



Consultation on the review of the Less Favoured Area Scheme 2008 – a response from EFNCP

EFNCP welcomes very much the decision of the Commission to allow adequate opportunity for reflection on the reform of LFA support, which we believe to be central to the future of sustainable farming in marginal areas, including HNV farming systems. We are grateful for the opportunity to give our opinion and also for having had the chance to give a presentation to the ISSG earlier in the year.

EFNCP congratulates the Commission on the clear and well-thought out consultation document, which addresses most of the key issues that we believe need to be addressed. We hope that the Commission's robust and rational analysis will be reflected in the final decision of the Council and in the subsequent implementation by Member States.

In accordance with the invitation in the consultation document, a more detailed setting out of our rationale follows the summary of our conclusions.

Summary of our recommendations

1. LFA is central to the achievement of the EAFRD Axis 2 objectives, so the LFA reform must result in a robust and easily defensible set of rules which can play a strengthened role in the CAP over future programming periods.
2. LFA payments should aim to support farming that is a) handicapped by natural conditions and b) operates within these physical handicaps in such a way that ecological values are conserved ("sustainable land management").
3. Criteria for setting the boundary of the LFA should be transparent and rigorously enforced, but should not be tightly drawn. Effective targeting of LFA payments is best achieved through farm-level eligibility criteria.
4. Criteria for farm eligibility and for setting payment levels should be drawn tightly. They should be set at Member State level but conform to a set of common EU guidelines, and be clearly related to Axis 2 objectives. Criteria which are unrelated to Axis 2 objectives, such as a requirement to be a full-time farmer or being below the age of retirement, should be disallowed.
5. Farms which are not disadvantaged, or have been able from market returns or CAP support to overcome the natural disadvantage of an area through intensification, should not receive payments, whether or not they fall within the LFA boundary. In many cases, the intensified farms within LFAs have been heavily subsidised by the EU taxpayer to be better able to respond to the market, and in doing so to move away from providing public



goods in the strict sense¹. Examples are farmers using irrigation (other than certain very localised traditional systems, particularly flooded meadows), polytunnels or whose farms are dominated by agriculturally improved grassland.

6. Eligibility rules and the requirements which applicants must fulfil should be clearly separated in the logic of schemes. For example, an eligibility rule might be that a certain percentage of a livestock farm's forage area should be under semi-natural vegetation. To ensure sustainable land management, a maximum stocking density limit might be applied as a requirement.
7. Sustainable land management should not be interpreted merely as compliance with GAEC and SMR. The LFA have particular fragile environments and the conservation of these environments depends on the continuation not of farming in general, but of specific types of farming, generally characterised by a low intensity of input use and land exploitation. The LFA cover vast areas and funds are limited, so eligibility criteria and payment scales should aim to target most support on the types of farming that are best placed to deliver the environmental priorities defined for a given LFA.
8. Payment levels must be closely aligned to the requirements and to the cost of meeting these requirements in the specific natural conditions in which the farm operates. For example, an LFA scheme requiring farmers to maintain a minimum grazing density of 0.15 LU/ha should have payments calculated only on the basis of the direct costs of maintaining that required density of livestock, whatever the actual stocking density on the claimant farms. Schemes which in the past have not followed this rule have ended up paying significantly higher payments to less disadvantaged than to more disadvantaged farms.
9. All payments within a particular scheme should aim as far as reasonably possible to compensate additional costs and income foregone to the same extent and in the same proportion in all areas; Member States should be required to demonstrate this in RDPs.
10. A high proportion of semi-natural vegetation² in the total forage area of a farm (including all seasonal, short-term and common grazing land) is an indicator that a farm is disadvantaged and also that the farming is highly relevant for environmental goals. For livestock farms, the proportion of semi-natural forage should be a criterion for both eligibility and the setting of payment levels. This is the best way to link the LFA measure to the delivery of the HNV farmland objectives of Axis 2.
11. Many Member States have a semi-natural grassland inventory, which some have incorporated into their LPIS/IACS systems. Others have cadaster-based systems which can be adapted to give information which better identifies semi-natural vegetation. As part of their preparation for the new LFA measure (and to facilitate their monitoring of the HNV indicators in their RDPs), all Member States should ensure that their LPIS/IACS

¹ Public goods are services which people cannot be prevented from using (non-excludable) and/or ones whose use by one person does not diminish the value of the resource for another (non-competitive). Thus, though public goods may in theory be valued by society, and though they certainly represent a service for society, the market mechanism cannot provide an incentive for their provision. Thus goods and services desired by the public include both Public Goods and private goods. A beautiful landscape is a public good; a fine artisan cheese is not, but the maintenance of the cheese-making tradition in the absence of a market might be.

² Specifically semi-natural vegetation (including grazed scrub or woodland), as distinct from permanent pasture or grassland in general.



system is able to identify all semi-natural farmed vegetation used by farmers (including grazing land off the UAA).

12. As for all CAP support, the basic requirements of the LFA scheme should be the minimum specified in GAEC. Some aspects of GAEC are not adapted sufficiently to the realities of farming, particularly in the LFA, and do not ensure sustainable land management in their current form. For example, farmers should be required to demonstrate that their use of land and water complies with legal requirements. Currently, farmers using land and water illegally are able to receive CAP payments. This is a significant concern in some LFAs in Southern Europe.
13. In order to address the GAEC issues concerning “Minimum level of maintenance: Ensure a minimum level of maintenance and avoid the deterioration of habitats” (Annex IV of Regulation 1782/2003), Member States should not limit their standards to “preventing the encroachment of unwanted vegetation”. It is important to include standards that define “Minimum livestock stocking rates or/and appropriate regimes” (as stated in 1782/2003), in terms of the active management (grazing and/or mowing in the case of semi-natural vegetation) that is required to avoid deterioration of the habitat in question. A requirement merely to “prevent unwanted vegetation” is not sufficient to ensure the continuation of the range of environmental values associated with an active farming system. However, the necessary tightening in cross-compliance criteria *must* be matched by improved targeting and more tailored payment calculations in LFA schemes and better use of Pillar 1 support.
14. The interaction of the LFA measure with agri-environment measures and also with SFP and Article 69 measures should be made explicit in the RDPs, with a clear justification of the costs and benefits being paid for through each measure.
15. Remoteness from markets and key services should be included in the set of natural factors recognised as leading to disadvantage. Remoteness is clearly a natural and physical factor beyond the control of the farmer and is as important in defining marginality as the other factors proposed by JRC.
16. We do not support an approach which involves attempting to map and delineate HNV farmland areas, either as a suitable tool for targeting support at HNV farmland, or as a substitute for LFA boundaries. The HNV farming concept is not best applied through delineation of areas, but rather through farm-level criteria. Furthermore, the concept tends to be interpreted purely in relation to biodiversity values, whereas sustainable land management in the LFA is concerned with a wider range of environmental issues (e.g. soil conservation, fire prevention). Therefore we do not support Option 4 of the consultation document.
17. With the caveats referred to above and explained in more detail below, EFNCP supports Option 3 as the most likely to deliver the aims of the LFA reform, by ensuring the application of robust eligibility criteria focused on sustainable land management, within a common EU framework.



Our vision for the LFA measure

▪ *The LFA measure more important than ever*

Where technology and the availability of capital permit it, Europe's farmers have responded to market signals and intensified their production to maximise their net incomes, leading to massive declines in many formerly common species and habitats across much of the continent, and putting increasing and unsustainable stress on basic natural resources, such as soil and water.

For both agronomic and economic reasons, many farmers in marginal areas such as Europe's mountains, drylands and marshlands were unable to respond in this way. Unintensified farms in these Less Favoured Areas became further marginalised economically and socially. Because these farms did not intensify, large areas of semi-natural vegetation managed in an extensive manner, as well as other low-intensity farming systems involving arable and permanent crops, have survived as a public good into the 21st century.

The factors which limited the extent of agricultural 'improvement' in the LFA now pose an ever-increasing threat to these same areas, as general economic development and the success of rural and regional policies increase the number and range of economic opportunities outside agriculture. Decoupling of CAP support only serves to further highlight the disadvantage under which these farmers operate, as many would be far better off if they could cease production while receiving current support payments.

It is also apparent that in many LFAs, a proportion of farmers have been able to intensify production, often with the aid of subsidies and grants delivered through the CAP. Examples of intensive farming systems now found within LFAs include large areas of intensive olive plantations, vineyards and other permanent crops, arable cropping including irrigated tobacco and maize, and agriculturally improved grassland.

Particularly in southern Europe, the fragile environments existing within LFAs (vulnerable soils, scarce water resources) have suffered from these processes of agricultural intensification. Farms that represent a clearly unsustainable use of land and water are in receipt of LFA payments under the current scheme. This situation should be remedied by applying eligibility criteria and requirements that exclude over-intensive farming systems from LFA support, and also by changes to GAEC, particularly concerning illegal use of water.

Disadvantaged areas illustrate the inherent tensions within the CAP between the drive towards efficiency and a world market orientation and the provision of adequate reward for the provision of public goods. Whereas in less disadvantaged regions these issues can be separated, with the farm business selling produce profitably on the one hand and receiving support for provision of specific services on the other, in the LFA the two questions cannot be conveniently decoupled. Indeed, to do so is likely to ensure the failure of the policy.

Resolving these tensions sets a challenge for both the EU as whole and for Member States in their individual Rural Development Programmes. At present the CAP has only two mechanisms for supporting existing but uneconomic basic land management – Single Farm Payment and Less Favoured Area. Of these the latter has the clearest potential to link payment levels to disadvantage and the continued provision public goods, while maintaining



public confidence in the long term. We believe therefore that the future of this measure is central to the continued delivery of public goods and to the legitimacy of the CAP in the mind of the taxpayers.

▪ *Sustainable land management is central*

EFNCP welcomes the increased clarity of focus of Axis 2 of EU Rural Development policy and fully support the shift in the rationale of the disadvantaged area payments away from a variety of objectives to that of contributing to sustainable land use.

One of the challenges facing LFA policy is how to ensure that such a long-standing measure, one so firmly embedded in the bureaucratic traditions of both the EU and Member States, is able fully to make the transition to what in some countries is a totally new function for the measure. It is a reasonable expectation that scheme proposals which have a substantially new rationale should be accompanied by a full and comprehensive justification and explanation; the Commission should insist on this to avoid in effect an automatic rollover of the status quo.

A particular and basic failing of the current scheme is that the objectives of national implementation models are not clear. Now that a new and more focused EU objective has been defined (sustainable land management), it is essential that future national and regional RDPs spell out clearly how this objective is interpreted for their LFA. Programmes should be required to:

- analyse the main environmental concerns in these areas, including sustainable use of soil and water, and the conservation of biodiversity
- define priorities for achieving sustainable land management with reference to the above themes
- specify which types of farming and farming practices are best placed to deliver this goal, with reference to the specific sustainability themes
- and explain how their proposed eligibility criteria, requirements and payment formula will ensure that support is targeted on these specific farming types and practices.

▪ *Natural disadvantage felt at the level of the business*

LFA policy should aim to target *all* naturally disadvantaged farms, but *only* those farms. The level at which natural disadvantage makes its economic impact felt most keenly, and the one at which the level of support should be determined, is that of the farming business.

Being within an area which contains many other disadvantaged farms adds little to the individual farm's disadvantage. Conversely, being the only disadvantaged farm in an area does little to lessen that disadvantage (quite the opposite, in fact). Thus, while an area approach is implicit in the scheme, it should not be the main level at which eligibility criteria are set and payment calculations carried out.

On the other hand, the relationship of disadvantage to the proportion of disadvantaged land is not linear, so disadvantage is not something to be measured primarily at the field scale. While a farm with 10% of difficult or unproductive land is more disadvantaged than one with only 5% of such land, in neither case does the disadvantage significantly affect the business options open to the farmer. However, farm businesses with more than 30-40% of handicapped land find that it dominates not only their management options, but the



profitability of the choices which are available to them. We would think that any mechanism which assessed disadvantage at a field-by-field level thus also misses a key aspect of real marginal farms.

The appropriate level of assessment is therefore that of the farming business. At the same time, efficient and effective targeting of the scheme is best achieved at the farm level, not through attempting a tight delineation of the LFA boundaries. The latter approach is likely to exclude a number of genuinely disadvantaged farms, while still including a number of not disadvantaged farms which ultimately will have to be excluded through eligibility criteria.

- Setting criteria for the definition of the area

To obtain LFA funding, farms have to be within the eligible area and to fulfil certain eligibility criteria. We believe that in the past too much stress has been placed on delimiting the former and not enough on defining the latter. Ideally we would like to see a scheme which adequately compensates for the cost effects of natural disadvantage on minimal, baseline, agricultural activity wherever it is located (in much the way in which Article 69 can target certain systems).

We recognise that the Court of Auditors' criticism is being understood as a call for smaller LFAs. We would make a plea for it to be understood as a call for better targeting of the scheme at disadvantaged farms. Within that context, there is still a need for the Commission to monitor the criteria used for area definition.

- Distance is a natural disadvantage

EFNCP believes that while the abolition of the social criteria for LFA delimitation may cause technical problems for Member States during the period of transition, there is no reason in principle not to welcome the exclusive focus on physical factors proposed by the Court of Auditors.

This being said, we strongly urge the Commission to reconsider its view that distance (remoteness) is not a physical or natural disadvantage. *Some* of the costs of distance can be overcome by social policy, though they seldom are – subsidies to avoid higher fuel prices are an example. However, those costs which are the result of the increased travel times, for instance, cannot all be addressed in this way. Working Time Directive and road safety restrictions on drivers' time for the haulage of goods, and restrictions under the transport of farm animals codes all add considerably to real costs and should be permissible in payment calculations. They are a major factor adding to the disadvantage of farms in remote areas.

- Criteria for eligibility should relate only to Axis 2 objectives

We believe that any eligibility criteria should relate exclusively to the objectives of Axis 2, as set out in the Strategic Guidelines. All farmers within the delimited area who contribute to them should be eligible – exclusions for reasons of age or of part-time farmers are no longer justified a priori.



- Identifying genuine disadvantage at farm level

Farms should not receive LFA payments just for being situated in a disadvantaged area – they must contribute to Axis 2 objectives. That means focussing support on those which have not been able to overcome that natural disadvantage and move into intensified production methods which deliver few public goods. What this means will vary from region to region. In Mediterranean areas where the disadvantage is due to drought, it will rule out support to those farms using irrigation (with the exception of certain very specific traditional systems for flood-irrigation of meadows).

In livestock systems, farms that are able to carry high stocking densities would be excluded (it is essential that calculation of stocking densities takes account of all off-farm grazing, not only the UAA of the farm holding). The livestock systems which provide the majority of Axis 2 public goods are characterised by a high proportion of semi-natural forage in their farmed area. LFA payments should be targeted at them, and payments should reflect both the carrying capacity of the semi-natural vegetation and the proportion of that vegetation in their IACS area (including common, short-term and seasonal grazing).

- LFA equals HNV farmland?

The HNV farmland approach is explicitly not about designating areas. We consider the LFA measure, complemented by Agri-environment schemes and an expanded use of Article 69, to be the best way of targeting basic support to the vast majority of HNV farmland in the EU.

Besides, existing attempts to map HNV farmland (e.g. by EEA/JRC) are known to be imperfect, and data simply are not available at present to produce reliable maps of HNV farmland.

The Forum therefore believes that the best way to achieve a fit between the LFA measure and the delivery of the HNV farmland element of Axis 2 is firstly through the criteria for excluding intensive farmers. In the case of livestock farms, the proportion of the forage area consisting of semi-natural vegetation should be central criterion. Equally critical is the formula for calculating payments, which should ensure that the most disadvantaged farms that also comply with criteria for sustainable land management receive sufficient support from the CAP to maintain their activity.

The LFA contains both Type 1 and Type 2 HNV farmland. We believe that the appropriate vehicle for locating and targeting both these type is IACS and the Land Parcel Identification System which underlies it. Member States should agree to a deadline by which *all* LPIS/IACS systems in the EU should be able to identify farmed semi-natural vegetation.

- LFA must support active farming

The Forum believes that the "minimum maintenance" aspects of GAEC should be framed in terms of active management. The extra costs of bringing active management back to an area which loses it are such that GAEC should not permit a passive 'can be brought back into use' approach, based solely on the requirement to prevent encroachment of unwanted vegetation.



Whereas the link between the level of payments and the costs of GAEC is poor for SFP, in the LFA this logical connection is central. Additional costs and income foregone can only be defined in relation to a particular activity. It is essential to define that activity and to require it as a condition of payment.

- Setting payment levels

One source of embarrassment in the present set of LFA schemes is that while some Member States have a rigorous and transparent set of criteria for setting payment levels, others have a set of payments which can only be described as perverse, where disadvantage seems to be more or less inversely related to the amount of support given.

LFA payments should be aligned to the costs and income foregone of a defined minimum standard and that standard should be set in GAEC. LFA should not pay for occasional clearance of invasive vegetation, but for meeting positive management requirements defined under GAEC. One example is the maintenance of a minimum grazing pressure on semi-natural vegetation.

- Fit with other instruments

The LFA measure is the only RDP instrument that can pay for the costs of carrying out the minimum amount of activity demanded by GAEC. 'Broad and shallow' agri-environment measures are not permitted to perform this function.

The official justification for Single Farm Payment is also to meet GAEC standards not required of non-EU competitors, but neither the historic nor the regionalised models are sufficiently flexible and well-targeted to support fully the delivery of GAEC in marginal areas, despite their importance for stated EU objectives. While LFA payments should be sensitive to changes in the distribution of Pillar 1 support, the potential for precision and focus which they offer makes them invaluable in any truly integrated policy framework.

Article 69 payments potentially overlap with LFA, but if the latter is limited to achieving GAEC standards (e.g. a minimum livestock stocking density per hectare of forage), the former could then be used to target particular systems (e.g. encouraging grazing by cattle rather than sheep in NW Europe; or sheep rather than cattle in southern Europe; special support for shepherded systems would be especially beneficial to sustainable land management in southern Europe).

LFA could legitimately be used to pay for going beyond GAEC, for example, where maximum stocking density limits need to be applied to ensure sustainable land management. However, at present we are not aware of any Member State where the scheme properly pays for the additional costs of disadvantage for all marginal farmers, even at the level of GAEC. Paying for the additional costs of higher levels of activity for less marginal farmers while the most disadvantaged are put in a loss-making position is, we believe, completely inappropriate.



▪ Importance of supporting a minimum level of management, especially grazing of semi-natural vegetation

Semi-natural vegetation under farming use (generally grazing, but also mowing of semi-natural hay-meadows) is the basis for much of Europe's biodiversity. The continuing decline of such activity is one of the reasons for biodiversity decline, as semi-natural land is abandoned or converted to other uses (e.g. afforestation, agricultural intensification). It also leads to a loss of valued open landscapes and to increased fire risks (a concern for several reasons, including contribution to climate change, soil degradation and biodiversity loss), especially in southern Europe.

The continuation of a minimum level of farming activity on all remaining semi-natural vegetation therefore should be a basic environmental objective of the CAP payments system, and of the LFA scheme in particular (the largest areas of such land are found within the LFA where they reflect the natural limitations to intensification).

This environmental objective is central to the concept of sustainable land management in many LFAs, yet current CAP rules and definitions give rise to a situation in which support payments are not linked to this objective, and in fact work against it in various ways. These are summarised below.

It is important to distinguish semi-natural vegetation from Permanent Pasture as defined under CAP Regulation 796/2004. On the one hand, the latter includes grassland that is ploughed and reseeded every 5 years, and so is under more intensive use and generally is of less biodiversity value than strictly semi-natural vegetation. On the other hand, grazing land consisting of heaths, scrub or woodland is excluded from the Permanent Pasture definition, which refers only to "herbaceous forage", thus excluding non-herbaceous types.

These non-herbaceous types of semi-natural forage are precisely the types found on the most disadvantaged land and most prone to abandonment, resulting in the loss of critical biodiversity values and in increased fire risks. Such grazing land is excluded from the Permanent Pasture category in many Member States, and as a result is excluded from the GAEC requirement to "protect Permanent Pasture", and from Member States' reporting on their commitment to prevent a significant reduction in the area of Permanent Pasture.

In some Member States, grazing land with bushes and/or trees is excluded entirely from LPIS on the grounds that it is not "agricultural land", and as a result it is not eligible for CAP payments. This is in spite of Article 8.1 of 796/2004 which states that "*A parcel that contains trees shall be considered an agricultural parcel for the purposes of the area-related aid schemes provided that agricultural activities referred to in Article 51 of Regulation (EC) No 1782/2003 or, where applicable, the production envisaged can be carried out in a similar way as on parcels without trees in the same area.*"

The GAEC requirement to prevent "unwanted vegetation" also can act as a barrier to the payment of support on marginal semi-natural land, as land with a certain proportion of shrubs or trees may be considered to not comply with the GAEC requirements. Farmers may be obliged to clear shrubby vegetation in order to comply with GAEC, whereas a mosaic of grassland with scrub and trees generally is of especially high biodiversity value.



These barriers to the payment of support on semi-natural grazing land need to be addressed, as they work against the “sustainable land management” objectives of the LFA scheme. EFNCP proposals are as follows:

- Payments that support a minimum grazing level on semi-natural vegetation contribute to basic environmental objectives without significant distortion of production and markets, and therefore are WTO Green Box Compatible. An LFA payment scheme that fails to support this objective (as occurs with existing CAP rules) is failing to ensure a key element of sustainable land management in the LFAs.
- There should be a presumption that all semi-natural land under grazing by domestic livestock is eligible for CAP payments (LFA and Pillar 1), regardless of whether the forage is purely herbaceous, and including vegetation that is shrubby or includes a proportion of shrubs/trees. This could be made clear in Article 8.1 of Regulation 796/2004. Exclusions could be applied by Member States on specific sites, parcels or habitat types where grazing is not desirable for clearly defined reasons.
- The GAEC provisions on protection of Permanent Pasture should be extended to cover all types of semi-natural forage vegetation, by making it clear in the definition of permanent pasture (Article 2 of Regulation 796/2004) that all types are included.
- In order to address the GAEC issues concerning “Minimum level of maintenance: Ensure a minimum level of maintenance and avoid the deterioration of habitats” (Annex IV of Regulation 1782/2003), Member States should not limit their standards to “preventing the encroachment of unwanted vegetation”. It is important to include standards that define “Minimum livestock stocking rates or/and appropriate regimes”, in terms of the active management (grazing and/or mowing) that is required to avoid deterioration of the semi-natural habitat in question.

Initial contact: Gwyn Jones
info@efnecp.org

The European Forum on Nature Conservation and Pastoralism is a EU-level NGO which aims to highlight the positive relationship between certain types of low-intensity agricultural systems and nature conservation (High Nature Value or HNV farmland). The environmental and socio-cultural public goods produced by European agriculture are delivered primarily by this low-intensity, economically marginal agriculture.

HNV farming systems are marginal in the market but are not out of the market. The fundamental issue for policy is to allocate production between low-input and high-input farming systems while keeping the former's low-input characteristics.

The Forum believes strongly that if farming in HNV areas is to become and remain socio-economically sustainable, and to continue to provide the current benefits for nature, it requires greater consideration in the design and delivery of EU agricultural and rural development policies. Its needs should be a major consideration in the design of the CAP as a whole.