

Your reference:  
Our reference:

Prof. M Pezaros  
Chairman of the Working Party on Horizontal Agricultural Questions

*By e-mail*

30 April 2003

Dear Professor Pezaros

## **HORIZONTAL REGULATION: CROSS COMPLIANCE**

Further to my comments at the Working Party meeting on 14 April, I am writing to formally record the views of the United Kingdom delegation on the outstanding issues relating to the cross compliance proposals.

The UK remains firmly in support of the principle of cross compliance that constitutes a central element of the Commission’s proposals on the Horizontal Regulation. We are therefore all the more concerned to get the practical arrangements right. Having reflected on the discussion in Working Group in particular, we have a number of suggestions to improve the working of the cross compliance proposals.

### **Inspection/ Enforcement Arrangements**

The inspection and enforcement arrangements are of central importance. If cross compliance is to operate effectively Member States must be able to build on their existing inspection and enforcement systems. In our view, the Commission’s proposal is rigid and administratively onerous and focuses excessively on number of physical inspections. We would urge the Commission to revise its proposal to permit a more flexible, risk based approach to the audit arrangements which allows member states to target scarce resources to priority cases. This model must apply to both the enforcement of the statutory management requirements set out in Annex III of the draft Regulation and the Good Agricultural Conditions listed in Annex IV. We hope that the Commission will be open to new ideas on this crucial point at the next meeting of the Working Group.

### **Article 5.1**

The UK supports the concept of requiring compliance with Good Agricultural Conditions. However, it was clear from discussion in Working Group that a large number of member states have difficulty with these proposals. One possible solution to



these problems might be to clarify in the Regulation the degree of discretion afforded to member states in defining these conditions.

This might be achieved by making an amendment to Article 5.1 as follows:

“Member States shall define good agricultural conditions on the basis of the issues and requirements set out in Annex IV and any additional issues and requirements that Member States consider necessary, taking account of environmental circumstances. Member States shall define conditions which provide for the application of standards including, where a Member State considers appropriate, any of the standards listed in Annex IV. Good agricultural conditions shall take account of the specific characteristics of an area and the particular environmental problems to be solved where appropriate and shall be verifiable. Member States may exercise their discretion under this Article at national or regional level.”

This suggestion is intended to achieve two things:

(i) to clarify that Member States will have the discretion to omit or add to the standards listed in the third column of Annex IV, and to do so on a regional or other geographical basis, as appropriate to their environmental circumstances. Our understanding is that this is indeed the Commission’s intention, but the present drafting does not make this clear;

(ii) to enable Member States to address a wider range of environmental outcomes associated with agricultural practice than appears to be possible under the present proposed framework of Annex IV. We are concerned that as currently drafted the Article may prevent some environmentally beneficial measures such as, for example, expanding farm woodland.

### ***Article 5.2***

Like most Member States, the UK has difficulty with the Commission’s revised proposal in respect of permanent pasture (Article 5.2). In our view, this article is unnecessary since Member States would appear to have sufficient flexibility within Annex IV to protect permanent pasture where they consider this to be appropriate. This element of national discretion is important since the environmental benefits from retaining permanent pasture will be specific to particular locations and circumstances. In some situations there may be benefit from allowing land to move to other uses. Examples include farm woodland or planting of fast growing willow coppice as an energy crop. We already have mechanisms in place to safeguard the much smaller area of grassland that is of particular biodiversity value. In addition, the present proposal in Article 5.2 would appear to require member states to establish a new regulatory regime to control the movement of all permanent pasture. Taking all of these factors together, our view is that a provision which allows derogation from a prohibition against

movement out of permanent pasture constitutes an unbalanced approach and we would prefer to see it deleted.

### ***Annex III***

The UK supports the concept of a core list of statutory management standards for cross compliance purposes. The UK has not argued for a significant reduction in the list of 38 Directives and Regulations covered by Annex III. We consider the scope (including health and safety) and coverage to be about right. There are a number of amendments, both deletions and additions, which we consider to be necessary. These are listed in the appendix to this letter.

However, we note that several Member States commented in Working Group to the effect that a larger number of Directives, as transposed in their national legislation, either do not impose duties directly on farmers, or do not require all farmers to comply with a single uniform standard. Some of the environmental Directives, for example, appear to fall into this category. The UK considers all the Directives to be important and we wish to use cross compliance to help secure their objectives. However, we accept that meeting the objectives of some Directives may require a variety of different actions on the part of farmers depending on physical, geographical, agronomic or climatic circumstances. In these situations, where farmers have a complex role to play, it is possible that the objectives of some Directives, or part thereof, may be pursued more effectively by requiring action to comply with the Good Agricultural Conditions in Annex IV, provided that Annex IV is framed in such a way that it allows member states to tailor the requirement to local circumstances. This is one of the reasons why we favour the approach to Article 5.1 set out above. We hope the Presidency and Commission will consider this approach favourably in preparing for the next Working Group meeting.

Yours sincerely

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## **Appendix: Suggested amendments to Annex III**

### **1. Recommendation for deletion of Annex III Directive**

**Directive 82/894/EEC** (1982) (no. 13 in list) on the notification of animal diseases within Community. The requirements for this Directive lie with Member States and are therefore not relevant to farmers.

### **2. Recommendations for deletion of specific Articles within Annex III Directives / Regs**

**Directive 91/414/EEC** concerning the placing of plant protection products on the market (no2 in list). Delete **Article 3(4)** as this is not applicable to farmers, but Member States and pesticide companies.

**Directive 92/46/EEC** (no.3 in list) laying down the health rules for the production and placing on the market of raw milk, heat-treated milk and milk-based products. We recommend that **Article 5** are deleted as it relates to milk processing, not primary milk production.

**Regulation No 1774/2002** (no. 12 in list) laying down health rules concerning animal by-products not intended for human consumption. **Part 2 of Article 22** has no direct obligation for farmers and therefore should be deleted.

**Regulation 999/2001** (no. 17 in list) laying down rules for the prevention, control and eradication transmissible spongiform encephalopathies. Delete those **parts of Article 7** that are not relevant to farmers (for instance, the references to third countries and Part 5). **Article 11** is for Member States rather than farmers and should also be **deleted**. Delete those **parts of Articles 12, 13 & 15** that are not relevant to farmers.

**Directive 79/409/EEC** (no 28 in list) on the conservation of wild birds (OJ L 103, 25.4.1979p.1). **Articles 3(1), 3(2a, 2c, 2d)** (retain 3(2b)); **4.1, 4.2, 4.3; 9(3) and 9(4)** are not applicable to farmers and should be deleted.

**Directive 91/464/EEC** (31 in list) concerning the protection of waters against pollution caused by nitrates from the agricultural sources (OJ L 375, 31.12.1991, p1). Delete **Articles 4(2), 5(6) and 5(7)** which place obligations on Member State rather than farmers (retain 5(1) and 5(2)).

**Directive 92/43/EEC** (no 32 in list) on the conservation of natural habitats and of wild flora and fauna (no. 32 in list). We recommend deleting **Articles 16(2) and 16 (3)** as these articles are not relevant to farmer control.

**Directive 1999/74/EEC** (no 38 in list) laying down minimum standards for the protection of laying hens. Delete **Article 7** as it provides only for the registration of establishments with laying hens but does not itself offer any animal welfare benefit (see below for suggested replacement articles).

### **3. Recommendations for additional or alternative Articles within Annex III Directives / Regs**

**Directive 75/442/EEC** on waste (OJ L 194, 25.7.1975, p39) (no 26 in list). Add **Articles 10 and 11** which are applicable to farmers.

**Directive 79/409/EEC** on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1) (no. 28 in list). We suggest **inclusion of Article 7**, permitting hunting of wild birds, subject to conditions. This impacts on individuals and is relevant to farm diversification into shooting. We also recommend inclusion of **Article 8**, prohibiting certain means of killing wild birds, which is relevant to individuals.

**Directive 92/43/EEC** (no. 32 in list) on the conservation of natural habitats and of wild flora and fauna. We recommend **inclusion of Article 13**, which requires prohibition of destroying, cutting, uprooting of protected plant species and is therefore subject to control by individuals. Furthermore, Article 13 is the plant species protection equivalent to the currently included Article 12, which relates to animal protection. **Article 15**, which prohibits certain methods of killing or taking of wild species, should also be added as this affects farmers and individuals. For the same reason, we recommend including **Article 22(b)**, which requires regulation of the introduction of non-native species where prejudicial to native wildlife.

**Directive 1999/74/EEC** (no 38 in list) laying down minimum standards for the protection of laying hens. Add **Articles 3-6**, which are applicable to farmers and provide for animal welfare conditions of laying hens (and are comparable with included articles for pigs and other farm animals).