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Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref AD-/05338/11

Vaughan Gething AM

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Dear Vaughan

23 November 2011

Common Agricultural Policy Task and Finish Group Inquiry into proposed reforms to the Common Agricultural Policy

Thank you for your letter of 9 November.

I attach a paper on the three aspects that you raise from the proposed Horizontal regulation on financing, management and monitoring of the CAP. I understand that the Task and Finish Group will consider it at its meeting on 28 November.

At your meeting of 9 November I offered to share with you some papers that my officials had prepared and I have arranged for these to be sent to the Group's secretariat. If you would find it useful to have a private briefing with my officials on those papers then I will be happy to arrange that.

Your sincerely,

A handwritten signature in black ink, appearing to read 'Alun', with a long horizontal flourish extending to the right.

Alun Davies AC / AM

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Paper from the Deputy Minister for Agriculture, Food, Fisheries, and European Programmes.

This is a rather technical regulation and it forms the framework that facilitates the more obvious work of the Pillars 1 and 2 regulations. However, the true level of complexity will only be apparent when we see the delegated acts and implementing acts to be adopted by the Commission. Drafts of these measures are not expected to be published until some time in 2012. We will be giving close attention to these as they develop. As such it is important to appreciate that the views expressed here will probably be subject to change when we have further information.

Cross compliance

With regard to cross compliance, there is some minor and limited simplification but there is also a reduction in environmental standards and potentially complex and burdensome proposals on permanent pasture.

The removal of some standards from the Statutory Management Requirements (SMRs) on protection of birds and plants, and control over sewerage sludge is of concern. There is the potentially helpful addition of measures under the Water Framework directive, but we have a concern this will not have any practical impact due to the possibility of delays in implementing the directive. Although these changes represent a reduction in the administrative burden, both for the farmer and the Government, they will have direct effects over these environmental areas.

We will need to see the detailed regulations before we are sure of the effect of the changes in respect of permanent pasture. The change seems to shift the focus of management from a national level to the farm, and in our current view this will increase the burden and complexity of controls in Wales without any perceived environmental benefit.

We do share the UK Government's concern at the exemption from cross compliance of the small farmer's scheme, which would diminish the environmental benefits of cross compliance. As currently drafted larger farmers could apply for the small farmer's scheme if they felt that the burden of compliance outweighed the financial benefit of the main direct payment scheme, and we do not think that this should be encouraged.

Controls and disallowance

There have been no substantive proposals to amend existing rules around disallowance in the current regulation, which is of concern since this gives the Commission significant discretion in the application of disallowance. The implementing regulations will contain the relevant text, but the Government will be seeking to ensure that rates of disallowance reflect the true risk to the fund of non-compliance, rather than the disproportionate flat rate penalty that currently applies.

There is a change in the regulation in respect of Irregularities. Irregular payments that have not been recovered within specified timescales are now to be borne by the Member State in their entirety (previously the EC bore 50%). We do not think that this takes sufficient account of situations beyond our control and we will be seeking to alter the regulation here.

Some of the wording in the regulation speaks encouragingly of proportionality in applying controls. However, in respect of penalties, the detailed regulations will provide the definite answer. Our preliminary view, based on the limited information available in this regulation, is guardedly positive. The Paying Authority seems to be given more discretion to not apply financial penalties in respect of "minor" breaches (i.e. those not resulting in risks to the public or animal health). However, we are as yet unsure to what extent this freedom will be bought at the expense of a higher testing regime. We will be pursuing this further.

Farm advisory system

On the current assessment we do not see the move of the Farm Advisory System (FAS) to the Horizontal Regulation as an issue. It reflects that fact that the Commission requires FAS to at least cover the requirements and standards of cross-compliance in addition to its role in direct payments, issues around climate change, animal and plant health disease notification and innovation as well as the sustainable development of the economic activity of small farms.

There is a much stronger emphasis in the proposal towards the type of activity currently being delivered in Wales via Farming Connect and the Farm Advisory Service. Although FAS is compulsory for us it remains voluntary to beneficiaries, and it will be open to all eligible beneficiaries whether they receive other support under the CAP or not. We also welcome the emphasis on the quality of the services being delivered.

There is an expansion of what should be covered under FAS in the new regulations, to cover advice on the activities farmers must undertake as part of the “greened” component of direct payments, as well as additional requirements relating to climate change mitigation and adaptation, biodiversity, water protection, animal and plant disease notification, innovation, and the sustainable development of small farms. There is no mention of budgets in the new proposed regulation. The present situation is that 1,500 Euros is available per holding for the duration of the Rural Development Programme (RDP); this limit would not be enough to cover such a broad extension in the scope of FAS.

The UK Government is seeking clarification on the above, and on the text which seems to suggest that advice should be tailored to the “specific situation” of a beneficiary’s holding, which could imply one-to-one advice, which would result in increased financial and administrative burden. We support the UK government’s position.