

WISE USE AND CONSERVATION OF WETLANDS - COMMUNICATION
FROM THE COMMISSION TO THE COUNCIL AND THE
EUROPEAN PARLIAMENT (COM (95) 189 FINAL)

Introduction

1. The European Landowners Organisation (ELO) exists to contribute to the policies of the European Union (EU) in providing a prosperous and attractive countryside and to ensure that its members can make a positive contribution to the economy and environmental management of rural areas.
2. The ELO's national constituent organisations are found in 14 of the 15 member states and are concerned with the issues that affect millions of rural landowners throughout Europe. The use of land and its long term management is crucial to their interests. Many are involved in managing "wetlands" of the 7 types defined by the Commission: marine and coastal wetlands, estuaries and deltas; rivers and floodplains; lakes; freshwater marshes; peatlands; and man-made wetlands.
3. It is a concern of the ELO that property rights receive insufficient attention from the Commission within the paper. Landowners may be involved in managing wetlands as: owners of fisheries or shooting rights; farmers with low-intensity livestock enterprises within wetlands; farmers with arable enterprises on adjacent land; abstractors of groundwater or surface water for spray irrigation; owners with public water supply abstractions on or near their land; or operators of coastal tourism businesses. Given the extent and range of these members' interests, the ELO has a great interest in the Communication.
4. The following comments focus on the analysis and proposals contained in sections III-VI of the Communication, COM (95) 189 final.

KEY WETLAND ISSUES

"Stopping and reversing wetland drainage and destruction" (page 12)

5. The Communication rightly recognises that wetlands have been drained for many purposes: "the creation of new agricultural land, industrial or commercial estates, urbanisation, tourist resorts, transport infrastructures, artificialized aquaculture units, etc." It must be recognised that agriculture is only one among many causes of wetland loss. It is also important to appreciate that without some wetland loss it would have been impossible to secure the increases in food production which have played an essential role in raising living standards in the EU.
6. The pressures leading to past losses of wetlands are still present. Agriculture, industry and commerce still need to develop, land is still needed for urban uses,

recreation, tourism, transport, etc. It is surprising that the Commission does not recognise this. Instead, it argues that “in a situation where agricultural land is set-aside, where major diseases are under control, and where the environment is a major concern of European citizens, no further wetland drainage and destruction is justified and should, therefore, no longer be allowed in the European Union.”

7. This analysis is far too simplistic. The environment is not the sole consideration in policy. Economic and social needs must also be taken into account. The interests of wetlands cannot be pursued without regard for competing interests such as agriculture, forestry, recreation, or other development. Action to protect and maintain wetlands must be justified in light of these other pressures at the level of the individual business - e.g. the farm - and at regional, national and international levels. Pursuing “sustainable development” does not mean “no development” but instead ensuring that economic and social development respects the environment by avoiding or minimising damage wherever possible.
8. The ELO suggests that “no further overall net loss of valuable wetlands at EU level” would be a more realistic and appropriate guiding principle than “no further wetland drainage and destruction”. Losses consistent with the needs of economic and social development need to be accommodated within individual farms or at the level of individual regions or Member States. The proposed ELO principle would also emphasise the opportunities to establish new wetlands so as to arrest the past pattern of long-term net loss at EU level.
9. It is also essential to recognise that much of the productive agricultural land in the Union depends on effective drainage. Field drainage systems need to be supported by an integrated arterial drainage network. Similarly, sea defences are also needed to defend large areas of productive land from inundation. The future success of many farming businesses will depend on continuing investment in maintaining and renewing these systems.
10. EU policy also needs to reflect the importance of investment in field drainage, arterial drainage and sea defences in ensuring that the European Union now has a substantial area of productive and versatile agricultural land which can be used to meet a wide range of consumer demands for food crops and other products. While there are opportunities to restore some wetlands this should not take place at the expense of the most productive land. Equally, the need for continuing investment in drainage and sea defences must also be recognised. These are important national and EU assets and need to be protected and maintained.

“Restoring wetlands” (page 14)

11. The Commission argues that the “current changes of the Common Agricultural Policy...provide an unprecedented opportunity to restore vast areas of wet meadows and riparian wetlands...”. It is also important to recognise that the CAP has a role to play in supporting traditional low-intensity livestock systems which maintain wetlands. Abandonment of such systems - because they no longer offer an acceptable standard of living - is now more of a threat than changes in agricultural land use. As the CAP evolves it will be important to put in place the incentive schemes needed to ensure that farmers with such systems can continue to farm the land sensitively for wildlife while making a decent living.

“Sustainable wetland resource use” (page 14)

12. The paper recognises that water is a “valuable natural resource” for agriculture, energy, transport, tourism and industry, but - amazingly - ignores abstraction for domestic water supplies. While the priorities will vary in Member States, it is important to recognise the relative importance of public water supply: it must be significant throughout the EU.

13. The Commission rightly goes on to argue that water-use policies for each sector should be developed in ways which take account of the needs of the other sectors. In this connection the ELO has a specific concern about subsidence of land and buildings and desiccation of grassland, arable crops and trees, caused by groundwater abstractions for public water supply. The Commission should consider the problem of subsidence and desiccation in developing its policies on water resources and report on relevant laws in the Member States.
14. The ELO is also concerned about severe reductions in river flows - which affect fisheries, watering of livestock, riverine wildlife, and amenity - by abstraction. Many of the problems resulted from groundwater abstractions for public water supply. This underlines the link between surface water and groundwater (which the Commission recognises) and the need to take account of the damaging impacts of abstraction for public water supply in developing policies at EU level (which, it appears, the Commission does not recognise).

STRATEGIC DIRECTIONS

“Integrating water and wetland management” (page 18)

15. The ELO supports a catchment-based approach for the management of water so long as this recognises the links between groundwater and surface water and that their catchments do not always coincide. However, the Commission suggestion that assessments should be made - comprising “an inventory of all wetlands in the catchment, their link to surface and ground water flows and the functions they perform in relation to the water cycle..” - surely goes too far in its requirements. Any such exercise should focus only on significant wetlands.
16. The same comment applies to the suggestion that “the list of development projects for which EIA is compulsory should be extended to cover all works liable to modify surface or ground water flows”. If this were to be taken literally, it would mean preparing an Environmental Assessment before ploughing any field. Any such proposal should be confined to major works or to major abstractions.
17. The Commission suggests that “to avoid abuse and over-use of water for human consumption, this resource should be priced at a level to cover its true cost, including external environmental costs.” The idea is attractive in some respects, but a lot more difficult to implement than to promote. It would be helpful if the Commission would review mechanisms for charging for water abstraction in the EU and issue a report so as to inform the debate which is needed on this issue.

“The management of large and international rivers” (page 18)

18. The paper - rather obscurely - proposes that “buffer zones without cultures should be established along sensitive riversides in order to reduce nutrient and fertiliser inflow”. “Buffer zones” may have a role to play in protecting watercourses from inputs of nutrients, pesticides and soil, and in improving habitats and landscape. However, there is very little agreement among interested parties as to the role, location, establishment, width and management of buffer strips, and who should pay for establishing them and for compensating land managers for restrictions on the use of such land. The Commission could help resolve these questions by reviewing experience of buffer strips in the EU and publishing a report.

“Improving economic instruments” (page 22)

19. The Commission notes that Council Regulation 2085/93 still allows for expenditure on “the renovation and improvement of drainage systems” and comments that “environmental guidelines...have to make sure that this does not result in a negative

impact on still existing wetlands". It is important that the productive capacity of very large areas of drained farmland should be protected.

"Educating and training wetland experts" (page 26)

20. The statement that "the profession of 'wetland manager' is virtually non-existent as such" is surprising. The ELO considers that landowners and farmers should be recognised by the Commission as "wetland managers" - for it is their efforts, rather than those of any professional cadre or Government body, which largely determine how wetlands are managed. The Commission should also target landowners and farmers for education and training on wetland management - so that they can enhance their positive role in managing wetlands to satisfy many needs of society - for food, wildlife, landscape, tourism, and so on. Wetlands should be treated no differently from other uses of land in this respect.

INTEGRATING UNION POLICIES

"Towards sustainability" (page 28)

21. The ELO welcomes the Commission's recognition that action to secure wise use and conservation of wetlands cannot be based on regulation - "instruments setting fundamental levels of protection" - alone. Incentives and advice will also be essential if wetlands are to be managed effectively for the purposes for which they are valued. Indeed, the value of designation under EU Directives or national legislation is doubtful: in itself it does nothing to improve management. A better approach would be to provide appropriate advice and incentives. The Commission should be encouraged to adopt the maxim "regulate last" in this area.

"Integration of agriculture and wetland conservation" (pages 28-31)

22. The suggestion that all Ramsar sites and wetland Natura 2000 sites located downstream of agricultural areas should be designated as Nitrate Vulnerable Zones under Directive 91/676 appears to ignore the criteria under that Directive for identifying such Zones. The Commission should recognise that the terms of the Directive are binding and cannot simply be altered administratively to suit the aim of protecting specific wetlands. Moreover, the Communication appears here, and elsewhere, to confuse freshwater eutrophication - which is related far more to phosphate - with marine eutrophication - which is related more to nitrate. Such muddled thinking provides an inadequate basis for policy-making.
23. The Commission recommends that a Union-wide code of good agricultural practice should be prepared "including guidelines on the type and quantities of agrochemicals to be used, the prohibition of drainage or filling in of wet areas of conservation interest, [and] the maintenance of uncultivated buffer zones along wetlands including rivers". While it might be helpful for the Commission to publish a review of current practice and advice among the Member States, it would be impossible to produce a single Code which would be appropriate throughout the Union. Any additional advisory codes should be produced by the Member States, rather than the Commission, and take account of local wetlands issues, the needs of competing land uses, and relevant local laws, policy, and practice.

CONCLUSIONS AND POLICY LINES

"European Union Wetland Policy" (pages 43-47)

24. This section of the Communication is somewhat confusing: it ignores several of the principles and proposals for action set out in earlier sections, and, where it does refer to these principles and proposals, it often does so in a different form. This makes it difficult to understand the Commission's intentions.

Overall Objectives (pages 43-44)

25. The ELO rejects the bald proposal that there should be no further wetland loss - not only for wetlands in general, but also for each type of wetland. As discussed earlier, the ELO considers that a better guiding principle would be “no further overall net loss of valuable wetlands at EU level”. This would recognise that losses consistent with economic and social development need to be accommodated within individual farms or at the level of individual regions or Member States but that there are also opportunities to establish new wetlands.
26. The ELO also rejects the suggestion that “any future loss of wetlands may, exceptionally, only be admitted for imperative reasons of over-riding public interest, and must, in any case, be compensated”. This proposal appears to suggest that all wetlands - not just some of them - should be accorded the same level of protection as wetlands designated as Special Areas of Conservation or Special Protection Areas under the Habitats Directive. This is unrealistic.
27. The statement that “the water flowing into and to be found in each wetland must be kept at least at its present seasonal quantity and quality” is also unrealistic. A less absolute approach is needed. It is desirable to safeguard the quality and quantity of water in wetlands, but it will be impossible - and unnecessary in view of other justifiable social and economic needs - to secure this objective at all times.

“Operational approach” (pages 44-46)

28. The Commission promotes an integrated approach which “implies that all parties with decisive or influential power over this wetland take part in the common process of reaching a consensus or finding a compromise”. It is important that such planning exercises are not simply restricted to “bodies” but also include those individual landowners and farmers who are involved in managing wetlands. Their role and their views are important considerations and should be recognised. The whole issue of property rights receives insufficient attention from the Commission and needs to be tackled throughout the EU policy-making process.
29. It is suggested that “the authorities competent for land-use planning should specifically indicate wetlands in land-use plans and...define special management and conservation measures for them” and that “Member States should generally subject activities affecting wetlands and their functions to prior authorisation”. The ELO considers that these statements should apply to valuable wetlands only. Moreover, while it may be appropriate for land-use plans to seek to protect valuable wetlands from damaging development, the plans should not be concerned with management issues: these should be addressed through incentives and advice.
30. The proposal that “suitable models of management” should “provide local communities, rather than individuals or central powers, with greater control over wetland resources” assumes that local communities are always best placed to manage wetlands. It also, again, ignores the concept of private property rights. The ELO considers that those individuals who own and manage wetlands are generally far better placed to undertake this task, provided that they are given adequate advice and incentives to enable them to do so. If Member States wish to control the use and management of land which is not in public ownership they must be prepared to purchase such property rights at their full market value.
31. The ELO agrees that “it is appropriate to further extend the possibilities under the agri-environmental support scheme to allow for full compensation of cost generated by measures aiming at the wise use and conservation of wetlands”. It is essential that any costs incurred by landowners and farmers in protecting or managing wetlands are reflected in appropriate payments. Such payments should not only

provide compensation for losses but also incentives to landowners to take actions which would not otherwise be in their economic interests.

32. The most important step which needs to be taken is to increase the level of funds available for such incentives: this is the main problem holding back the more widespread adoption of innovative management actions to protect, maintain and enhance wetlands. The Commission could assist in encouraging their wider adoption by Member States by increasing the proportion of Community funding for such measures from 50% to 75%, or from 75% to 100%, as appropriate. Additional finance should also be made available through the Structural Funds.
33. The ELO rejects the suggestion that CAP expenditure "will have to be increasingly linked to environmental conditions [which] must include the control of practices liable to alter the functioning of wetlands, within the wetlands themselves or in their catchment basin". The ELO considers that this is an inefficient approach. Targeted incentives, supported by advice, will be far more effective in securing appropriate action where it is needed and where it will make a real difference.

"Instrumental implementation"

34. The ELO considers that the principle of subsidiarity should be applied in this area of land-use policy. Responsibility for developing policy and any legislation should lie with the Member States, rather than with the EU Council or Commission. The ELO accordingly recommends that the Commission should focus its attention on financial instruments rather than on extending the existing legal framework or preparing exhaustive and expensive inventories. There is a particular need, as suggested in paragraph 32 above, to increase funding through the agri-environment measures under the CAP. There is also scope to increase support for wetlands through the Structural Funds (e.g. in Objective 1 and 5(b) regions).

ELO POLICY GROUP
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**Any comments or queries on this submission should be addressed to the
Chairman of the ELO Policy Group at the address below.**

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