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_____ Geachte Voorzitter,

Hierbij zend ik u, conform de toezegging tijdens het AO LBVR van 11 april jl. de punten die ik tezamen met mijn collega's van Frankrijk, Ierland en Denemarken bij de Europese Commissie heb ingebracht ten behoeve van de discussie over technische vereenvoudiging van de cross compliance regelgeving.

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**Points
to be addressed in the field of cross-compliance**

Following the 2003-Reform cross-compliance is an important and integral part of the Single Payment System, as this system serves to incorporate into the common market organisations basic standards for the environment, food safety, animal health and welfare. Further, without cross-compliance it would be very difficult to get the necessary public understanding and acceptance of the CAP, i.e. that farmers could receive payments without respecting basic rules.

However, as stated in the report from the Commission to the Council, cross compliance represents a severe challenge as it is expressed in a “rather bulky set of rules” that has to be “defined in detail” and communicated to farmers in an understandable way”. Just as there is “a need to ensure a level playing-field for farmers across the EU”.

There is thus a recognized need for improvement or simplification of the system, - without jeopardizing the objectives of cross compliance.

In this context the Commission ideas forwarded in the communication are highly appreciated, for instance the

- Tolerance for minor non-compliances
- The introduction of a de minimis rule
- Harmonisation of control rates
- Prior notice of inspections
- Addressing the issue of the 10 month rule, as well as the
- Better use of bottlenecks for controls.

The implementation of these suggestions would positively contribute to the smooth running and the acceptance by the farmers of the system. It is thus of immense importance that specific proposals are being presented speedily allowing for the new rules and/or practices to have immediate effect on the control system.

In addition, further initiatives/undertakings are called for to improve the system especially with regard to simplifying the application of the system both for farmers and the administration as well as creating clarity and equality for the farmers.

Listed below are points in this respect:

- The uniform 1% control rate should be per member state, not per control authority. The calculation of the minimum control rate per control authority leads to more than the minimum number of controls if more than one control authority is responsible for the cross-compliance controls.
- Member states may give up to 14 days notice before a control visit in all cases. Member states may reduce the notice or give no notice in cases, where they consider it appropriate.

Such a possibility would correspond with the practicalities in many Member States where, increasingly, farmers are also engaged in off-farm employment, and this would also enhance the planning of the control visits.

- Great importance is attached to the notion of introducing tolerances making it generally possible to give warnings only in cases of minor non-compliances.

With regard to the new de minimis rule foreseen in the Commission report on the application of the system of cross-compliance, the threshold should be 100 Euro (and not 50 Euro) in line with the general rule in art. 73, para. 8, of Commission Regulation no. 796/2004 (the IACS regulation), as the processing costs for the claim will far exceed 50 Euro in many member states.

- The system of control must be revised. According to article 44 (1), of Commission Regulation no 796/2006 the competent control authority, when on a control visit, must carry out checks for all the requirements, for which it is responsible, even if one or more of those requirements have given rise to no or very few infringements.

This is not only a nuisance for the farmer faced with a complete control of all requirements, but it is also an inefficient way of using the resources of the national control institutions.

This problem can be solved in different ways.

One way is to divide the three groups of statutory management requirements: 1) Environment, 2) Public, animal and plant health and 3) Animal welfare into subgroups by the respective legal texts (i.e. per directive/regulation) so that in cases, where a specialised control body is competent for several areas, that control body would only have to perform control of one of the subgroups.

Another - and a way more in line with normal risk-based control approach - would be to look at the single requirements, so that not all requirements for which

a specialised control body is responsible need to be controlled. This would e.g. mean that if problems were detected with regard to the registration of movements of animals, but no problems were detected with regard to the ear tagging of the animals, controls would only have to be effected on the issue at risk (i.e. the registration).

It is proposed that it should generally be possible to use the same control methods with regard to the checks for the cross-compliance requirements as those used in the underlying sector specific control systems, most commonly based on a risk assessment of the individual farm. By introducing such a possibility a “clash” of control systems would be avoided.

Similarly a risk based control approach on the farm would allow to control not all the standards applicable for the farm but only a fraction, e.g. 50 per cent. This is already possible in the IACS control system regarding areas, where you are not obliged to physically measure all the agricultural parcels but only 50 per cent. If discrepancies are found, you must extend the measurements to all the agricultural parcels. This principle should apply generally.

- According to a Commission Working Document on the matter, the control rate should be increased by each competent control authority depending on the rate on non-compliances found in a given area. According to the present rules the control authority will have to increase the control for all the requirements it is responsible for, even though the significant degree of non-compliance concerns just one requirement. The increased control rate should be limited to the specific requirement(s) concerned.
- Requirements for which on national level there have been no cases of non-compliance reported the previous year, and for which it is unlikely that non-compliance will be found during an on-the-spot check, should be exempted from the cross-compliance on-the-spot checks performed by the competent control authority.

This applies for instance to the three texts relating to the notification of animal diseases (directive 85/511/CEE, directive 92/119/CEE and directive 2000/75/CE), since some of these diseases are not found in some Member States.

Therefore it is suggested that such requirements should no longer form part of the compulsory on-the-spot cross-compliance checks. Non-compliance of such requirements should of course still be reported from other controls if, at any time, non-compliance is found. If a non-compliance of such a requirement is found (via the “other controls”) the requirement should go back into the formal cross-compliance control system the following year.

- The better use of bottlenecks/indicators, as suggested by the Commission, should urgently be explored and given an immediate and concrete effect.

The system can already be applied in the area of milk hygiene, where the quality of the milk (the end product) can be used as an indicator for the observance of the hygiene rules regarding the milking, the condition of the milking cows and the storage of the milk. But such a system can also be used in other areas where you have validated information about the farm. One example is VetStat about animal medicine prescribed by veterinarians for use on each farm and registers held by slaughterhouses about diseases and injuries found in/on the animals slaughtered from each farm.

But further work is needed and should be given high priority in the efforts foreseen. New ideas must be developed, possibly inspired by a comparison of best practices.

- The 10 month rule was introduced because of the responsibility on the part of the farmer applying for aid for the observance of the cross-compliance requirements. The 10 month rule is very difficult to check, and the responsibility on the part of the farmer applying for aid for the observance of the cross-compliance requirements can be secured in other ways. It is therefore proposed to abolish the 10 month rule.
- Where new requirements are introduced into the system of cross-compliance infringements of these new requirements should not trigger reductions of the aid in the first year of implementation.
- If cross-compliance is integrated into a Quality Assurance System (like ISO 9000), it should be possible to count checks on the observance of those Quality Assurance System requirements as cross-compliance controls. (The Commission intention to “look for synergies” seems to lack ambition).
- The framework of the annex IV of the regulation n° 1782/2003 is used by Member states as a basis for the definition of minimum requirements concerning good agricultural and environmental conditions (GAEC). It is structured by themes (soil erosion, organic matter, soil structures, minimum level of maintenance), that are divided into norms.

In order to get a better adaptation to agricultural situations of each Member state, it is proposed to limit the annex IV to themes only, since the norms are only indicative and used as guidelines.

- The EU acts/standards which are to go into the system of cross-compliance must be clear with regard to the practical requirements for the farmer.

This proposal is based on the following:

Many of the Community legislation acts mentioned in Annex III are not (at all) clear.

Firstly, this creates problems in the case of EU acts, which by the Commission services are considered as setting up clear-cut standards, but where the EU acts never the less are unclear with regard to the practical requirements for the farmer. This makes it virtually impossible to set out in clear and practical terms what the requirement actually means (and even more difficult for the authorities to evaluate the infringement with regard to “the severity, extent, permanence”, as required in art. 7(1) of Council Regulation No 1782/2003).

Examples of this type of problems are contained in standard 16, article 3 of Council Directive 91/629/EEC laying down minimum standards for the protection of calves. This article contains several requirements which are unclear in practice, i.e. in para. 3: “...provisions must be made for an **appropriate** back up system to guarantee **sufficient** air renewal...” para. 6: “Any calf which appears to be ill or injured shall be treated **appropriately**.....” and further on in the same paragraph: “**Where necessary** sick or injured calves shall be isolated in **adequate** accommodation.....”, para. 9: “Faeces, urine and uneaten or spilt food must be removed **as often as necessary** to minimize smell and avoiding attracting flies or rodents “and para. 10, last sentence:” **Appropriate** bedding must be provided for all calves less than two weeks old”.

- The EU acts/standards, which are to go into the system of cross-compliance must be the same in all member states with regard to the practical requirements for the farmer.

This gives rise to problems where the EU Directives acts set out only objectives, and leave the instruments which are to be used to achieve the objectives to the member states. Such directives lead by their very nature to the undesired situation that farmers in different Member States have to respect quite different requirements with regard to cross-compliance due to the different natural conditions in the different member states. This results in very unequal treatment of farmers in different Member States. The use of a limited number of indicators/bottleneck controls would serve to diminish the differences for the farmers thus ensuring a more level playing field.