

Reform of the Common Agricultural Policy

Introduction

The Scottish Parliament's Rural Affairs, Climate Change and Environment Committee (RACCE) has been considering the European Commission's proposed reforms to the Common Agricultural Policy (CAP) over recent months. We took evidence on how these may affect Scotland at meetings on 14 September, 23 and 30 November 2011, and the 7 and 14 March 2012.¹ The Committee also held a debate in the Chamber of the Parliament, in January 2012, on the issue of the reforms.²

The Committee began its scrutiny by taking evidence from Struan Stevenson MEP, and Ian Hudghton MEP. This was followed by a roundtable session with stakeholders³ and then evidence from Alyn Smith MEP and George Lyon MEP, both of whom sit on the European Parliament's Committee on Agriculture and Rural Development. The Committee then questioned the UK Minister of State for Agriculture and Food and, finally, the Scottish Government's Cabinet Secretary for Rural Affairs and the Environment.

The purpose of this letter is to outline the Committee's view on the CAP reforms, for the attention of all those who have a role in shaping them – the Scottish Government, the UK Government and the European institutions. The Committee notes that as these reforms will be the first major CAP proposals to be subject to the ordinary decision making process (formerly known as co-decision), the European Parliament must agree the reforms with the Council of Ministers.

Broad conclusion

There are several areas of agreement between the Scottish and UK Governments on the CAP reform proposals, which should help to give the UK a strong and coherent negotiating position. However, there are also some areas of disagreement, some of which are more fundamental in nature, and it is therefore important that the European Commission and European Parliament take proper account of divergent views within Member States when agreeing the final reforms. It is essential that the Scottish Government (and other devolved administrations) and the UK Government work closely together to attain an outcome that suits the conditions in all the UK countries. Areas of agreement should be vigorously pursued, while where there is disagreement, or areas that are

¹ Scottish Parliament Rural Affairs, Climate Change and Environment Committee. Official Reports of all relevant meetings available at:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/29878.aspx>

² Scottish Parliament Official Report, 18 January 2012. Available at:

http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6713&mode=html#io_b_61008

³ A roundtable discussion was held with: National Farmers Union Scotland; Scottish Tenant Farmers' Association; Scottish Crofting Federation; Scottish Environment Link; Scottish Agricultural College; Confor; New Entrants Group; Dumfries and Galloway District Association of Young Farmers Clubs; Highlands and Islands Agricultural Group; Scottish Land and Estates Ltd; and Angus Growers Ltd.

more relevant to one of the UK countries, these should be acknowledged in negotiating positions. Both Governments' must work with the EU institutions, to ensure that the CAP is fairly and appropriately reformed for all citizens of the European Union. It is essential that this time round, Scotland gets a fair and appropriate share of both Pillar 1 and Pillar 2 funds, and that its Government and agencies are afforded suitable flexibility to adapt the reformed CAP schemes to Scottish specific conditions and requirements.

As to the proposals themselves, the message to the Committee was clear: the principle of the vast majority of what is being proposed is supported. But the devil is in the detail, and the detail, currently, does not deliver all the outcomes we want to see.

Areas of consideration

Process

Of primary concern to this Committee at this stage in the negotiations is how the Scottish and UK Governments (and other devolved administrations) will work together to ensure the best result for all parts of the UK in the CAP negotiations. As the Member State, the UK leads on the negotiations, but it is essential that Scotland plays a full and active part in those negotiations, and that the view of the devolved administrations helps to shape the UK position. During evidence taking, it was explained to the Committee that the European Presidency may limit the number of Ministers taking part in formal Council negotiations and on occasion, only one Minister from each Member State may be present. **The Committee asks the UK Government to ensure that at the key council meetings regarding CAP decisions, space is made for a representative from the Scottish Government. If necessary, the UK Government should negotiate with the relevant presidencies to achieve this.**

EU budget and implementation

It is clear that the decisions that will be taken on the size of the overall EU budget, together with the current state of the Eurozone economy, will have a significant impact on the CAP reforms. Without knowing exactly how much money will be available (we note that the proposed new Multiannual Financial Framework proposes an approximate 9% cut to each pillar of the CAP), it was difficult for the Committee to make recommendations on how that money would best be used in Scotland. It was also clear that there was a degree of uncertainty across the EU about when the reforms would come into force. If the planned introduction date of 1 January 2014 is not met, and many, including the UK and Scottish Ministers, felt it would not be, then the Committee is concerned that the delay could impact negatively on Rural Development support in particular. If there is to be a delay in introducing a reformed CAP, it is essential for Scotland's rural areas that appropriate interim arrangements are put in place to ensure that they do not suffer as a result of a failure to agree either the EU budget or the CAP proposals.

The Committee would welcome urgent clarification from the European Commission on the likelihood of the start of the new CAP being delayed

beyond 1 January 2014 and what arrangements will be put in place should there be a delay. The Committee also requests information from the Scottish Government on its actions to ensure a smooth transition between Rural Development policies. In particular, the Committee would welcome clarification on the effect of the change between programmes on agreements entered into in 2013.

Balance between Pillar 1 and Pillar 2 funding

Scotland obviously wants to ensure that the UK gets a fair share of Pillar 1 (P1) and Pillar 2 (P2) funds, and that Scotland then gets an appropriate share of the UK funds; a share that takes account of the particular challenges faced by Scottish farming. The Committee notes that many of the newer Member States feel that they have not received a fair share of agricultural support up to now. Given that it is likely that the overall budget will be smaller, ensuring this smaller pot is spread more evenly and fairly is a fundamental challenge for the new CAP. It does seem that there is a divergence in view between the Scottish and UK Governments on how P1 funds should be managed in the longer term. The UK Government favours a steady reduction of P1 funds, and increased P2 spending, whilst the Scottish Government remains committed to the provision of significant direct support. However, the Committee's view is that this may be an issue for future reforms in the years ahead to wrestle with.

Whilst noting that it is important that the agriculture industry in Scotland continues to look for ways to improve innovation and competitiveness, the Committee believes that P1 direct payments remain essential to many of Scotland's farmers and crofters who farm in challenging environments and are distant from their markets. The Committee would not want to see the focus of the UK negotiating position for this set of reforms being on phasing out P1 payments.

The Committee welcomes the proposals to redress the inequalities in P1 payments, which looks to move those Member States currently receiving less than 90% of the EU average, closer to that 90% figure (a process known as 'convergence'). The UK currently receives a figure just below the EU average, of approximately €260 per hectare, however, Scotland is well below the 90% average, at approximately €125 per hectare. **The Committee would therefore like to see the UK Government ensuring that principles of convergence established in the EU wide proposals are also respected within Member States, in order to ensure that Scotland's P1 support is moved significantly closer to 90% of the EU average.** It is not acceptable that Scotland currently receives the fourth lowest share of P1 funds, and the lowest share of P2 funds, across the whole of Europe. A new CAP must redress this imbalance. The Cabinet Secretary was of the view that any benefit from convergence that the UK receives as a Member State should come entirely to Scotland, as it is because of Scotland's poor share historically that the UK is likely to benefit at all. **The Committee believes that there is a strong case for Scotland to be the sole beneficiary from any additional funding that the UK may receive as a result of convergence and would welcome comment from the UK Government on this issue.**

The Committee welcomes the proposed continued possibility for modulating funds between the two pillars and **recommends that the Scottish Government consider fully the possibilities offered by modulation when deciding how best to distribute and target funding.**

Basic payment scheme

The Committee heard much evidence concerning the new primary mechanism for delivering P1 funds – the proposed basic payment scheme.

Most evidence we received supported the proposal as offering a better alternative to the current historic based mechanism for calculating payments. However, whilst the principle has the support of the industry in Scotland, there are many concerns about how it will be applied in practice and how much flexibility Scotland will be afforded. A flat rate of payment based on area may be administratively simple, but many felt it wouldn't work in Scotland without significant tailoring to Scottish-specific conditions.

One concern centred on the type of land that will be eligible. The current proposals potentially exclude non-herbaceous forage such as heather from the eligibility criteria, which could be potentially disastrous for Scotland, where heather is so prevalent in many areas. This makes little sense in the context of greening direct payments.

The Committee recognises that there is to be a move from payments being calculated based on historic payments, to payments being based on the area being farmed. However, this in itself, will not deliver a fair and equitable method of supporting farmers and crofters across the EU. In Scotland, it is clear that area payments will need to be more specifically tailored to Scottish conditions, to ensure those eligible are receiving appropriate funds. In the context of greening P1, it is important that areas that could be considered High Nature Value farming, such as grazed heather, are not excluded due to the type of forage.

However, while extensive farming should not be excluded, another key concern is ensuring that direct payments are only paid to those who are actively farming the land. It has been well documented that Scotland has had a particular problem with subsidy being paid to people who are not carrying out any type of active land management. **The Committee therefore welcomes the inclusion of a definition of active farming as part of the proposals. The Committee also welcomes the inclusion in the current proposals of the so-called “Scottish Clause” which would allow us to tackle the particular issues we have with “slipper farmers” – so that land which is being kept in good condition, perhaps because of grazing deer, but that is not actually being farmed, will no longer be eligible for payments. However, the Committee believes it is essential that Member States can define “active farming” according to their own circumstances. In Scotland, for example, it is important that any definition does not exclude those who are active but carry out agricultural activities part time, such as crofters, from accessing funding.**

Another key issue the Committee discussed with regard to direct payments was how and when people would become eligible for the funding. In Scotland many new entrants have faced significant difficulties, because they lack the historic entitlements that would allow them to claim P1 funds.

In terms of how the trigger for payments would work, this issue seems, like many aspects of the CAP proposals, to be more complex than it appears on the surface. Some stakeholders were happy that the trigger would be linked to entitlements in 2011, but felt that a stronger link was required between the amount of land that someone had in 2011 and the number of entitlements they would be allocated in 2014. This is due to the fact that many landowners will have at least one 2011 entitlement and so may be able to take land back in hand even where tenants have entitlement too.

The most significant concern about the 2011 trigger was the negative impact this could have on new entrants: the New Entrants Group described the 2011 trigger as their biggest concern within the proposed reforms. The issue of how to attract more new entrants into farming in Scotland is one that the Committee has wrestled with a great deal over recent months, and there is a specific section of this letter about the CAP proposals relating to new entrants below. However, regarding the trigger in particular, new entrants have not been able to qualify for Single Farm Payments, unless they have bought entitlement, since 2002, and a 2011 trigger could exclude them in the future. **It was suggested to the Committee that basing the scheme on submission of an Integrated Administration and Control System (IACS) form in 2011 rather than actual 2011 entitlement would be better from the new entrants' point of view as it would better reflect the most up-to-date situation and the Committee asks the Scottish Government to look into this further. The Committee would also welcome clarification from the European Commission and MEPs on the current thinking on this issue.**

The Committee recommends that the trigger point for payments is re-considered to make sure that it is not a barrier to new entrants, who are disadvantaged under the current system. If the "double gate" provisions remain, it is essential that provision is made for those who do not have 2011 entitlement, to ensure there is not a continuation of the current situation where many new entrants have no access to CAP funding.

Finally, there is the issue of how to move smoothly from the current historic payments, to the new area-based payments. We have seen in England the pitfalls in moving from one to the other without sufficient forward planning and administrative capacity and we must learn those lessons. Whilst the Pack report, produced for the Scottish Government in 2009, recommended a rapid rate of transition, the Cabinet Secretary told the Committee that we should be cautious about moving ahead with the transition too quickly. **The Committee is concerned that striving for a transition rate of 40% in the first year of the new CAP may be too ambitious as a blanket target, and we would welcome this target being re-visited to allow Member States, and nations within Member States, flexibility to design a ratio of transition that is appropriate to local circumstances. In seeking an appropriate rate of**

transition, it is essential that, if necessary, new entrants are catered for by other parts of the proposals, as retaining a higher percentage of historic payments in the short term could continue to place new entrants at a disadvantage.

Capping direct payments

The Committee heard that the UK Government is opposed to capping payments, whilst the Scottish Government is more relaxed about the proposal. Most witnesses were not overly concerned about the proposals to cap direct payments in principle, but about what would happen to the money saved as a result of such a cap. The Committee was therefore pleased to learn during its evidence-taking that such money would return to Member States, and in this case to Scotland, via P2. There was some concern, shared by both the UK and Scottish Ministers, and also by this Committee, that the establishment of a cap may simply create work for lawyers to find a way around the cap.

The Committee is supportive of money that is saved as a result of a cap on direct payments being returned to Member States by way of P2 payments. However, the Committee would not want to see a scheme that ends up being so administratively complex and resource intensive that it becomes counter-productive.

Greening

The greening measures seem to be amongst the most controversial of the current proposals, with MEPs, stakeholders and the UK and Scottish Governments all raising concerns with the Committee. Again, as with other aspects of the proposals, the principle was broadly supported – that as long as direct payments exist they need to deliver on more environmental objectives, but the details of the proposals caused concern.

The Committee agrees that whilst it is important to ensure that direct payments support farmers' incomes and maintain Scotland's capacity to produce food, it is essential that other benefits are also derived from direct payments, in terms of climate change, biodiversity, and other social and environmental goods.

However, it is clear to the Committee that the three main greening proposals as they currently stand (maintaining permanent pasture, crop diversification, and maintaining an "ecological focus area") are too prescriptive and not sufficiently flexible or appropriate to deliver the intended benefits. The Committee understands that the proposals may be aimed at achieving a better return in parts of the EU which are not as engaged with delivering environmental objectives as they should be. However, a possible consequence of attempting to spur those countries into action and find measures that are equally applicable across the EU is that other Member States and nations that are currently delivering environmental objectives through a wide range of initiatives are penalised by overly-constrictive and inappropriate measures.

All three of the proposals drew criticism from all who gave evidence to the Committee. **The current definition of permanent grassland as “grass not included in the crop rotation of the holding for five years or longer” is unworkable.** Many Scottish farmers plough grassland on a longer rotation. Preventing ploughing on all grassland over 5 years is thought to be overly restrictive while also not targeting the most environmentally important grasslands. There were also concerns, again, about the failure to include non-herbaceous forage such as heather in the definition. **Crop diversification is not appropriate if applied in the same way across the EU.** Discussion of this measure provoked many questions which remained unanswered, such as what will be counted as a “crop” (e.g. does grass count)? Growing three crops on poor soil, such as that found in much of Scotland, would simply not be possible and this would act as a disincentive to livestock farmers growing small amounts of barley or turnips to feed their own livestock. **The Committee asks the European Commission to clarify and re-consider these issues.**

The ecological focus area proposals were again felt to be unnecessarily prescriptive and restrictive. The Committee sympathises with witnesses who said that they did not want to see productive land prevented from producing food, in order to meet a seemingly arbitrary target.

There was also concern expressed that the greening proposals would result, not in benefits for Scotland, but in an increase in cross-compliance and bureaucracy. One suggestion put forward was that greening proposals should operate on a menu basis, whereby individual Member States, and nations and regions within Member States, could select a number of the schemes that most suited their local circumstances. This ‘menu’ approach would achieve the aims of the Commission, whilst allowing Member States to take proper account of local circumstances and use their own domestic knowledge and expertise to deliver the required outcomes. This flexibility would also allow proper account to be taken of equivalent measures that a country is employing, for example, agri-environment measures, and schemes designed to reduce the carbon footprint of farming. We believe that food producers will get behind the greening agenda if blanket ill-fitting measures are avoided, and proper account is taken of the good work many farmers are already doing. The focus must be on the outcome – the desired result, and not on limiting the options on how we get there.

If all farmers are to buy into the P1 greening agenda, then farmers and crofters need to be sure that their conditions have been taken account of, and that their local knowledge and expertise has been listened to. The permanent pasture and crop diversification proposals in particular, are examples of proposals that need to be amended to ensure that desirable outcomes are delivered.

Clarification from the European Commission is needed on the type of land which can be included in greening; whether agri-environment counts towards greening; and whether EFAs apply both to arable and livestock farming.

New entrants

Encouraging new entrants into farming is a big challenge in Scotland and an issue that the Committee has heard a great deal about in recent months. **The Committee therefore welcomes the provision in the proposals specifically targeted at new entrants.**

However, evidence we heard suggested that while the proposal was welcome, the exact criteria proposed needed to be clarified. Again, the view expressed to the Committee was that a broad proposal that was to be welcomed, and carried good intentions, was in danger of being undermined by the imposition of unnecessary uniformity across the EU, and that Member States should be afforded sufficient flexibility to design new entrant schemes that are suitable for their own requirements.

The Committee shared the concerns of many who gave evidence that an upper age limit was too restrictive (and queries whether such a limit would be compatible with the relevant EU legislation). New entrants can come into farming at any age, and, as an industry, entrants over the age of 40 were more common than in many other professions. Thus it seems somewhat perverse to establish a rule which runs counter to that.

It has been suggested that a national reserve will be available to provide funding to new entrants who have no entitlements and witnesses saw that as being important. However, some thought that it should not be relied on too heavily and substantive changes to support distribution were needed instead. An additional concern was that the national reserve would only be available in 2014 which could again lead to the exclusion of new entrants after this date.

Concerns were also raised with regard to support only being available for the first five years of farming, and in circumstances where someone has entered the industry prior to 2014 and received no support, these years would be counted as part of the five year limit. So, for example, someone who started farming in 2011 will have used up three years of their five and will only receive two years of payments (for 2014 and 2015). If the 2011-trigger is required to receive entitlement, this creates a catch-22 situation where no-one can receive more than two years of the new entrants top-up. A view was expressed that if people are eligible for the payment, they should get the full five years of payments.

The Committee is concerned by the current proposal that eligibility for the new entrants fund will only be available in the first five years of farming, even if that began before 2014, rather than for five full years. The Committee recommends that the European Commission re-examine this issue, and that the UK and Scottish Governments press for a change to this to ensure farmers can receive the full five years payments.

Small farmers' scheme

Witnesses had mixed views about the value of the small farmers' scheme proposal. There was almost universal agreement that the scheme, if pursued, must not be exempt from cross-compliance and greening measures. Crofters thought that any exemption could detract from the positive environmental

image that crofting currently enjoys. Witnesses also highlighted that some crofts could be exempt from qualifying for the scheme because of having significant amounts, or shares, of common grazing land and stressed that this issue needs to be examined to ensure crofters would not be unfairly exempted from the scheme.

One view that came forward in evidence was whether the small farmers scheme would be more useful in Scotland if it could pay up to say €2,000 instead of €1,000, and have two bands instead of a single flat rate. **We would welcome European Commission and MEP views on this issue.**

The Committee has no strong view on the small farmers' scheme, but, if it goes ahead, we are not persuaded that exempting the scheme from cross-compliance and greening measures is appropriate. The Committee would also welcome the issue raised by crofters, about common land and how support is allocated, being considered by the European Commission.

Areas with Natural Constraints and coupled support

Scotland has 85% of its land classified as Less Favoured Areas, re-titled as Areas with Natural Constraints (ANC) in the new proposals, and livestock farming is very important to many of these areas. It is obviously a key priority for Scotland that funding helps to address the challenges facing those parts of the country, mostly to the west and the north, the highlands and the islands, where farmers and crofters often work in very difficult conditions. We have seen reductions in livestock numbers and even land abandonment in these areas, and yet we know the great contribution that agricultural activity can make, not just to food production, but in terms of providing environmental and social benefits. **The Committee notes that any funding for areas that are challenging to farm is essential for Scotland, given its landscape and large areas of poor soil quality. The Committee therefore welcomes the commitment from the UK Minister that Defra is committed to retaining ANC funding, realising its importance to Scotland.**

The Committee notes that provision for ANC areas is proposed to be split between P1 and P2. **However the funds are to be delivered, it is essential that, in a reformed CAP, funding reaches those most in need, for example High Nature Value farmers and crofters, which has not always been the case in the current funding round.**

The Committee also firmly believes that some degree of coupled support is needed in Scotland, if we want to protect and strengthen farming in our remote and hilly areas. The only way to keep livestock in these areas is to link payment to production. We share the UK Minister's view that we would not want to see a more wholesale return to coupled support, which is open to abuse, but neither do we want to see coupled payments overly restricted. **There are different views on this issue within the UK, as the UK Government would probably favour a very low percentage of coupled support, whereas the Committee believes there should be flexibility to use as much as up to 15% in Scotland.**

Rural development (P2)

Much of what we have said above relates to P2 funding as well as P1. **The Committee believes it is essential that Scotland gets a fairer, more proportionate share of P2 funding, both at Member State level, and within the UK – a share that reflects the scope of contribution that Scotland can make to the aims of the CAP – encouraging competitive land based industries, mitigating climate change, improving biodiversity and water quality, and securing sustainable remote and rural communities.**

Most witnesses broadly supported the proposed new priorities and themes for P2 and the Committee is also supportive of these.

The Committee heard from some witnesses that the most effective way of achieving a better environmental return from the CAP was through P2 schemes, rather than focussing on greening P1, but that the proposals and likely budget (It seems likely that there will be a cut in the overall P2 budget, rather than an increase) for P2 would not enable it to deliver on this and would not allow farming to diversify appropriately. Therefore, if P2 funding is to be stretched pretty thinly, it must be targeted appropriately.

The Committee agrees with witnesses that felt that it was important to keep a minimum spend requirement on environment and climate. It was also noted that a voluntary 10% modulation from P1 to P2 is being proposed and many felt that this must be used in Scotland.

The Committee believes that Scotland has not received a fair and proportionate share of P2 funding, either from the EU, or within the UK, to date, and encourages the European Commission and UK Government to address this in the reformed CAP.

Transparency

The Committee heard that the EU adopted a regulation requiring national authorities to publish details of all CAP payments and who they went to. The UK Government accordingly set up a database of all payments. However, after a legal challenge by another Member State, the European Court ruled that these details should not be published in the case of payments to individual farmers who operate as a sole trader. So now European governments can only publish the details of payments to companies and not individuals.

The Committee agrees with the Cabinet Secretary that this is an unfortunate situation, and that as a principle we should aim for transparency about CAP payments. The Committee understands that the European Commission has reviewed the regulation in light of the court case but that there may be further developments in this area. The Committee would welcome an update from the Commission on how they intend to make payments more transparent in future.

Next steps

The Committee understands that the draft Parliamentary reports are expected to be delivered shortly and we await these with great interest. The Committee intends to take evidence from Scottish MEPs at an appropriate point later in the year, once drafts of the reports are being discussed within the EP Agriculture Committee, and will decide what further action to take at that stage.

In the meantime, the Committee would welcome a response to this letter from the UK and Scottish Governments, the European Commission and the European Parliament's Agriculture and Rural Development Committee.