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POSSIBLE DEVELOPMENTS IN THE POLICY OF ARABLE LAND SET ASIDE

REFLECTION PAPER OF THE COMMISSION

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I. INTRODUCTION

1. The Commission has presented the Council with a proposal based on Article 7 of Regulation (EEC) N° 1765/92 on the addition rate of set aside to be applied in the case of non rotational set aside. This proposal was already foreseen in the regulation adopted last year and is to be seen as part of last year's decisions. It does not involve any modification of the regulation or require a new consultation with Parliament.
2. However, once a decision on non rotational set aside has been taken, a series of other questions on set aside will need to be addressed. Although some of the questions are matters of application, others are ones which could only be addressed by amending Regulation 1765/92 itself. This would, of course, involve a new consultation with Parliament.
3. Although set aside was accepted by all the Member states and professional circles as a central element in the control of production, its practical application raises many questions. Numerous requests coming both from unions and national administrations have come out in favour of a simplification and a greater flexibility of the scheme.
At the Agriculture Council of 26 and 27th April, the Commission declared that it would reflect on the means which, without affecting the effectiveness in terms of production control nor the cost of set aside, could offer farmers greater flexibility while improving the environmental contribution of set aside.
4. The Commission wishes, before reaching its own conclusion on whether it is opportune to propose any amendments to Regulation 1765/92 so soon after its adoption, to give interested parties who contributed to the debate which preceded the tabling of the detailed proposals on the reform of the CAP in October 1991, the opportunity to express their views. This reflection paper is intended to form the basis for this wide debate.

It is based on the assumption that the Council will accept the Commission proposal that the rate of set aside in the case of non rotation will be 5 percentage points above the rate for rotational set aside.

If it turns out that this 5 points higher rate is less effective in terms of production control than the rotating set aside, on a six year basis, then the arrangements will have to be reconsidered.

II. BACKGROUND

5. The Community's first experiment with set aside was the five year set aside scheme introduced in 1988 as a structural stabiliser. It was hoped at the time of its introduction that this scheme would serve as a means of reducing cereals production hence reducing the need for progressive price cuts under the market stabiliser. Although the scheme undoubtedly had some effect, it was less successful than had been hoped. This was partly because of the limited uptake of the scheme and partly because much of the land which was brought into it was of inferior quality.
6. In the debates which preceded the reform proposals, a number of suggestions were made on the means by which set aside could make a better contribution to the control of production. The three main ones were that set aside should be made more efficient; that a distinction should be made in the application of other means of curbing production between those who participated in set aside and those who did not; and that the incentive to participate should be increased.
7. The proposals which the Commission made in the context of the reform of the common agricultural policy responded to each of these three suggestions: -
 - (1) The reform set aside scheme was to be rotational, so that in the course of the rotation period all or virtually all of the land of the producers who participated in the scheme would be covered and the opportunity to use marginal land would thus be limited.

- (2) Producers who chose not to participate in set aside could obtain compensation for price cuts only on the equivalent of the first 92 tonnes of their cereals output.
- (3) Producers who wished to benefit from compensation on more than the equivalent of 92 tonnes of cereals or who wished to receive the specific payments available on maize, oilseeds and proteins could only do so if they joined the set aside scheme.
8. The Council accepted these proposals but in the course of the negotiation two further points were added. First, as an alternative to the system of individual base areas under which each producers area eligible for arable payments or set aside is limited to the area he cultivated in the reference period, the facility was introduced to operate on the basis of a regional base area. If the regional base area is exceeded, all arable payments are reduced proportionately and a supplementary unpaid set aside is applied the following year. Second, provision was made for non rotational set aside, at an additional rate to be decided by the Council.
9. In the sense of the reform of the CAP, set aside has to be considered as a conjunctural supply control measure which works on a voluntary basis. Its acceptance by farmers is a function of the compensatory aids which are conditional upon it. Other criteria must however be taken into consideration be it amongst farmers, the public, or national administrations.

Farmers have shown great misgivings about a measure which temporarily deprives the land of its primary purpose. Even though everybody might agree on the need to control surplus agricultural production, there is reason to think that each farmer taken individually will try to minimise the effect of set aside. This creates a conflict of interest between producers collectively, for whom the success of the scheme is vital to avoid the need for other restrictive measures, and producers individually for whom the maximum flexibility will be welcome. One must keep this conflict of interest in mind before introducing greater flexibility into set aside, to achieve the best possible application, in particular in order to enhance the rural environment.

The public generally will become aware of the impact of set aside on the countryside and, will wish to see some public good especially in terms of environment or amenity in return for the public investment in the scheme.

Administrative authorities will be confronted with the need to control the application of set aside by a very large number of producers. They will wish the rules they have to control to be as simple as possible.

10. In evaluating suggestions for change the impact on each of these sometimes conflicting interests will have to be assessed and a balance struck. In striking a balance, however, the one consideration which must not be sacrificed is the effectiveness of the system as a means of controlling production. The baseline against which proposed changes are to be measured is the current regulations under which: -

- (a) The rate applied for rotating set aside has been set by the Council at 15%. This rate may be changed by the Council if market conditions so require.
- (b) On this basis, the rotation period has been set at 6 years by the Commission, so as to cover 90% of the eligible arable land of an individual farm.
- (c) The principle of a non-rotating set aside was accepted by the Council on condition of a higher percentage rate of set aside. This percentage must be fixed by the Council before the 31st of July 1993.
- (d) If the sum of the individual areas for which compensatory payments are claimed go over the regional base area, an extraordinary set aside is imposed at a rate proportional to the overshoot.

III. THE ISSUES TO BE DISCUSSED

A. ISSUES RELATED TO NON-ROTATIONAL SET ASIDE

11. The definition of non-rotating set aside and its combination with rotational set aside.

One understands by non-rotating set aside the withdrawal of a known and unchanging part of the arable area for a minimum period which is yet to be defined but which should not be less than five years. This type of set aside presents a certain number of advantages.

12. The management of this system is simpler, both in terms of administration and control, because it is the same fields which remain set aside throughout a known period. Also, on a non-rotating set aside one can do things which are environmentally beneficial. Indeed, once the same field is to be left fallow for a certain length of time, one can very well imagine improvements such as : re-establishment of a natural flora, improvements for wildlife and game, maintenance of riverbanks, minor improvements to rural amenity, etc.

13. Where a farmer opts for fixed (non-rotational) set aside, a change to the area withdrawn has to be permitted each year but only to cope with possible changes, either in the total area farmed, or in the annual rate of set aside decided by the Council.

14. The question has often been raised as to the possibility of doing a combination of fixed and rotating set aside on the same farm. Such a combination is not ideal from the point of view of effectiveness, nor simplicity. On the other hand, the extra flexibility is an advantage to the farmer and the presence of fixed set aside provides environmental opportunities. If the combination appears to be acceptable on these counts, there remains the question of the rate to be applied. The lower effectiveness of the combination in terms of production control implies that this rate should be higher than the rotational rate. A weighted rate between the rotational and non-rotational rates would make the situation more complex and difficult to control. Therefore, if such a combination of rotational and fixed set aside on the same farm were to be allowed, only the fixed rate should apply.

15. Could the choice between rotation and non rotation be made at national rather than producer level ?

It is quite obvious that if producers have a choice between rotation and non rotation at a higher rate, then non rotation will be taken up by those producers who have the widest variation in land quality. Thus, if there is a choice, the difference in the slippage rate between rotational set aside and non rotational will be greater. Furthermore, non rotational set aside may in some circumstances be preferable to rotational set aside for environmental reasons, for example because rotational set aside may involve higher leaching of nutrients left over from a previous crop or because, where land is set aside for a predetermined period of years, a wider range of environmental conditions can be required. On the basis of these two arguments it has been suggested that member states should be permitted to require that their producers practice only non rotational set aside and that, in return for this, the additional rate should be lower than in member states which allow a free choice.

16. It is clear, however, that this option for member states would represent a significant reduction in the flexibility available to individual producers who could feel themselves discriminated against if the option of rotational set aside was denied to them. Conversely, producers who for their own reasons wished to adopt non rotational set aside could feel themselves adversely affected by a decision of their member state to allow rotation, hence denying them the opportunity to benefit from the lower additional rate.

17. For these reasons the Commission's view is that there are not sufficient positive advantages in allowing this option to member states to outweigh the general principle that producers should be treated equally which implies that they should all have the same option to chose between rotation and non rotation.

18. If the non rotational set aside is regarded as making it possible to obtain a public good in terms of environmental benefit, a more appropriate means of achieving this would be to offer a higher set aside compensation in cases where defined environmental conditions were fulfilled. The Commission would be prepared to propose such an

additional payment when the financial situation of the Community makes this possible.

B. OTHER ISSUES

19. Should producers be paid the compensatory aid on land which is set aside in excess of the minimum required to confer eligibility to compensatory aids ?

Normally producers will not want to set aside more than the minimum. The aid paid on set aside land itself provides only part of the incentive to set land aside and most producers should find that set aside land provides a lower return than planted land. Nevertheless, some producers may have land which satisfies the criteria for inclusion in the arable scheme yet which, for one reason or another, is not worth cultivating to obtain a crop which will be sold at the prices foreseen at the end of transition. It is entirely within the spirit of a decoupled compensatory aid that it should not be subject to the obligation to produce.

On the other hand, considering the risk of abandonment of farms or even of desertification that may exist in some regions, the Commission thinks that Member states should have the possibility of setting a maximum authorised rate of set aside.

20. The period during which land included in rotational set aside is to be taken out of cultivation

In the detailed rules on rotational set aside, the period during which the land must be set aside has been set at seven months, with some flexibility given to member states to determine the precise dates. In practice member states have opted for a period which ends in mid July. The seven months period and the end date was decided in order to allow producers to start cultivation for the following years crops. There is evidence, however, that some producers are planning to take advantage of this relatively early end date to produce a catch crop, for example of vegetables, before preparing for a subsequent arable crop.

Although this is not in conflict with the existing rules, it is not in line with their intentions and the Commission has received representations from existing vegetable producers who, not unreasonably, regard the invasion of their markets by producers whose costs are partly covered by set aside payments as a distortion of competition.

21. This problem would not recur under the non-rotational set aside option. Otherwise, two other possible solutions could be found and applied next year : Either the set aside period could be prolonged. Or the taking of all or some crops from set aside land during the same calendar year could be forbidden. One or the other will have to be chosen although it is clear in advance, that the first solution would be unwelcome to arable farmers, as it would limit their options with regard to the next arable crop they could plant and that the second would pose additional control problems for national administrations.

22. Producers who wish to opt for a set aside rotation of less than six years

There are a variety of reasons why producers may wish to opt for a shorter rotation than six years. Their crop rotation may be for a different period than six years and they may wish to incorporate set aside into that rotation so as to use it in place of their least productive crop. Or they may wish to avoid ever entering their best land into set aside. Or they may simply find a six year planning horizon too long.

23. There is no doubt that a rotation period of less than six years would mean a loss of effectiveness in the scheme, to the extent that the most productive parts of the farm will entirely escape from being set aside. Consequently, if one were to go for allowing set aside with a shorter rotation period, the non-rotational rate of set aside would have to be applied so as to preserve the effect on production control. If, however, it turns out that the effectiveness in terms of production control of a shorter rotation period is less under these arrangements, one would have to reconsider them.

24. Could producers be allowed to transfer set aside to others and still remain eligible for the arable compensatory payments ?

Transfer of the set aside obligation is foreseen under the very restrictive conditions of article 7.6 of Regulation 1765/92 in the case of national environmental rules having the implication for a farmer who sets aside part of his arable land to be forced to reduce his animal production.

25. At the same time, the Commission has adopted strict rules to limit the risk that producers in productive regions may buy up or lease poor land elsewhere in their member states to fulfill their set aside obligations, devices whose economic impact could be similar to that of transferred set aside.

26. There are two major reasons for hesitation over the introduction of a facility for transferred set aside. First, there is a risk that slippage will be greater than on an individual holding both because of differences in land quality and because it is likely in general that the farmers who wish to transfer their set aside will be more dynamic producers than those who are prepared to receive it. Furthermore providing this facility would undermine the justification for the strict rules which apply to newly purchased or leased land and to holdings which have land in several yield regions, which would involve a further risk of slippage. Second, the development of farms or even areas devoted largely to carrying out the set aside obligations of others could amount to a form of desertification which is inconsistent with the rural development objective of the reform.

27. There might however be circumstances in which transferring obligations would allow a more rational land use policy to be pursued and concentrating set aside into a number of clearly defined zones could ease the task of inspection and control.

28. In the Commission's view, given the very real risk of a significantly higher rate of slippage, any scheme to allow the transfer of set aside obligations must be very prudently constructed. It should require the presentation of plans to the

Commission giving full assurance that the general objectives of set aside would not be undermined. These plans should mainly involve the limitation of transfers to the immediate neighbourhood of the transferring farm and an additional rate of set aside beyond the normal addition for non rotational set aside. The only derogation from the general principal of limitation to the neighbourhood could be cases where a member state had good reasons to prescribe a particular area for the respect of set aside in order to achieve some specific environmental objectives and could give precise data on the productivity of the area concerned so that any additional slippage could be evaluated in advance and offset.

29. Should land which is included in the 20 year set aside schemes foreseen in the accompanying measures be allowed to count as arable set aside provided that the land concerned meets the definition of arable land i.e. meets the conditions of Article 9 of Regulation (EEC) no 1765/92 ?

This issue was debated during the reform negotiations. The Commission position, which was upheld in the Council's decisions, was that it should not. The Commission position rests on three main arguments: -

- (a) The primary objectives of the two schemes are different. The 20 year set aside is primarily an environmental measure which only has production restraint as a subordinate objective. Conversely, although it is intended that there should be environmental benefit from it, the set aside scheme is primarily a conjunctural measure to adjust production to prevailing market circumstances. Two schemes with separate primary objectives should not be confused.
- (b) The financial incentive to participate in each of the schemes is related to its own primary objective.
- (c) The intention is that land in the arable set aside scheme should, so far as possible, be of average arable quality. But it is unlikely that producers will commit themselves to taking land of average arable quality out of production for 20 years.

This final argument has to be seen in the context of the Council decision, at the final stage of the negotiation, to accept non rotation in the arable scheme and its recognition at the same time that land in non rotational set aside is likely, on average, to be of lower productive potential than land in rotational set aside. Even so, however, there is a difference between a commitment to take land into set aside for five years and one to take it into set aside for a generation.

30. The case against the Commission's position which has been advanced is that if the land in the 20 year schemes is not allowed to count as arable set aside, the 20 year scheme will not be attractive despite the generous level of aid which it can provide, as farmers will not be prepared to set aside under two schemes at the same time. Thus it is argued that the arable scheme will undermine the potential success of the 20 year scheme.

31. It is true that if a member state opts for the individual base area system there could be a direct clash between the two schemes. With the individual base area system, a producer has the obligation, if he wishes to receive the arable compensatory payments, to set aside a proportion of his base area and he may be unable to do this if part of his base area is occupied by 20 year set aside. This problem (which is theoretical at present as no member state is applying an individual base area system) could be readily resolved by allowing a producer to reduce his base area by all or part of the area devoted to 20 year set aside. With the regional base area system, however, the potential conflict between the two systems is not so evident. A producer will, in any event, not put into the 20 year scheme land which he sees as part of his arable production planning. And arable set aside is designed precisely to be an integral part of arable planning.

32. If, however, the argument is that member states wish to encourage or require long term environmental commitments from producers who opt for non rotational set aside, then a more appropriate response would be to guarantee to those producers the continuance of the arable set aside payment for the period for which the producer himself undertakes to keep his land in the scheme.

IV. CONCLUSION

33. The object of this paper has not been to formulate precise proposals but to stimulate debate. Nevertheless it has attempted to suggest a means of approaching the various questions which have been raised. It recommends that in the larger debate which should now take place the first criterion for judging each possible solution should be the effectiveness of arable set aside. Provided that this can be assured, then the key considerations to be taken into account, apart from the obvious necessity of budgetary constraints, are administrative simplicity, acceptability to producers and the public interest in environment and amenity. Although the various considerations may appear to be in conflict, neither producers nor public administrations nor the public generally will regard set aside as a success if, despite all the effort and finance invested, it fails in its primary objective of resolving the problem of surplus production.

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