

INGE VAN OOST:

Good morning, thank you for the invitation here today. For the people who work on a daily basis in Rural Development, I think it's an occasion also for us as the Commission to explain more in detail and to be here to listen also to your remarks. I am Inge Van Oost, I work in Brussels at the European Commission in the Cross Compliance Team, I am responsible for the Good Agricultural and Environmental Conditions and also for the positive side of the medal which is the Farm Advisory System which helps the farmers to implement the requirements.

So, when we talk about GAEC, I'd like to take the occasion to explain the legal framework, the basis of the definitions that you put in your Good Agricultural and Environmental Conditions requirements and they apply on agricultural land and this agricultural land, especially also the land that is not longer in production, should be kept in a good agricultural and environmental condition and it's up to the Member State and possibly up to regions to define the minimum requirements for good agricultural and environmental conditions and the basis is the framework which is established in Annex III.

So, the article on the good agricultural and environmental conditions it leaves the flexibility to the Member State to define the precise content, so it's up to

the Member States to look to these local conditions and to define more precisely what exactly is the obligation for the farmer, so it's all there and in the same Article 6 which says that

"Member States shall define minimum requirements for GAEC taking into account" and then you get the list of the specific characteristics of the areas concerned, so it's soil condition, it's climatic condition, it's the existing farming systems, the way land is used, the rotations, the farming practices and the farm structures, these all give margin of manoeuvre to the Member State to adapt it to that local condition.

Now, especially in 2009, it's worthwhile to explain to you what has changed because in fact now in 2010 we have five years standards for GAEC but some things have changed and I wanted to give you while I am here and I have the occasion to explain better what has changed. So, we have some new legal provisions who apply from 1/1/2009, we have some who apply from 2010 and then the buffer strip GAEC to be applicable at the latest 2012.

So, what was new for 2009 is that there was within the Health Check a new optional meaning that is not compulsory to be applied, an optional vine maintenance standard, there is the introduction of compulsory and optional standards, before all standards were compulsory and now there has been

a division between the compulsory and those that the Member States can choose, the optional ones and then another clarification, let's say, because in fact our legal services have always interpreted the old rules on cross compliance like that but it was clarified now within the new legislation after the Health Check that Member States should not define minimum requirements in their GAEC that are not foreseen in that framework, so the Annex says what you can define, but it's not accepted that you would define other things than in the Annex, it's quite focusing on the Annex with a lot of flexibility to apply what is in the Annex but nothing more, nothing outside that Annex.

So, what will or is already in 2010 new as GAEC provisions? It's a new optional standard that has been introduced on the establishment and/or retention of habitats. There is also a new compulsory standard, so obligatory to be applied on water authorisations, the compliance with these water authorisations in case there is water use for irrigation.

And then there is the specification of a standard that was already in the framework before, the standard on landscape features but now it has been specified, it has been detailed what is understood by landscape features and it's a list and it includes hedges, ponds, ditches, trees in line, in group or isolated and field margins. So, it means

that you need under this standard, and I understand it's quite important and it's an issue in Italy, so this GAEC asks to have some actions to ensure that the landscape features that you define as a Member State are retained, so there is some discussion about maintenance and retaining, the GAEC asks to retain, so not to destroy, not to remove the landscape features, without further actions of maintenance like cutting or other maintenance actions, this is what is in the baseline and which is compulsory, if there would be maintenance actions, there is more possibility to do so under the Rural Development.

So, this list which is in the mandatory GAEC is up to the Member States to consider whether it's appropriate to retain the listed features and Member States must be able, if they are not retaining one of the features in the list, Member States should have a good reason not to do so and be able to decide why and justify it.

The list is however not exhaustive, we have had questions from Member States wanting to protect more than what is in the list and our reply has been that this list, as long as we talk about landscape features, if Member States want to go further and protect other landscape features that are not in this selective list, this is possible and one of the examples that might illustrate a little bit what we are thinking about are these ancient

monuments, historical monuments that sometimes are on agricultural land and that some Member States want to protect.

So, a new legal provision from the Health Check which should be applied at the earliest from 2010 and at the latest 2012 is the obligatory standard on buffer strips along water courses. Here also the Member States have the possibility to define in particular what is a buffer strip, so how wide is it, where is it placed, which rivers require a buffer strip, what is the type of vegetation, should it be grass, can it be another crop, this is to the Member States to define and also which water courses are concerned, it is up to the local conditions and the Member States to take the decision. However, there is a minimum requirement in the Annex, it's in a little footnote and it says that the buffer strips must respect on the whole territory at least the requirements of land application of fertiliser near water courses stemming from the Nitrates Directive. It's a long sentence to say that the buffer strips that are compulsory within the nitrate vulnerable zones should also be applied outside vulnerable zones.

So, then the Health Check also introduced this concept of optional GAEC and an optional GAEC means that the Member States may choose to implement it, yes or no, but there are two exceptions: if the Member State already had defined such

a standard before 2009, he should keep it, the aim of the legislator at the moment the Council took the decisions within the Health Check was to keep as much as possible the status quo of the GAEC already defined in the Member States, so it was added to the optional standards that what was already defined should be kept and also there is a (b) which refers to national rules, if in national legislation or, more in general, rules a certain standard is already addressed, then it should also be taken up as a compulsory standard, the standard will not be optional.

So, this is how the Annex looks like, so we have still in the left column the "Issue" which says what is the objective of the standards, so it's about soil erosion protection, it's about soil organic matter maintenance, soil structure, minimum level of maintenance and the protection and management of water and then for each of these issues we have certain standards which are compulsory in the second column and others which are optional in the third column.

So, we had some questions on this concept, a new concept of optional and I give you some of the answers that we gave to questions that maybe are also important for you in your Member States. So "what are exactly these national rules?" Member States asked. Is it everything what is in national legislation, whenever you have a decree or a law or whatever with a rule in it, is this all a rule which would

make an optional standard obligatory? So, in fact we, let's say our lawyers interpreted that these national rules should be binding rules in national legislation, so if there is only, for instance, description of a voluntary measure under Rural Development and it's noted down in the decree or in national legislation, this is not what we would call a national rule which would make a GAEC obligatory if it's an optional one. So, also if it's only in a part of the country for a region or for a zone or for a sector, it's always the same principle, if it's a binding rule, then it could make the character of the optional standard obligatory, if it's a voluntary thing like under voluntary measures this is not what is meant by national rules. The existence of the national rules, they render then it obligatory but it's only changing the character, there is no obligation to repeat the national rule in the definition of the standard.

So, how does it go on the exchange of information on the GAEC by the Member States? So, at the basis there is an obligation for Member States to transmit information to the Commission on how they implement these GAECs and this is a necessity of course because the Annex is still rather broad and it should be translated into rules and the Member States send this translation to us in the Commission. And what happens then with these communications? In Annex of the DG AGRI letters, we give our comments on the definitions of

these GAEC standards and in the Annex of the letters to the Member States we indicate the cases that we think are clearly non-compliant on the basis of what we received, on the basis of the summaries, it's already a communication that we do to the Member States. However, such communication shall not prejudice audits, we also have an audit team that comes into the Member States that really is able to see the local conditions at the moment of their visit, we, as Unit D3 we are in Brussels and we cannot see all the circumstances as they apply in your region or in your Member States, so it's the auditors who go then into depth at the moment of their audits.

So, some general rules on the definition of GAEC standards. What we expect? How they are defined? So, it's very, very important to have clear obligations. Obligations in the way saying that a farmer shall do this or that or he should not do this or that, so that the farmer clearly knows what he has to do, that there is no discussion, it's very important to be very clear because at the end the payments they depend on that and you will have a lot of court cases with farmers if you would apply a non-compliance and there may be this discussion because the definition of the GAEC standard was not very clear. So, it's of utmost importance to have clear obligations if you define GAEC standards. So, in other words, no recommendations, you should encourage

this or that, you should do certain things, it's not clear, it should be a "shall" and not a "should". It's also very important that it well addresses the content of the GAEC in the Annex III, so it's should really match and be the same, not literally the same but translated according to local conditions but not concern something else.

So, what we also saw from the notification is that sometimes there are some updates needed and a case which we often see is the "set aside", "set aside" has been abolished, we still see the requirements for the maintenance of "set aside" areas, so areas, non-productive areas, we still see them in the notifications, so we suppose they are still applicable but of course it's not possible to refer to that legislation any more because it has been abolished but we think it's positive that you want to keep those requirements but of course then the notification should be updated and refer to the rules in place now.

So, the definition of a GAEC requirement should aim at clarity for the farmer, avoid doubts like having obligations that mention "during the rainy period", it's not clear for the farmer when does it start, when does it end, you can have a lot of discussion on that. What is suitable maintenance, maybe the farmer thinks something is suitable and the inspector may think it's not suitable or the other way round. The applicable areas, what does it mean? How far

is overgrazing going? Some might think it's overgrazed from a certain limit, other might think that there is more acceptable. What is unwanted vegetation? It could be discussed too. The majority of the parcel, is it 50%? Is it 60%? Is it 70%? So, if you can use figures in the definition of your GAEC it's more clear for everybody.

In case choices are left to the farmer, if for instance there are alternative obligations depending on the circumstances, both choices that are left in such definitions they should lead to the objective of the standard, which is rather logic, but they should not contradict each other, just leave the possibility to the farmer and all lead to the objective of the standard.

It will not always be easy to work with it and now I am thinking a little bit on the audience of the people from Rural Development here in the room because if then the GAEC and the cross compliance as a whole, but specifically here we talk about the GAEC, if they leave possibilities and you have to calculate a Rural Development measure and know what is the baseline and where you can pay for, which is going above, then if you have choices, it's not so easy but of course it's a decision, it's possible to do so but maybe it's not easy for you to work with it if you have to calculate measures, but it is a possibility.

And then we wanted also to clarify that the standards on GAEC should not just repeat what is already under the SMRs. The SMRs are the legislative rules which are in another Annex, for instance the Nitrates Directive, the Habitats Directive, the Birds Directive, these are under SMRs and it's possible that some elements in the GAECs look like the same, I give the example of the landscape features. There will be certain landscape features that already have to be protected in Natura 2000 zones, so these already have an obligation to be protected under SMR on Habitats or Birds Directive, so we expect then for the GAEC on landscape features that it's something else, not just a repetition because that was already there under the SMR obligations.

So, in order to conclude now, for the people of Rural Development specifically, if a GAEC standard changes, like we see in the Health Check that we have had some changes, it might change at any moment in theory, in practice probably not because you have to prepare for your applications and your brochures for the farmers and I suppose you will choose the moment at the beginning of the season in order to then align your controls and your information to the farmers, but in theory a GAEC can change at any moment and at that moment you need to check the baseline, the calculation of your measures and in particular of course with agri-environmental measures, you have to check them and if it's necessary, if

the baseline has changed, you should revise or adapt the measure. So, this is what happens now according to the Health Check changes, you will have to check whether according to the cross compliance something has changed and maybe some measures should be adapted.

So, in practice, for 2009, there was not much changed, we expect the status quo, not much need I suppose to recalculate anything, the existing GAECs that became optional they will stay there because they are obligatory to be kept and only the new optional GAEC on vine maintenance it can come obligatory if you would have national rules on vines.

For 2010, we have the new GAEC on establishment and retention of habitats, not a lot of Member States have applied it until now, so I don't see a lot of changes there neither. We have a new obligatory GAEC on water use which was already in some Member States applied too and then we have a specification on the landscape features GAEC and there there is only one GAEC that will be implemented between 2010, so some Member States, some seven Member States for the moment already apply it and others will wait until 2012 to start applying it, this is this buffer strip GAEC.

So, to conclude, there is a clear link between the baseline and the obligations under cross compliance and what

you will define in your Rural Development measure, it gives the opportunity to integrate the measures with the baseline under cross compliance but you need the attention to articulate both in a sensible way. Thanks for your attention.

(Applause)