish, Swedish and UK delegations** on the abovementioned subject, which was distributed, on paper, at the Council (Agriculture/Fisheries) on 24 April 2009.

Submission by the Danish, German, Estonian, Irish, French, Latvian, Lithuanian,  
Netherlands, Polish, Romanian, Finnish, Swedish and UK delegations

A GROSS LIST WITH PROPOSALS REGARDING SIMPLIFICATION OF THE  
COMMON AGRICULTURAL POLICY

We welcome the communication of the Commission to the European Parliament and the Council “A simplified CAP for Europe – a success for all” and the intention to continue the simplification process of the CAP. We consider, however, that it is time to enrich the process of simplification with a larger number of concrete simplification proposals. Therefore, a number of Member States have collected several such concrete proposals that have the potential to result in simplification for the European farmers and administrations. While we do not necessarily all converge on every single proposal, our common aim is to firmly integrate the list into the simplification process and to have it included or referred to in the Council conclusions on simplification in May 2009. On that occasion the Council and the Commission should commit themselves to examine these proposals over the next six months and, if necessary, thereafter.

This would ensure that the simplification process is brought an important step forward.

**General**

**1: Proposal:** Optional for Member states to increase the possibility for using self assurance/certification/standards which is controlled by an independent third party in order to reduce public control. Self assurance is already an integrated part of Regulation 852/2004 (Regulation on the hygiene of foodstuffs). Furthermore, it is possible to reduce public control if an independent third party certifies and performs control. In the common agricultural policy, the Commission has so far rejected the idea of replacing public control with other types of control.

For instance, Member States could be given the possibility to choose to replace CC controls of requirements, with the certification schemes used by private industries, e.g. dairies and slaughterhouses (796/2004, article 47).

## **Others**

**2: Proposal:** Under EC agricultural law member states are obliged to submit a large number of reports on various aspects of implementation. While such reporting serves important purposes of transparency and evaluation, reporting duties in both pillars (including cross compliance) have reached critical levels of scale and complexity. They should therefore be reviewed with an eye to simplification. A sufficient transition period should always be provided if existing systems are adapted.

**3: Proposal:** Integrate Regulations no. 796/2004 and no. 1975/2006 into one. At present two regulations deal with more or less the same matter. Yet differences exist in the details, for example in definitions. The aim of the IACS is to function as a single automatic system. It is more efficient to lay down the corresponding rules in one regulation.

**4: Proposal:** Possibility to use non-IACS approach for small aid schemes: Small support schemes (e.g. school fruit scheme, hemp) for which number of potential beneficiaries is very limited, Member states and authorities could be given possibility to use approach simpler than full Integrated Administration and Control System, i.e. spreadsheet without introduction of fully integrated and specific software based solutions, therefore finding better balance between costs of the system and amounts of aid in charge (Council Regulation (EC) No 73/2009 Article 14).

**5: Proposal:** The possibility of using electronic evidence such as usable container tracking is already partially accepted for remote refund zones. This possibility could be extended to be generally applicable.

An alternative form of electronic evidence of arrival should be accepted in the form of electronic customs documents – without a requirement that the documents are signed and stamped by customs before they are approved in the EU. (Commission Regulation (EC) No 800/1999).

**6: Proposal:** There is no justification for the requirement for import licenses for products where there are no special import agreements and arrangements. This licensing requirement could be abolished. As late as 2 half of 2008 there was a very substantial simplification in this area, but there are still licensing requirements for a number of products such as olive oil, rice, cereals and sugar. (Commission Regulation (EC) No 1291/1999).

**7: Proposal:** Additional pre-emptive guidance from the Commission on acceptable risk analysis procedures to be employed by Member States. Currently such guidance is provided largely ex post at the time of conduct of audits by the Commission services.

**8: Proposal:** The 20% deduction as meant in article 32(2) of regulation (EC) 1290/2005 should apply to **all** receipts in a reference period from reclamations and/or recovery receipts due to irregularities as meant in article 32(1) of Regulation (EG) 1290/2005.

**9: Proposal:** Allow an annual check instead of regular additional checks. Change Article 27 of Regulation 382/2005 to:

1. The competent authorities shall undertake regular additional checks on suppliers of raw materials and on operators to whom dried fodder has been supplied.

The costs of the controls as required by Article 27 are no longer proportional to the total amount of aid granted. Moreover, the risk of non-compliance is very low. The Article 27 checks are to be done to make sure the goods reach their final state. In the case of dried fodder, there's no financial incentive to change to another destination than fodder.

**10: Proposal:** Eligibility conditions could be made simpler concerning support for product promotion (for example, a possibility could be considered to make the program assessment time shorter in the European Commission so that the program do not lose its topicality before it is implemented); (Commission Regulation (EC) No 501/2008 Article 11).

**11: Proposal:** Alignment of exchange rate dates in the agri-monetary regime: introduction of simplified conditions and terminology for agro-monetary regime (Commission Regulation (EC) No 1913/2006). Due to differences in holidays and difficulties arising thereof, practice currently used in securities could be applied for export refunds as well, i.e. we propose to delete Article 11 paragraph (a) of Commission Regulation No 1913/2006.

In addition there is a need for clear terminology, therefore language in Article 10 and Article 11 of Commission Regulation No 1913/2006 shall be clarified accordingly:

- a) in Article 10 it is necessary to define what is understood by “date on which the security lodged” - to avoid misinterpretation it would be useful to state that it is the date when security is provided (lodged) for assuring fulfillment of particular obligations (attached to the particular market measure);
- b) in Article 11 it is useful to clarify that the most recent rate set by ECB has to be used notwithstanding to any national holidays.

## **Cross Compliance (CC)**

**12: Proposal:** To significantly reduce and if possible abolish yearly CC controls of the requirements per Statutory Management Requirements (SMR) or part of SMR in case there have been no, or only very few infringements of these requirements in recent years. Alternatively the requirements could be “sleeping” and triggered for CC control, only when a similar requirement in the specific sector regulation is being infringed (73/2009, article 4 and 796/2004, article 47), as is the case for animal diseases which are not encountered in certain Member States.

**13: Proposal:** To abolish the requirement for follow-up checks in relation to small infringements (triviality limit). Today there is a stronger follow up on minor infringements than on ordinary infringements (73/2009, article 24).

**14: Proposal:** All of the follow-up controls concerning the cases of reduction or exclusion amounting to EUR 100 or less (de minimis rule) or concerning the cases of minor infringements shall be included in the minimum control rate referred to in paragraph 1 of article 44 of regulation 796/2004.

**15: Proposal:** Only clear and precise requirements understandable for farmers and control authorities should be used as a requirement and form the basis for CC controls (73/2009, annex 2 and 3).

**16: Proposal:** to abolish or make it optional to use statutory management requirements which could not be straightforwardly controlled, for example, requirements for animal welfare (Council Regulation (EC) No 73/2009 Annex II).

**17: Proposal:** To give Member States possibility to make use of the specific sector controls that stem from the different sectors where the rules under cross compliance originates. The aim would be to abolish the rules for specific controls for cross compliance (CC), if there is a specific sector control, which covers all relevant requirements (796/2004, article 44).

**18: Proposal:** To make use of the principal regarding controls already used in the IACS-control, where only 50 % of the fields are inspected. The CC checks could be based on a selection of requirements based on a risk analysis. If no infringements in the CC controls of the first 50% of the requirements are found, the remaining requirements should not be checked, and the whole CC control should be regarded as OK (796/2004, article 47).

**19: Proposal:** Based on the infringements the year before, the control frequency might have to be increased the following year, however the increased control frequency should only relate to the specific requirement and not to the whole SMR (796/2004, article 44).

**20: Proposal:** There has been a tendency for the number of CC requirements to increase steadily. This has reduced the acceptance of the whole concept among farmers and has created considerable burdens for national administrations. In the future, if requirements are added to address new challenges, a corresponding number of requirements could be taken out from the existing ones (“one in, one out”).

**21: Proposal:** to make optional those statutory management requirements, which concern only small amount of farmers in particular MS or to make possible to use very simple control system for such requirements (Council Regulation (EC) No 73/2009 Annex II).

**22: Proposal:** The advisory service (FAS) shall cover **one or more** statutory management requirements (SMR’s) and/or good agricultural and environmental conditions (GAEC’s). Because now the system requires that the FAS covers **all** SMR’s and GEAC’s. Tailor made farm advice is now impossible.

**23: Proposal:** Enable Member States generally to reduce the inspection quota to a specific lower limit, if they have a functional database and a risk analysis which has proven to be effective for the evaluation required under Community law. With regard to cross-compliance in particular, an increase of inspection quota under article 44 (2) of 796/2004 should only be implemented, if the significant irregularities are ascertained in those farms which were selected for inspection randomly; otherwise Member States will be discouraged to establish an effective risk analysis.

**24: Proposal:** Change the definition of ‘repeated non-compliance’ in Article 41 of Regulation 796/2004:

- (a) A ‘repeated’ non-compliance shall mean the non-compliance with the same requirement, standard or obligation referred to in Article 4 determined more than once within a consecutive period of three calendar years, provided the farmer has been informed of a previous non-compliance and, as the case may be, has had the possibility to take the necessary measures to terminate that previous non-compliance.

Article 41 of Regulation 796/2004 states that “a ‘repeated’ non-compliance shall mean the non-compliance with the same requirement, standard or obligation referred to in Article 4 determined more than once within a consecutive period of three years.

Applying periods measured in ‘calendar years’ is substantially easier to administer than periods measured in ‘years’ or ‘days’.

### **Single Payment Scheme (SPS)**

**25: Proposal:** Make it possible for Member States to also allow lease of payment entitlements without land. This means erasing the current rule saying that payment entitlements can only be leased out if it is leased out with a corresponding eligible area. (73/2009, article 43 (2))

**26: Proposal:** With the introduction of the decoupled Single Payment Scheme in 2005, it was an EU requirement that Member States must ensure that the total area of permanent pasture is not reduced substantially (5-10 percent from 2003 levels). The requirement does not require that each parcel must be maintained with grass, but that the sum of permanent grassland in the country is maintained. The development so far has shown no big changes. The requirement should be reviewed and potentially abolished.

**27: Proposal:** Member states are given the possibility for phasing out the current system of payment entitlements. In the future the single farm payment in each Member State/Region could instead be based on a simplified flat rate basic support system based on uniform payments per hectare. For each applicant, this means that payment will equal the number of eligible hectares multiplied by the rate per hectare. This would form the basic support on top of which it is possible to grant further aid based on objective criteria/services rendered to the society.

**28: Proposal:** The current definition of eligible land for the purposes of single payment is too strict and should be reviewed. In particular, the provisions regarding hedges, ditches and some marginal land are anomalous and should be reconsidered.

**29: Proposal:** Allow Member States to recalculate the value of the payment entitlements in case the farmer owns various fractions of an entitlement of the same origin. Change article 3(3) of Regulation 795/2004 to:

3. Where the size of a parcel which is transferred with an entitlement in accordance with Article 46(2) of Regulation (EC) No 1782/2003 amounts to a fraction of a hectare, the farmer may transfer the part of the entitlement concerned with the land at a value calculated to the extent of the same fraction. The remaining part of the entitlement shall remain at the disposal of the farmer at a value calculated correspondingly. If the receiving farmer already owns a fraction of an entitlement of the same nature and same usage history, these fractions will be merged by adding up the corresponding values of the fractions and by dividing the sum by the fractions of these values. Fractions of entitlements of the same nature, but with a different usage history may be merged in the same way, but only on application of the receiving farmer and on the condition that for the merged entitlement the usage history of the least used fraction will be taken into consideration for the total of the merged entitlement.

**30: Proposal:** Grant exemption from the obligation to submit a single application to farmers who use less than 1 hectare or less than the adjusted threshold referred to in article 28, first paragraph, second subparagraph, of the new Regulation on direct payments. Change Article 11(1) of Regulation 796/2004 to:

1. A farmer applying for aid under any of the area-related aid schemes may only submit one single application per year. A farmer who does not apply for aid under any of the area related aid schemes but applies for aid under another aid scheme listed in Annex I of Regulation (EC) No 1782/2003, shall submit a single application form if he has agricultural area as defined in Article 2(a) of Regulation (EC) No 795/2004 at his disposal in which he shall list these areas in accordance with Article 14 of this Regulation. However, Member States may exempt farmers from this obligation where the information concerned is made available to the competent authorities in the framework of other administration and control systems that guarantee compatibility with the integrated system in accordance with Article 26 of Regulation (EC) No 1782/2003.

Moreover, Member States may exempt farmers from this obligation in the case of farmers who use less than a minimum amount of hectares, to be fixed by the Member State, but not higher than 1 hectare or than the adjusted threshold after applying article 28, first paragraph, second subparagraph, of the new Regulation on direct payments.

**31: Proposal:** The obligation to submit the additional documents with the application can be withdrawn. For example, change Article 13 of Regulation 796/2004 to:

1. In the case where a farmer intends to produce hemp in accordance with Article 52 of Regulation (EC) No 1782/2003 or hemp grown for fibre as referred to in Article 106 of that Regulation, the farmer keeps at the disposal of the control officials
  - (a) all information required for the identification of the parcels sown in hemp, indicating the varieties of seed used;
  - (b) an indication as to the quantities of the seeds used (kg per hectare);
  - (c) the official labels used on the packaging of the seeds in accordance with Council Directive 2002/57/EC (2), and in particular Article 12 thereof.

This is only an example. A similar approach could be used for all supporting documents mentioned in these articles.

**32: Proposal:** Allow Member States to apply the measurement tolerance as referred to in article 30(1) of Regulation 796/2004 also with respect to administrative checks based on the GIS as referred to in article 6(1) of that Regulation. Add the following to Article 30(1) of Regulation 796/2004:

A measurement tolerance or a triviality limit can also be applied to parcels as established by the GIS as referred to in Article 6(1) of this Regulation in the performance of the administrative checks according to Article 24(1) and (2) of this Regulation.

**33: Proposal:** If the margins within which the total possible amount of aid lies have been established by the national authorities, an advanced payment is justified.

In Article 10(1) of Regulation 796/2004, replace “not be made before” by “only be made in so far”:

1. Without prejudice to the time period provided for in Article 28(2) of Regulation (EC) No 1782/2003 or any rules providing for the payment of advances in accordance with paragraph 3 of that Article, direct payments falling within the scope of this Regulation shall only be made in so far the checks with regard to eligibility criteria, to be carried out by the Member State pursuant to this Regulation, have been finalised.

As many applications are lodged in the final days of an application period, not all of the applications can be checked on their completeness immediately after receipt. However, the current article does not leave any other possibility than denying the application if one or more of the accompanying documents is missing or incomplete.

**34: Proposal:** Replace the second subparagraph of Article 21(1) of Regulation 796/2004 by a new paragraph 1a, while at the same time changing the title of the article from ‘Late submission’ to ‘Late or incomplete submission’:

1a. If the application is not accompanied by documents, contracts or declarations to be submitted to the competent authority in accordance with Articles 12 and 13, or documents, contracts or declarations are not complete, the competent authority requests the applicant to submit or complete the documents, contracts or declarations concerned within a time limit to be set by the competent authority. If the applicant fails to do so, the application shall be considered inadmissible for the aid for which the documents, contracts or declarations are constitutive for the eligibility.

### **Single area payment scheme (SAPS)**

**35: Proposal:** Abolition of eligibility rule based on history under Single area payment scheme: Provision that new Member States may receive support only for areas, which have been in good agricultural condition as at 30 June 2003 creates unnecessary burden and it is not justified by environmental interests (Council Regulation (EC) No 73/2009 Article124).

### **2nd Pillar**

**36: Proposal:** The controls Regulation 1975/06 laying down detailed rules on control procedures for Rural Development support measures lacks transparency as regards penalties and obligations imposed on farmers. It constantly refers to obligations laid down under the Single Payment system without specifying what these are, so it can be difficult for farmers to understand their obligations as well as being difficult to administer. It is proposed that this Regulation be amended to spell out the precise obligations on farmers.

**37: Proposal:** Rural Development measures and agri environment measures in particular can give rise to high error rates which do not materially affect the overall outcome or impact achieved. Instead of focusing on specific error rates, a broader long term view of control of these schemes with more emphasis on the ultimate outcome/ impact achieved would merit consideration.

**38: Proposal:** A complex evaluation system for Rural Development Programmes is provided for in the Rural Development regulation. This comprises ex ante, midterm and ex post evaluation together with ongoing evaluation on an annual basis. This is all carried out by a complex system of indicators. This generates considerable work for both Member States and the Commission. While evaluation is an essential part of Rural Development policy it is worth considering whether an equally valuable but simpler system could be devised. At the very least, the current complex system of indicators needs to be reviewed and simplified.

**39: Proposal:** Level of details required in the Rural Development programs for approval and notification to the Commission could be decreased and therefore harmonized to approach of that in the Structural Funds programming documents.

Requirement for clearance of the national aid schemes must be revised for the measures included in the national Rural Development Programs. According to the current provisions of Regulation No 1698/2005 Member State must grant the financing of certain measures under a notification procedure within axis 1 and 3 measures separate from the process of submission of the relevant amendments to the Commission. Requirement to address the same issue twice – via notification and via program amendment process must be harmonized. (Council Regulation (EC) No 1698/2005 Article 88 and Commission Regulation (EC) No 1698/2005 Article 57 paragraph 2).

**The titles of the regulations referred to above are:**

Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003

Commission Regulation (EC) No 382/2005 of 7 March 2005 laying down detailed rules for the application of Council Regulation (EC) No 1786/2003 on the common organisation of the market in dried fodder

Commission Regulation (EC) No 501/2008 of 5 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 3/2008 on information provision and promotion measures for agricultural products on the internal market and in third countries

Commission Regulation (EC) No 795/2004 of 21 April 2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers

Commission Regulation (EC) No 796/2004 of 21 April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in of Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers

Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products

Regulation (EC) No 852/2004 of the European parliament and of the council of 29 April 2004 on the hygiene of foodstuffs

Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy

Commission Regulation (EC) No 1291/1999 of 18 June 1999 fixing the maximum export refund on wholly milled medium round grain and long grain A rice in connection with the invitation to tender issued in Regulation (EC) No 2565/98

Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

Council Regulation (EC) No 1782/2003 of 29 September 2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001

Commission Regulation (EC) No 1913/2006 of 20 December 2006 laying down detailed rules for the application of the agrimonetary system for the euro in agriculture and amending certain regulations

Commission Regulation (EC) No 1975/2006 of 7 December 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures

Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants