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Dear Carol

CAP Health Check Implementation

Thank you very much for the opportunity to comment and for the clarity of the consultation document.

The SCF, the largest association of small-scale food producers in the UK and the EFNCP, which is concerned to ensure the continuation of beneficial agricultural management of High Nature Value (HNV) farmland and in particular the survival of HNV farming systems, see an urgent need for intervention to stem the unintended if predictable loss of livestock from the most marginal areas resulting in large part from the Mid Term Review of the CAP.

We urge the Scottish Government to use this Health Check as an opportunity to regroup while reflection on the future direction of LFASS and SFPS is undertaken – even major reform in 2014 is likely to be too late for some areas.

We propose in particular two hectare-based Article 68 measures:

- one under b) aimed at parishes and farms from which sheep (and agricultural management) are in danger of disappearance
- one under a) (v) which is analogous to the 'retention of native cattle' measure in SRDP-RP for low-intensity cattle systems which provide the highest public goods but which, as shown in the consultation paper, have the lowest margins and are at most risk of wholesale abandonment

We draw your attention also to our proposal for a specific strengthening of GAEC by the introduction, as in other Member States of a minimal activity definition of 'annual mowing or grazing at a stocking rate of 0.1 LU/ha.

We are aware that there are complications with these questions and we ourselves have thought long and hard about the possibilities of unintended consequences. We would very much welcome the chance to discuss these ideas and how better to achieve the same ends with you. We do not however share the opinion of others that the result of the MTR in terms of SFPS distribution is delivering the public goods which you seek. That is why we feel that the appropriate place to start reform is not with an Axis II budget which is already under strain but in the First Pillar itself.

Regards

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Scottish Government CAP Health Check Consultation 2009

– a response from the European Forum on Nature Conservation and Pastoralism

Overall approach to the Health Check

EFNCP and SCF welcome very much the opportunity to comment on offered by the Government and commend you the clarity of the consultation document.

EFNCP's overall approach vis-à-vis the Health Check at a EU level is outlined at http://www.efncp.org/download/efncp_CAP_Health_Check_Consultation.pdf. As an organisation we exist to draw attention to the positive relationship between certain farming systems and biodiversity. Scotland is unique in Northern Europe in that probably the majority of its farmland can be classified as this kind of High Nature Value (HNV) farmland.

We greatly applaud the decision of the EU to place the management and enhancement of this HNV farmland and the support of the HNV farming systems at the heart of EAFRD and in particular of Axis 2 and encourage the Scottish Government to grasp with enthusiasm the tasks set out for it in the Common Monitoring and Evaluation Framework as regards identifying HNV farmland. This is a major selling point of Scotland's agriculture and not one which should be on the back burner.

There is a need not only to establish a baseline of how much HNV farming occurs in Scotland but also to develop mechanisms to track trends in that HNV farming resource within the life-span of the current Scottish RDP. We recognise that Scottish Natural Heritage is currently working to this end and considering how best to identify how much, and where, HNV farming occurs in Scotland. However, working to identify where HNV farming occurs in Scotland, while welcome, is not in itself enough. There is also an urgent need to consider what types of HNV farming-specific support mechanisms are required in Scotland and to develop a policy framework is needed to ensure that such support can be developed and implemented effectively. Consideration of these two processes (identification of the resource and development of appropriate support policies) can, and indeed must, work in parallel. Without this, there is a real danger that inappropriate changes to policy will further decrease the economic viability of Scotland's existing HNV farming systems, to the detriment of the systems and their associated high biodiversity value.

The biodiversity (and landscape and cultural) value of HNV farmland is something which is not very amenable to reward by the market. As such it is a *public good*¹ – something we believe should be clearly distinguished from 'public benefits' which may or may not be open to market reward. In a situation of budgetary constraint, we believe that it is right that public spending be targeted at those public goods whose delivery is not assured as an incidental of other economic or non-economic activity.

The trend over the years is for there to be a repartition of production across the EU territories - over-intensification occurs in the better agri-ecological situations while land abandonment takes place in marginal areas where farming systems are less productive. The aim of the CAP should be to moderate these trends while recognising that they are natural consequences of economics. Other aims concerning the mechanisms themselves (such as simplicity or subjectively-assessed 'fairness') should be subsidiary. The critical test for any proposal needs to be its likely effectiveness in moving towards this over-riding primary objective.

It is clear to us that different aspects of the 'European Model of Agriculture' are thus in fact delivered by different farms. Thus we accept that certain producers should be encouraged to work to the world market and to enhance their competitiveness. Standards should ensure that they do not break laws or threaten the environment, animal welfare or food safety but should not otherwise place them at a disadvantage to their international competitors. These are producers which will produce public benefit, but mostly in the form of 'private goods' – their reward is from the market.

On the other hand there are other producers who are already producing many public goods but whose future is severely threatened. These also should be encouraged to maximise their efficiency in so far as

¹ According to Wikipedia, a public good is non-rivalled and non-excludable - consumption of the good by one individual does not reduce availability of the good for consumption by others; and no one can be effectively excluded from using the good.



that is compatible with the public goods – this is to ensure that public money is not wasted. But it is unrealistic to think that public support will not always play a crucial part in their farm economies – such is the nature of public goods.

Since the CAP is to be central to the fortunes of HNV farmland for the foreseeable future, EFNCP believes that it is imperative for the CAP to retain public support, while re-targeting it to public goods goals such as HNV farmland at both EU and national scales. In particular, the reality of CAP delivery, which the public sees, must match the theoretical logic of the policy itself, to which the public is largely indifferent.

Our vision is that the current HNV farmland in the EU will be maintained and as policies develop will be expanded in the future. However the current prognosis is more pessimistic. Farming systems which manage the land in a manner that maintains nature value must become increasingly attractive as a vocation, so that their position is maintained alongside other economic developments in Europe's rural areas. While this could involve an increased market orientation on the part of HNV farmers, it means also greater targeting of CAP support on this type of farming.

We recognise that bureaucracy is off-putting to farmers and should be reduced if possible, but we believe that the viability of farms delivering public goods is the central issue and this must be reflected in the Health Check. Of course the natural constraints that make these areas important for nature also work against economic viability – thus the need (and justification) for Pillar 1 support.

Article 68 – general approach

From our perspective the primary effect of the Mid Term Review reforms was to expose the lack of economic viability of many HNV farmland areas. The decision to go for the historic implementation method which in the most marginal areas offers farmers and crofters the prospect of doubling or trebling their net incomes by moving to a situation in which they minimise their agricultural activity, to the detriment of current nature values.

The resulting payment distribution is a major issue for the future of the CAP in Scotland – what is the justification for it in terms of public goods delivery? Its effects – its 'message' to producers - are unsurprising and were widely predicted: massive declines in stock numbers. Moreover, the arithmetic provides no rational 'bottoming out' point where stock numbers can restabilise.

We support in theory the link to minimum activity (see below) but the reality is that neither SFP nor, regrettably, LFASS provides the safety net necessary for the maintenance of livestock where they are or may well be having environmental benefits (the precautionary principle needs to be invoked here, as re-establishment costs are very high). Until that happens, we believe that there is a justification for redirecting some of the current massively skewed payment pattern back some way towards less intensive producers whose futures are in immediate danger despite the public goods they deliver.

We do not deny that agri-environment measures offer an alternative approach. To call for money to be redirected from a Rural Priorities measure already under considerable financial pressure is however only justified if the Pillar 1 status quo delivers the goods in terms of targeting the delivery of positive externalities; it does not. For this reason we believe that it is time for the Scottish Government to start to grasp the Pillar 1 nettle and begin gradually on a 'soft landing' redistribution of support which will otherwise no doubt be forced upon it in 2014.

The Scottish Beef Calf Scheme is a good idea but one whose benefits are rather diluted by being not only available to, but claimed in practice by, all beef calf producers. Thinking back to the analyses carried out at the time of the introduction of decoupling, the predictions were for the shifting eastwards of production systems, so that cattle moved out of the uplands towards the lowlands. In such circumstances, spending money on lowland producers seems rather wasteful.

On the other hand, we are mindful of the Commission's injunctions against having geographically-targeted measures in the past. Proposals this time round should avoid this problem if at all possible by using systems-based criteria and limiting geographical targeting to the extreme case of imminent abandonment.



Article 68 – support for sheep as 'farming of last resort'

As stated, we see no logical reason for expecting Article 68 to 'do everything'. The most basic maintenance role should go to LFASS and we feel that on balance the place for support of basic activity is through a combination of that measure and SFP, and in particular through the way minimum activity is defined (see below).

We accept however that LFASS in particular is not up to the task of offering this support under the present arrangements. It is therefore appropriate that Article 68 is used temporarily as a way of ensuring that sheep - the 'animal of last resort' - are not lost irreversibly, not least as it is not clear that the disappearance of these flocks is an intentional goal of policy.

- Activity-linked area payments should therefore be made available in all parishes where declines in sheep numbers since 2005 (i.e. since decoupling) are over a certain percentage.
- Payments should only be made to producers whose stocking density on actively-used forage² does not exceed 0.3 LU/ha in the 12 months from 1st January of the claim year and whose stocking density meets a minimum stocking level of 0.1 LU/ha of forage declared (which is the new GAEC limit we propose below).
- Payment should be calculated on the basis of what it costs to maintain sheep > 12 months old on that land at a rate of 0.1 LU/ha of GAEC-compliant forage.

By these three rules, payments are focused on both parishes and farms where sheep farming is in immediate danger of disappearing and that the payment is compatible with the proposed new minimum activity rule in GAEC and has the minimum possible effect on the market which is compatible with achieving the stated aims. The scheme is a production-based measure and will have to fit in the 3.5% threshold.

During the lifetime of this transitory measure, the Scottish Government should, say by 2010, come up with a series of spatially-explicit objectives for sheep production, or more precisely for the desirable distribution of grazing by sheep. And the delivery of both Pillar 1 and LFA payments from 2014/10 onwards should aim to incorporate delivery of these new objectives in a coherent manner.

Article 68 – low-intensity cattle grazing and the environment

While the environmental need for sheep grazing is the subject of some debate, it is at least broadly accepted that low-intensity cattle grazing is environmentally beneficial for a whole range of reasons. Margins on cattle are worse even than those of sheep in marginal areas, putting all these benefits at immediate risk. Without prejudice to the benefits or otherwise of sheep, we feel that the Government should at least take advantage of agreement on the subject of cattle and propose a scheme which is environmentally targeted and thus is not subject to the 3.5% limit.

Such a scheme would need to be ecologically-realistic and avoid overt links to production or encouraging such increases in production as would negate or reduce the beneficial effects of cattle keeping. It would also need to be targeted, not geographically but using systems-based criteria which are likely to give maximum environmental benefit. That means targeting low-intensity herds.

Our approach follows that of the SRDP native cattle retention measure as far as logic and payment calculation are concerned. However we feel that the present make-up of the SRDP measure is too decoupled to accomplish the adequate support of cattle herds of >2 cows and in fact rewards larger small units which do *not* introduce more than 2 cows.

- Payments would be available on *all* holdings where the overall livestock density on actively-used forage is <0.8 LU/ha, except those participating in SRDP-RP cattle retention or introduction measures.
- Payments would be made per hectare of actively-used *inbye* grazed by cattle on the basis of 2 ha per cattle beast over 24 months old (male or female) present for 12 months from 1st Jan of the year of the claim.
- Payments for the first 20 ha should be £185/ha (as in the SRDP-RP cattle retention payment and using the same payment calculation) and £50/ha for the next 80 ha.
- No payment shall be made over 100 ha.

² i.e. compatible with the usage rules for LFASS and with the proposed new GAEC minimum activity



National Reserve

One basic principle which we feel should apply to CAP payments is that everyone is treated equally – equal reward for equal work – within the overall context of market failure and imminent threat. It is therefore wrong that existing claimants are advantaged over new entrants. The worst case scenario can be illustrated in the case of a common grazings in which all the SFP claimants are inactive and a new entrant is active but has no entitlements. The SFP claimants are rewarded for doing nothing, while the person who delivers GAEC for them as well as himself gets nothing but losses.

We believe that a more uniform distribution of payments is necessary and justified by the demands made on SFP claimants and the relative costs of delivering them. In the interim, the historic system must be made as fair as possible for new entrants in particular.

A National Reserve is therefore justified, not just made up of entitlements siphoned during transfers, but from entitlements unused for over 2 years by active claimants (where ‘unused’ means simply in excess of the claimed area in each year).

GAEC – minimal activity

The current cross-compliance structure, which combines legal requirements and GAEC, is unhelpful. The polluter pays principle means that adherence to the former should not be compensated from public funds. Furthermore, the EU should be aiming in WTO discussions to ensure that as many of these standards as possible are introduced as standards for goods imported into the Community.

Within GAEC there is a further conflation of damage-avoidance measures (*prevention* of soil erosion, *protection* of permanent pasture, protection of terraces and landscape features from *deterioration*), with other measures requiring positive action. Their cost varies considerably from place to place (achievement of certain stocking densities, control of vegetation, upkeep of landscape features....).

The former, while imposing higher requirements on EU farmers than on their global competitors and thus worthy of payment, truly belong as part of a minimum standard. The latter however are transitional to being agri-environmental in nature (and indeed are supported by agri-environment schemes in some MS). Minimum standards in these cases impose the highest costs on those least able to bear them, not on the ones creating most damage.

It is right that agricultural support, of whatever scale or type, should not be delivered to farmers who break the law. It is *not* right that marginal farmers are penalised for *not* carrying out activities that are unviable (e.g. grazing of poor, remote pastures). However, the solution taken by some Member States, including Scotland, which is that these basic farming activities should not be a pre-condition for support, then results in an encouragement to abandon (since the effects of *de facto* abandonment can be hidden for many years).

Cross-compliance has a role in preventing damaging agricultural practices, but it is not a suitable mechanism for maintaining marginal farming systems that deliver public goods, such as HNV farming. The requirement within GAEC to prevent undergrazing of permanent pasture is not the right way to achieve this objective, for many reasons. It is very difficult to monitor, especially on vast areas of rough grazings. And the requirement imposes a far greater burden on the marginal livestock farmer than equivalent requirements on more intensive farmers who receive far higher CAP payments.

SFP should be related to the costs of adhering to the conditions – no more and no less. There is no logical basis for paying huge per hectare amounts to (formerly) intensive farms where GAEC is easily achieved and tiny amounts to extensive farms where minimum activity criteria pose considerable challenges. However the opportunity to make fundamental changes in this regard is not yet upon us.

What can be done now is to get rid of the iniquitous situation whereby a claimant in marginal areas can increase his net income by up to threefold by stopping his former agricultural activity. Making under- or over-grazing something which causes a breach immediately is welcome, but not enough. There should be a minimum activity rule.

Minimum activity should, as in many other Member States in the current programming period, be defined as grazing at a minimum level or mowing at least once a year. The rule should be combined with the under-/over-grazing criteria and thus minimum stocking on 1st March is probably workable.



We suggest a minimum stocking of 0.1 LU/ha, with a restriction on payments (LFASS-style) below that unless undergrazing occurs, in which case there is a breach. Parcels otherwise ineligible which are specifically managed under an agri-environment prescription could be exempted to avoid facing farmers with an extra opportunity cost of participation.

The minimum stocking rule, as part of GAEC would apply equally to all CAP schemes, and in particular to LFASS. Experience just now with the new LFASS question on active use means that there is a mismatch with SFP rules and we see, on common grazings in particular, the effects – giving up or leasing out of forage rights is inhibited, with the result that active crofters are again disadvantaged.

GAEC – permanent grassland

We support in principle the simplification of CAP rules where there is no substantial benefit from more complicated arrangements. It is not clear that merging the rules on permanent grassland protection simplifies anything other than the guidance manual. However, we feel that whatever the format of the way the rules are set out, there should be a minimum of 2 separate rules, dealing respectively with:

- Basic rules for the protection of permanent pasture. Permanent pasture is defined purely in terms of its age, as it is in agricultural statistics. Its environmental value varies considerably.
- Extra rules for the protection of more narrowly-defined semi-natural vegetation and uncultivated land. These rules are ecologically meaningful and intimately connected to the core characteristic of HNV farmland.

GAEC – SSSI

We are unhappy, for the reasons outlined above for Option J to include an obligation to maintain SSSIs in satisfactory order except in as much as 'maintain' means to avoid deliberate or reckless damage. Farmers with SSSIs should not be burdened by extra costs of positive management – the support structure should not put them in this position, but should rather make adequate provision for them.

Cereals set-aside

Set-aside has provided an unintended environmental benefit in intensive farming areas of low nature value. How this is provided in future is not within the scope of EFNCP's focus except in one critically important way. The 'extra' benefits provided by set-aside are now provided 'free of charge' by the SFP. It is completely unacceptable that money is taken from the RD budget, which is already under considerable pressure, to add to the income of what is generally the most profitable and least environmentally-valuable sector of agriculture. In addition, it is risky to count on farmers' willingness to volunteer set-aside areas while cereal prices are increasing (notably due to the biofuels strategy). In a modified form it is right that the same benefits should continue to be provided through the First Pillar: they belong as part of GAEC. We sympathise with farmers who say that this is a cost which their competitors do not incur; however in this case these costs were until recently incurred. We look forward to the time when arable farmers receive SFP which is proportional to their low costs of achieving GAEC, but in the interim a set-aside replacement is a small price to pay for continued receipt of high CAP payments.

Upper and lower limits in support levels

On the question of lower limits, EFNCP believes it is important not to disguise administrative simplicity with a matter of principle. The viewpoint that some producers who 'are not farmers' can be easily distinguished with reference to the CAP payments they receive is not one we support, especially as we know that some MS have at various times restricted the eligibility for payment for part-time farmers, or pensioners, for example. We do not like the term "pseudo-farmers" as used by the Commission – this reflects Commission's attitude to many of the traditional (often part-time) farming systems of HNV areas. In many HNV areas, the majority of farms are small, part-time units. Withdrawing support from these, partly with the idea of encouraging more professional and dynamic farms to take over the land, may appear an attractive strategy in purely economic, financial and administrative terms. But the EU and national institutions should be aware that this approach conflicts with the declared priority of supporting HNV farming.



In principle we favour the availability of CAP payments to all producers who meet the various criteria, and the setting of those criteria with reference to wider objectives wherever possible. Thus, from our perspective the test for setting lower limits is what effect that would have in real landscapes and on real HNV farmland. If a small, part-time farm is delivering public goods, that farm should be eligible for CAP support.

Whatever is decided, we appeal to the Government to ensure a good match with other measures (such as LFA) to avoid unforeseen complications.

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EFNCP

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 FS while keeping the low-input characteristics.

The Forum highlights 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. It should NOT be targeted merely by certain measures within Pillar 2 of the CAP. Its needs should be a major consideration in the design of the CAP as a whole.

SCF

Rooted in our community, the SCF is the only member-led organisation dedicated to promoting crofting and is the largest association of small-scale food producers in the UK.

Our mission is to safeguard and promote the rights, livelihoods and culture of crofters and their communities.