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SECOND REPORT

on the proposal for a Council regulation laying down rules for voluntary modulation of direct payments provided for in Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and amending Regulation (EC) No 1290/2005
(COM(2006)0241 – C6-0235/2006 – 2006/0083(CNS))

Committee on Agriculture and Rural Development

Rapporteur: Lutz Goepel

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council regulation laying down rules for voluntary modulation of direct payments provided for in Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers, and amending Regulation (EC) No 1290/2005 (COM(2006)0241 – C6-0235/2006 – 2006/0083(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2006)0241)¹,
 - having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0235/2006),
 - having regard to Rules 51 and 52(3) of its Rules of Procedure,
 - having regard to the report of the Committee on Agriculture and Rural Development and the opinion of the Committee on Budgets (A6-0315/2006),
 - having regard to the second report of the Committee on Agriculture and Rural Development (A6-0009/2007),
1. Rejects the Commission proposal;
 2. Calls on the Commission to withdraw its proposal;
 3. Calls on the Commission - if it does not withdraw its proposal - to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 4. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

EXPLANATORY STATEMENT

Procedure in the European Parliament

The Commission proposal on voluntary modulation was initially rejected in the Committee on Agriculture and Rural Development with three votes against, and in the Committee on Budgets unopposed.

On 14 November 2006, plenary then likewise rejected the proposal by an overwhelming majority (559 votes to 64, with 16 abstentions). The Commission did not withdraw its proposal.

Within the Council there is still a strong inclination to amend the Commission proposal in such a way as to make voluntary and compulsory modulation so remote from each other that it would be extremely difficult to convert voluntary into compulsory modulation after 2008.

The debates in the committees and in plenary showed that there was a large measure of agreement, across political group lines, that the 2nd pillar of agricultural policy should be adequately funded. Its current underfunding, which is due to the Council decision of December 2005 on the Financial Perspective 2007-2013, was generally lamented.

The main reasons for rejecting voluntary modulation which were stated in the debate were as follows:

- the lack of any impact assessment, although the legal act would clearly have a substantial impact on farmers,
- the danger of discrimination against farmers within the EU, against which the proposal does not contain any precautions,
- the renationalisation of agricultural policy through the back door,
- aspects of the proposal which call for criticism with reference to budgetary and structural policy (particularly the omission of a co-financing requirement),
- the failure to involve Parliament in the preparation of such a far-reaching proposal, and
- the fact that the proposal on voluntary modulation largely prejudices the outcome of the 'Health Check' in 2008/2009 for the field of agriculture without involving Parliament as an equal partner in the discussion process, as provided for in the Interinstitutional Agreement on the Financial Perspective.

So far, the Council has not in any way responded to Parliament's concerns.

In the rapporteur's opinion, therefore, the grounds which led to the proposal's rejection in plenary remain valid.

As a result of the consultations, the rapporteur considers that the Commission should, as part of the Health Check, submit fresh proposals on the financing of the second pillar, on the basis of comprehensive impact assessments and intensive and early discussions with the European Parliament. In this connection, the question of a further compulsory modulation stage can then also be debated.

Opinion on the first report

I. Introduction

The Commission proposal on the introduction of voluntary modulation goes back to a Council decision of December 2005 (cf. Council conclusions of 16 December 2005, paragraph 63).

The background was the cuts in rural development funding which were agreed in the Council at the insistence of the 1% States, particularly Britain (around € 69 billion instead of 88 bn), which were to be partially compensated by voluntary modulation. Parliament had immediately expressed strong reservations about this (see Declaration 9 on the Interinstitutional agreement on budgetary discipline and sound financial management (IIA)).

The Council decision also provides for the EU's total expenditure, including that on agricultural policy, to be subjected to a 'health check'. The European Parliament is to participate fully in the preparation and implementation of the results (cf. Declaration 3 on the IIA).

The Commission proposal, which partially deviates from the Council decision, contains the following essential elements:

- Member States may cut up to 20% of all direct payments under voluntary modulation (the Council also wished to include market expenditure).
- Modulation is not subject to any conditions, except that small recipients (i.e. those receiving less than € 5000 in direct payments) are exempt from it.
- The funds may be used freely in accordance with the provisions of the EAFRD Regulation; the rules on minimum expenditure per axis must be complied with (this was not what the Council advocated).
- Co-financing is not compulsory.
- Member States must decide the rate of reduction for the whole financing period within two months.

No impact assessment has been performed.

Member States are strongly in favour of a further increase in flexibility, i.e. in particular the abandonment of the earmarking of funds for particular axes, an extension of the declaration period, the possibility of adjusting modulation rates during the financing period, greater regionalisation, etc.

II. Assessment

Parliament cannot agree to the proposal because:

- it jeopardises the survival of many farms,

- it distorts competition and discriminates against farmers in individual Member States in a way which violates the Treaty,
- it entails the abandonment or renationalisation of the CAP and abandons the principle of solidarity enshrined in the CAP,
- it disregards Community objectives in rural areas,
- it is unbalanced and incoherent, and
- it violates the EP's rights of participation.

In the absence of an impact assessment or reliable figures, Parliament cannot consent to such a far-reaching paradigm shift.

The rapporteur observes that, in the Böge report, Parliament proposed that the financing problems of the CAP be solved by means of compulsory national co-financing of first-pillar expenditure. That would have made it possible to honour the pledges which the Heads of State and Government gave to farmers in October 2002 without calling into question the common agricultural policy, i.e. a policy decided jointly at European level.

The Council decision restricts the debate on the structure of agricultural expenditure in connection with the health check to modulation issues, as the statement by the Commissioner on the expansion of compulsory modulation after 2008 shows. There will evidently not be any sincere consideration of the proposals made by Parliament in the Böge report.

Individual retrospective improvements are not sufficient: rather, a comprehensive examination of all possible alternatives is needed, on the basis of which coherent and consistent measures could then be worked out.

A. Impact on the common agricultural market

Voluntary modulation in the proposed form violates the principles of the CAP, violates the rights of the farmers concerned and jeopardises the Europe-wide continuation of farming.

1. The proposal violates the ban on discrimination. The CAP is based on the principle of equal competitive conditions and solidarity (Article 33 and 34 of the EC Treaty). The proposal permits large national and regional disparities in the calculation of Community income support (up to 20%). These disparities are not based on objective principles. The regulation neither provides for any conditions (jobs, income support per hectare, etc.) for the implementation of modulation nor contains a procedure for ensuring that the competitive position of the farmers concerned will not deteriorate disproportionately. Yet differentiation in the common agricultural market with regard to income support without the application of any objective criteria is contrary to the consistent case law of the Court of Justice of the EC. The violation is all the more flagrant because the impact of the proposal has not been assessed.
2. Moreover, the Commission proposal entails substantial losses of income for farmers without providing any estimate of the consequences.

From 2008, direct payments may be reduced by up to a third in relation to their level in 2003 (20% voluntary and 5% compulsory modulation, plus an 8% cut after the accession of Romania and Bulgaria) and this despite the fact that, according to the decision of 2002, the payments were supposed to be secure until 2013.

The cuts come at a time when difficult adjustment processes are under way in European farming (growing competition on the world market, reform of important common organisations of the market, rising raw material prices, etc.). Cuts implemented in the near future and furthermore on such a scale will not result in structural adjustment but rather fracture the existing structure. What farmers need now is certainty to enable them to plan. They will lose any faith they may have in political decision-making if undertakings which have already been given are constantly called into question again.

B. Objectives of rural development and the principles governing it

1. Unlike the rules applied in all the other Structural Funds and unlike previous provisions on modulation, the proposal does not provide for co-financing. Yet co-financing is an essential instrument of structural policy to ensure that Community funds are used in accordance with the principles of efficiency and economy and deployed only where Community funding genuinely possesses added value.
2. In view of the perceptible financing problems in some Member States (e.g. Portugal), compulsory co-financing would mean that there was no guarantee of uniform application of voluntary modulation, as the decision would strongly depend on the national budgetary situation, with rather less consideration for the income situation of farmers or the needs of rural areas. This once again makes it clear that the proposal is an ill-considered, over-hasty piece of work, which jeopardises the coherence of rural development policy and cannot be rescued by retrofitting it with a few improvements.
3. Increasing flexibility, which is being debated in the Council - for example, allowing the abandonment of the earmarking of funds for particular axes - should be rejected from the outset, as otherwise there would be no shred of a guarantee that European funds would be spent in accordance with European objectives.
4. In the worst case, the proposal would result in the total funding allocated to rural areas being reduced. The cuts in the first pillar, which is still a cornerstone of farming, could be used to replace national co-financing funds. On balance, taking the first and second pillars and co-financing together, less funds would then be available for rural areas than now. The proposal would have precisely the opposite result to that allegedly intended.

C. Renationalisation of agricultural policy

20% modulation would result in a renationalisation of agricultural policy. No more than a rudimentary common agricultural policy would then survive. To a significant extent, the level of direct payments would then be at the discretion of the Member States, as would the distribution of the Community funds gained from it.

Cuts would be a matter for unilateral decision by the Member States; the first pillar would become a resource to be mined to meet national financial needs. There are no conditions to prevent discrimination against farmers or to ensure that funds are used to eliminate existing inequalities or to attain particular Community objectives. In view of the breadth of the measures provided in the second pillar and particularly if more radical proposals were adopted in the Council, there would be little internal consistency to be found in the common agricultural policy any longer.

A paradigm shift! The common agricultural policy is to be renationalised, but the funds needed for the purpose Communitarised. Such a far-reaching reform without extensive consultation with Parliament and the people who would be affected is inconceivable.

D. Disregard for Parliament

The present proposal flagrantly disregards Parliament's rights and cannot be accepted in this form.

1. Pursuant to Annex III of the IIA, rural development expenditure is classified as non-compulsory expenditure. Under voluntary modulation, the Member States could unilaterally and without the comprehensive involvement of Parliament in accordance with letter C of the IIA increase expenditure over and above the financial framework provided for in Annex I to the IIA by several billion euros. Such a far-reaching change in the budget for non-compulsory expenditure without the involvement of Parliament clearly violates the spirit and the letter of the IIA.
2. The introduction of voluntary modulation prejudices the outcome of the budgetary health check planned for 2008/2009, from which proposals for the financing period **after** 2013 are supposed to be derived. Yet according to Declaration No 3 on the IIA, the health check and all the resultant proposals are to be the fruit of close cooperation with Parliament. The present proposal is completely incompatible with this. Parliament is being expected to give its blessing under the procedure provided for in Article 37 of the EC Treaty to a far-reaching proposal adopted by the Council in virtual secrecy, hoping to catch people unawares.
3. In view of the scope of the proposal, the Commission ought, under the Interinstitutional Agreement on better law-making, to have conducted an impact assessment and consulted certain sectors. It has given Parliament an undertaking to this effect.

REFERRAL BACK TO COMMITTEE

Date referred back to committee under Rule 52(3)	14.11.2006
Date referred back to committee under Rule 168	
Deadline for reporting back	-
Rapporteur Date confirmed/appointed	Lutz Goepel 21.11.2006
Discussed in committee	18.12.2006 24.1.2007
Date of adoption	24.1.2007
Result of final vote	+: 32 -: 3 0: 1
Members present for the final vote	Thijs Berman, Niels Busk, Luis Manuel Capoulas Santos, Dumitru Gheorghe Mircea Coșea, Joseph Daul, Albert Deß, Carmen Fraga Estévez, Lutz Goepel, Bogdan Golik, Friedrich-Wilhelm Graefe zu Baringdorf, Elisabeth Jeggle, Heinz Kindermann, Albert Jan Maat, Mairead McGuinness, Rosa Miguélez Ramos, Neil Parish, Radu Podgorean, María Isabel Salinas García, Agnes Schierhuber, Willem Schuth, Czesław Adam Siekierski, Brian Simpson, Csaba Sándor Tabajdi, Marc Tarabella, Witold Tomczak, Kyösti Virrankoski, Andrzej Tomasz Zapalowski
Substitute(s) present for the final vote	Bernadette Bourzai, Hynek Fajmon, Gábor Harangozó, Wolfgang Kreissl-Dörfler, Zdzisław Zbigniew Podkański, Armando Veneto,
Substitute(s) under Rule 178(2) present for the final vote	Reimer Böge, Jorgo Chatzimarkakis, Wiesław Stefan Kuc
Date tabled	26.1.2007
Comments (available in one language only)	-