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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 Rule 51 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),
1. Rejects the Commission proposal;
 2. Calls on the Commission to withdraw its proposal;
 3. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

EXPLANATORY STATEMENT

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.

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.

26.9.2006

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Agriculture and Rural Development

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))

Draftsman: Herbert Bösch

SHORT JUSTIFICATION

I. History and content of the proposal

On 15/16 December 2005 the European Council in Brussels adopted a document named "Brussels European Council 15/16 December 2005 - Presidency Conclusions"¹ and which contains in paragraph 6 under title "Financial Perspectives" the following reference: "The European Council reached agreement on the Financial Perspective 2007-2013 as set out in doc. 15915/05."²

In this document, under "Heading 2 - Preservation and Management of natural Resources", the Member States agreed the following:

"62. At their discretion, Member States may transfer additional sums from within this ceiling to rural development programmes up to a maximum of 20% of the amounts that accrue to them from market related expenditure and direct payments. The European Council invites the Council, on the basis of a proposal from the Commission, to establish the modalities which will govern such transfers. Sums transferred to support rural development measures pursuant to such arrangements shall not be subject to the national co-financing and minimum spending per axes rules set out in the Rural Development Regulation."

¹ published on the Council of the European Union's Website:

http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/87642.pdf

² http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/misc/87677.pdf

The European Parliament expressed reservations concerning the European Council agreement¹ : (Declaration No 9 of the IIA of 17 May 2006.)

The Commission, which had been "invited" by the European Council to use its right of initiative according the Treaties and present a proposal, notified some half-hearted objections to this "invitation"².

However, the Commission then accepted the "invitation" by the European Council and, on 24 May 2005, presented a proposal laying down rules for voluntary modulation.³

The proposal:

- is based on Article 37 of the EC Treaty (European Parliament will only be consulted)
- allows for shifting up to 20% of direct payments from the first pillar of CAP to rural development (2nd pillar) in addition to the compulsory modulation decided in the context of the 2003 CAP reform
- enables the funds to be used freely in accordance with the provisions of the EAFRD-Regulation; the rules on minimum expenditure per axis must be complied with
- has the same calculation basis as the compulsory modulation, including the specific measure for small farmers (reduced percentage applied to the first EUR 5 000 for small farmers)
- makes provision for specific measures for rural farmers through an additional amount of EUR 5 000
- provides that co-financing is not compulsory
- requires Member States to decide the rate of reduction for the whole financing period within two months.

Your draftsman wants to point out that he is not against the principle of modulation as such, which implies the transfer of funding from pillar I "market support and direct payments to farmers" to pillar II "Rural development", since it reflects the spirit of the Common Agriculture Policy. Rural development is the key tool for the restructuring of the agriculture sector and to encourage diversification in rural areas.

¹ "The European Parliament takes note of the conclusions of the European Council of December 2005 concerning voluntary modulation from market-related expenditure and direct payments of the Common Agricultural Policy to rural development up to a maximum of 20% and the reductions for market-related expenditure. When the modalities of this modulation are laid down in the relevant legal acts, the European Parliament will evaluate the feasibility of these provisions in respect of EU principles, such as competition rules and others; the European Parliament currently reserves its position on the outcome of the procedure. It considers it would be useful to assess the issue of co-financing of agriculture in the context of the 2008-09 review."

² "The Commission takes note of Point 62 of the conclusions of the European Council of December 2005 whereby Member States may transfer additional sums from market-related expenditure and direct payments of the Common Agricultural Policy to Rural Development up to a maximum of 20% of the amounts that accrue to them from market-related expenditure and direct payments. When laying down the modalities of this modulation in the relevant legal acts, the Commission will endeavour to make voluntary modulation possible whilst making all efforts to ensure that such a mechanism reflects as closely as possible the basic rules governing the rural development policy."

³ COM(2006)0241

However, Parliament cannot accept the way in which the European Council proceeded, once again, on this issue, and the manner in which the Commission put the mandate of the Heads of State and Government into practice:¹

1. Co-financing of the CAP

Unlike the rules applied in all other Structural Funds and unlike previous provisions on modulation, the proposal does not provide for co-financing. Furthermore, the Commission committed itself as expressed in its declaration No 10 of the IIA of 17 May 2006 to make all efforts to ensure that such a mechanism reflects as closely as possible the basic rules governing the rural development policy. Voluntary, non co-financed modulation causes severe problems, as the non-cofinancing violates the principles of shared responsibility and additionality of the EU funds.

Furthermore, Parliament proposed in the Böge report (A6-0153/2005) that the financing problems of the CAP could be solved by introducing a new co-financing mechanism in the EU policy on agriculture.

2. Financial Regulation

Modulation implies a transfer within Heading 2 of the MFF 2007-2013 and therefore has a consequence as regards classification of expenditure. However, the Commission proposal does not contain detailed provisions on how the amounts will be moved within the budget, from chapter 05 03, Direct Payments, to chapter 05 04, Rural development programmes. The European Parliament wishes to state clearly that these appropriations can only be transferred having due regard for the principles of specificity, of unity and of budget accuracy and transparency according to the provisions of the Financial Regulation.

3. Disregard of European Parliament as branch of the Budgetary Authority (Article 272(9) TEC)

Under voluntary modulation, the Member States can unilaterally and without the involvement of Parliament increase expenditure 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 prior involvement of the Budgetary Authority violates the spirit and the letter of the IIA.

4. Impact on the calculation of the MRI

The decrease of compulsory expenditure and the increase of non-compulsory expenditure related to voluntary modulation will have an impact on the calculation of the MRI (maximum rate of increase), which has to be assessed in more detail.

5. No prior impact assessment has been made

It is unacceptable and irresponsible that the Commission did not perform a proper impact assessment prior to the release of its proposal, even though it is required by the IIA of 16

¹ EP's reservation were formalised in its resolution on the IIA on budgetary discipline and sound financial management and in declaration No 9 on voluntary modulation, P6_TA-PROV(2006)0210

December 2003 on Better Lawmaking. Furthermore, no complete and clear financial statement has been provided by the Commission.

In the light of the above mentioned argumentation with regard to the budgetary prerogatives of the European Parliament and in the absence of an impact assessment, Parliament cannot agree to such a far-reaching initiative.

With reference to the EP declaration No 9 of the IIA of 17 May 2006 your draftsman considers it would be useful to assess the issue of co-financing of agriculture in the context of the 2008-09 review.

Therefore:

The Committee on Budgets calls on the Committee on Agriculture and Rural Development, as the committee responsible, to propose rejection of the Commission proposal.

PROCEDURE

Title	Proposal for a Council regulation on 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
References	COM(2006)0241 – C6-0235/2006 – 2006/0083(CNS)
Committee responsible	AGRI
Opinion by Date announced in plenary	BUDG 5.9.2006
Enhanced cooperation – date announced in plenary	10.7.2006
Drafts(wo)man Date appointed	Herbert Bösch 6.9.2006
Previous drafts(wo)man	
Discussed in committee	26.9.2006
Date adopted	26.9.2006
Result of final vote	+ : 18 - : 0 0 : 0
Members present for the final vote	Reimer Böge, Herbert Bösch, Vito Bonsignore, Brigitte Douay, Salvador Garriga Polledo, Dariusz Maciej Grabowski, Ingeborg Gräßle, Nathalie Griesbeck, Catherine Guy-Quint, Jutta D. Haug, Anne E. Jensen, Janusz Lewandowski, Jan Mulder, Giovanni Pittella, Kyösti Virrankoski, Ralf Walter
Substitute(s) present for the final vote	Albert Jan Maat, Mairead McGuinness
Substitute(s) under Rule 178(2) present for the final vote	
Comments (available in one language only)	...

PROCEDURE

Title	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		
References	COM(2006)0241 – C6-0235/2006 – 2006/0083(CNS)		
Date of consulting Parliament	10.7.2006		
Committee responsible Date announced in plenary	AGRI 5.9.2006		
Committee(s) asked for opinion(s) Date announced in plenary	BUDG 5.9.2006		
Not delivering opinion(s) Date of decision	REGI 21.6.2006	CONT 20.6.2006	
Enhanced cooperation Date announced in plenary	-		
Rapporteur(s) Date appointed	Lutz Goepel 30.5.2006		
Previous rapporteur(s)	-		
Simplified procedure – date of decision Date of decision	-		
Legal basis disputed Date of JURI opinion	-	/	-
Financial endowment amended Date of BUDG opinion	-	/	-
Discussed in committee	12.7.2006	11.9.2006	3.10.2006
Date adopted	3.10.2006		
Result of final vote	+: 32 -: 3 0: -		
Members present for the final vote	Katerina Batzeli, Sergio Berlato, Thijs Berman, Niels Busk, Luis Manuel Capoulas Santos, Giuseppe Castiglione, Joseph Daul, Albert Deß, Duarte Freitas, Jean-Claude Fruteau, Ioannis Gklavakis, Lutz Goepel, Bogdan Golik, Friedrich-Wilhelm Graefe zu Baringdorf, Esther Herranz García, Elisabeth Jeggle, Heinz Kindermann, Albert Jan Maat, Diamanto Manolakou, Mairead McGuinness, María Isabel Salinas García, Agnes Schierhuber, Willem Schuth, Czesław Adam Siekierski, Csaba Sándor Tabajdi, Kyösti Virrankoski, Brian Simpson, Andrzej Tomasz Zapałowski		
Substitute(s) present for the final vote	Pilar Ayuso, Bernadette Bourzai, Ilda Figueiredo, Wiesław Stefan Kuc, James Nicholson, Markus Pieper, Zdzisław Zbigniew Podkański		
Substitute(s) under Rule 178(2) present for the final vote	Zbigniew Krzysztof Kuźmiuk		
Date tabled	5.10.2006		
Comments (available in one language only)	...		