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**An Comhchoiste um Thalmhaíocht, Bia agus Muir**  
Tuarascáil Taistil – Cuart ag Toscaireacht ar an mBruiséil  
chun bualadh leis an gCoimisinéir A.E. um an gComhshaol

Márta 2024

**Joint Committee on Agriculture, Food and the Marine**  
Travel Report - Delegation Visit to Brussels to Meet E.U.  
Environment Commissioner

March 2024



## Membership

The following Deputies and Senators are members of the Joint Committee on Agriculture, Food and the Marine of the 33<sup>rd</sup> Dáil Éireann and the 26<sup>th</sup> Seanad Éireann.



Sen. Victor Boyhan  
Independent



Sen. Lynn Boylan  
Sinn Féin



Jackie Cahill T.D.  
Fianna Fáil  
[Cathaoirleach]



Michael Collins T.D.  
Independent



Sen. Paul Daly  
Fianna Fáil



Michael Fitzmaurice  
T.D. Independent



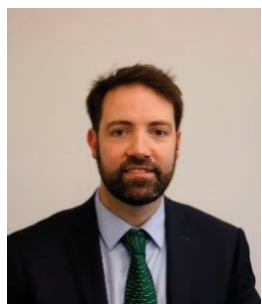
Joe Flaherty T.D.  
Fianna Fáil



Paul Kehoe T.D.  
Fine Gael



Claire Kerrane T.D.  
Sinn Féin



Brian Leddin T.D.  
Green Party



Sen. Tim Lombard  
Fine Gael [Leas-  
Chathaoirleach]



Johnny Mythen T.D.  
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Sen. Denis O'Donovan  
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Michael Ring T.D.  
Fine Gael

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## Introduction

The Joint Committee on Agriculture, Food and the Marine's (the "Committee") work programme includes, in the context of its examination of "EU Business", the following topics: *Scrutiny of EU Legislative Proposals* and *Priority European Policy Areas*. As part of its examination of these topics, the Committee held discussions with Mr. Humberto Delgado Rosa, Director, European Commission, DG Environment Directorate, via Microsoft Teams, on Wednesday, 18 January 2023, in relation to COM(2022)304 – Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL ON NATURE RESTORATION.

At a private meeting of the Committee on Wednesday, 24 May 2023, the Committee agreed that a delegation of the Committee (the "Delegation") should travel to Brussels to hold discussions with Mr. Virginijus Sinkevičius, European Commissioner for the Environment, Oceans and Fisheries ("Commissioner Sinkevičius") and his staff, based on the following agenda:

- COM(2022)304 – Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL ON NATURE RESTORATION (the "Proposed Nature Restoration Law");
- Council Directive of 12 December 1991 Concerning the Protection of waters against pollution caused by Nitrates from Agricultural sources (91/676/EEC) (the "Nitrates Directive"), and Ireland's derogation in the context of the Nitrates Directive (the "Nitrates Directive Derogation"); and
- Ireland's Forestry Programme 2023-27.

The Committee also agreed the Delegation should also meet with the following in relation to the above-mentioned agenda:

- The Permanent Representation of Ireland to the European Union;
- Ms. Mairead McGuinness, European Commissioner for Financial Services, Financial Stability and Capital Markets Union ("Commissioner McGuinness"); and
- Irish Members of the European Parliament ("MEPs").

On Wednesday, 06 September 2023, the Delegation travelled to Brussels and held a number of meetings and returned to Dublin on Thursday, 07 September 2023.

### Committee Delegation

The visit to Brussels was undertaken by the following members of the Committee:

- Jackie Cahill T.D., Cathaoirleach;
- Michael Fitzmaurice T.D.;
- Senator Tim Lombard; and
- Senator Paul Daly.

The Delegation was accompanied by the Clerk to the Committee, Mr. Christy Haughton. Upon arriving in Brussels, the Delegation was met by Mr. Paul Conway, National Parliament Representative to the EU, who assisted the Delegation throughout its visit.



*Fig 1. - The Delegation: Senator Tim Lombard, Senator Paul Daly, Jackie Cahill T.D.(Cathaoirleach), and Michael Fitzmaurice T.D.*

## Meeting with the Permanent Representation of Ireland to the European Union

The Permanent Representation of Ireland to the European Union's (the "PERM REP") main function is to represent Ireland's interests in the EU.

The Delegation undertook a visit to the office of the PERM REP shortly after arriving in Brussels for a meeting to receive a briefing session and hold discussions on the following agenda items: the Proposed Nature Restoration Law, the Nitrates Directive Derogation, and Ireland's Forestry Programme 2023-27.

The Delegation met the following officials of the PERM REP at the meeting:

- Ms. Barbara Cullinane, Ireland's Deputy Permanent Representative to the European Union;
- Mr. Philip Grant, Counsellor, Director of Institutions Section, EU General Affairs;
- Mr. Martin Crowley, Counsellor, Agriculture, Food and the Marine; and
- Mr. Padraic Dempsey, Attaché, Housing, Local Government and Heritage.

Ms. Cullinane, and the officials, outlined Ireland's current position in relation to the Proposed Nature Restoration Law, the Nitrates Directive Derogation and its Forestry Programme 2023-27, and how they were viewed by the various EU institutions and Commissioner Sinkevičius.

Deputy Michael Fitzmaurice raised concerns regarding Article 9 of the Proposed Nature Restoration Law, which relates to the restoration of agricultural ecosystems, and, in particular, the consequences of Articles 41 and 42, which would result in more land than was originally anticipated coming within the remit of the Proposed Nature Restoration Law for re-wetting.

The Delegation was informed by the officials that the Council and Commission position was that there was a lot more flexibility now in how to achieve the re-wetting targets which will be required by the Proposed Nature Restoration Law, and it will be up to member states to decide how to achieve these targets. Deputy Fitzmaurice stated that

member states are directed to implement directives and regulations, which affected stakeholders will often tolerate, but that judgments which emanate from the European Court of Justice in respect of these same directives and regulations can often lead to changes to the original intention of the relevant legislation. These changes, arising from judgments of the European Court of Justice, often unfairly impact the people that members of the Delegation are elected to represent. Deputy Fitzmaurice specifically referred to the implementation of the Habitat Directive as evidence of this. The Cathaoirleach also outlined negative experiences of farmers brought to his attention in the implementation of the Habitat Directive.

Ms. Cullinane then detailed again Ireland's position in the context of the Proposed Nature Restoration Law and emphasised that there is very little room to manoeuvre between the Trilogue parties. Ms. Cullinane informed the Delegation that amendments had already been made to re-wetting targets when compared to the original Commission proposals, as a result of member states voicing their concerns in relation to the originally proposed re-wetting targets. Ms. Cullinane informed the Delegation that a point had been reached whereby it appeared feasible that the entire legislative process in the context of the Proposed Nature Restoration Law would be completed by the end of the Spanish Presidency of the Council of the European Union in December 2023.

The Cathaoirleach raised his concerns in relation to the roll-out of Ireland's Forestry Programme 2023-27, highlighting that its commencement was significantly delayed. The impact of the delay was that the annual target of planting 8,000 hectares of forestry in 2023 was entirely unrealistic. The Cathaoirleach also stated that if, in future years, Ireland's Forestry Programme 2023-27 is continued in a similar fashion to how it was implemented in 2023, then there would be no forestry sector worth speaking of in Ireland in the future. The Cathaoirleach asked why the approval of Ireland's Forestry Programme 2023-27 had been delayed by the EU for such a long period. The Cathaoirleach also stated that the Committee had recently become aware that this was due to EU State Aid rules, and queried the accuracy of this.

In response, Mr. Martin Crowley, Counsellor, stated that there was a requirement for the Commission's Directorate-General for Competition to be satisfied that Ireland's



Forestry Programme 2023-27 complied with State Aid rules criteria, and consequently this led to a detailed examination of the Programme. There was also a need for a further agreement between the Commission's Directorate-General for Environment and the Commission's Directorate-General for Competition, before Ireland's proposed Forestry Programme 2023-27 could be approved.

Deputy Fitzmaurice then queried the funding of €1.3bn attached to Ireland's Forestry Programme 2023-27. Deputy Fitzmaurice's concerns related to the fact that the funding of €1.3bn appeared as if it was to be fully utilised during the relevant time period, i.e. 2023-2027. However, this would not be the case, as premium payments for foresters would be issued over a 20-year period. Furthermore, Coillte, which to date had not been entitled to received premium payments of any nature in this context, would now be qualified to receive premium payments for a period of 15 years. Deputy Fitzmaurice also had a further concern that Coillte would now be incentivised to pursue further lands for forestry, which would adversely affect private foresters. Mr. Crowley agreed that was the position regarding proposed access and utilisation of the funds, as he was aware.

The Delegation then discussed the current inadequate state of the Irish forestry sector, which it believed was partially due to excessive bureaucratic requirements and restrictive oversight of the sector, both emanating from the EU. Furthermore, in the Delegation's view, the situation in Ireland is contrary to the position it believes exists in other member states, such as Sweden and Poland, where those member states have the ability to afforest peatland.

Mr. Crowley emphasised that the operation of the forestry sector in a member state is not an EU competency and that a number of the issues and concerns raised by the Delegation came within the remit of national competency. In relation to the forestry sectors in Sweden and Poland, Mr. Crowley stated that those sectors do not receive State Aid and are commercial in nature, though they are required to comply with EU environmental requirements.

The Delegation then opened a discussion on the Nitrates Directive Derogation. The Cathaoirleach emphasised that the farm model in Ireland is different to that in the rest of the EU, in that it is grass-based, with cattle being outdoors for up to three hundred (300) days annually, and this is a significant factor when examining the continuation of Ireland's Nitrates Directive Derogation. The Cathaoirleach further stated that he believed that not enough time had been given to see the improvements to Ireland's water quality arising from the implementation of the requirements of Ireland's Nitrates Directive Derogation.

The Delegation then informed the officials that the Environmental Protection Agency (the "EPA") appeared before the Committee in July 2023 to discuss its report "Water quality monitoring report on nitrogen and phosphorus concentration in Irish Water 2022" (the "Report"), which disclosed adverse findings arising from agricultural activities. The Delegation stated that it believes that water quality in Ireland actually remained static during the time period covered by the Report, contrary to the findings of the Report.

Mr. Crowley disclosed to the Delegation that Minister Charlie McConalogue (the "Minister") had written to the Commission to emphasise that Ireland has a unique farming model. Furthermore, Mr. Crowley confirmed that the Minister had held a virtual meeting with Commissioner Sinkevičius earlier that week to discuss Ireland's Nitrates Directive Derogation, and the actions that Ireland had taken in this context.

Senator Tim Lombard then outlined the impacts on the farming sector, and on the dairy processing industry in particular, that will arise from any further changes to the Nitrates Directive Derogation. Senator Lombard was particularly concerned about the impacts arising from a possible further reduction in the livestock manure nitrogen limit from 250 kg per hectare to 220 kg per hectare. Senator Lombard also spoke specifically about the adverse impacts which would arise from such a further reduction, particularly on the rural economy, reduced operations in milk processing and the undermining of business planning and investment decisions by farmers and processors.

Mr. Crowley disclosed that the Minister has highlighted such impacts in changes to the Nitrates Directive Derogation to Commissioner Sinkevičius. Mr. Crowley confirmed that Commissioner Sinkevičius, in turn, informed the Minister that he must be in a position to defend Ireland's Nitrates Directive Derogation to the other member states and the Nitrates Committee, in order for further reductions to Ireland's Nitrates Directive Derogation to be avoided.

The Delegation emphasised that the proposed changes to the Nitrates Directive Derogation will result in a reduction in the production of food in Ireland and that this seems to be contrary to the message that the Head of the United Nations World Food Programme (UNWFP) relayed to the Committee when the two parties met recently. The Delegation then stated that the EU, and Ireland in particular, should be producing more food, not less. The Delegation stated that it believes that the possible reduction in the output of food has to be viewed in the context of approximately 340 million people starving on a daily basis, globally.

The Delegation highlighted that EU could import food from third countries to deal with any internal shortfall in food production, but that third countries do not generally produce food in line with the animal welfare or environmental standards applicable to EU member states.

The Delegation thanked the officials of the office of the PERM REP for the engagement.

## **Meeting with Ms. Mairead McGuinness, European Commissioner for Financial Services, Financial Stability and Capital Markets Union**

The Delegation met with Commissioner McGuinness as part of the Delegation's visit. The Cathaoirleach thanked Commissioner McGuinness for agreeing to meet the Delegation, particularly as the issues the Delegation wished to discuss are not within her remit. In any event, the Delegation was interested in and appreciated the Commissioner McGuinness's insight with regard to the issues of concern. Commissioner McGuinness indicated that she was happy to meet the Delegation but emphasised that she would not be negotiating on behalf of the Commission, nor does she have oversight of the issues of concern.

The Delegation outlined the significant impacts of the proposed changes, and possible further changes with effect from 01 January 2026 to the Nitrates Directive Derogation, as follows:

- Increased uncertainty in business investment decisions, in particular for major milk processors in the Munster area, due to the lack of milk supplies;
- Risk that the farm family model will become financially unviable due to the reduction in the herd size arising from the anticipated reduction in the manure nitrogen limit spreading per hectare;
- Measures that had been implemented to improve water quality have not been given the time to deliver tangible, measurable results which could have impacted on any decisions to changes in the Nitrates Directive Derogation; and
- Reduction in the production of food in the context of discussions held with officials of UNWFP, which highlighted that approximately 340 million people are starving on a daily basis, globally.

The Delegation also stated its belief that no impact assessment, to consider the financial or social impacts that reductions to the Nitrates Directive Derogation, whether current or prospective, may have on rural Ireland, had been undertaken.

Commissioner McGuinness acknowledged the sincere concerns of the Delegation but emphasised that Ireland had done well to maintain its Nitrates Directive Derogation to date. Commissioner McGuinness acknowledged that Commissioner Sinkevičius had to act upon the findings of the EPA report in relation to Ireland's water quality in 2022, given the adverse findings in the context of agricultural activities in Ireland. Commissioner McGuinness also highlighted that all but a small number of member states had fully implemented the requirements of the Nitrates Directive. Commissioner McGuinness stated that these facts, taken together, put Ireland in a difficult position in maintaining the 220 kg livestock manure nitrogen limit.

Commissioner McGuinness highlighted that it is a difficult position for Commissioner Sinkevičius to defend Ireland's Nitrates Directive Derogation when he is dealing with the Nitrates Committee and those member states that have already implemented the Nitrates Directive requirements.

The Delegation outlined the current position in relation to the forestry sector and the difficulties regarding too the roll-out of Ireland's Forestry Programme 2023-27. In particular, the Delegation highlighted the delays at EU level of approving the programme. Commissioner McGuinness shared the Delegation's concerns with forestry plantation targets not being met but believed some of this is down to farmers/foresters not being enthused with forestry opportunities at present due to better financial returns from other agricultural activities.

The discussion then turned to the Proposed Nature Restoration Law. Deputy Fitzmaurice specifically referred to Article 9 of the Proposed Nature Restoration Law, which relates to the restoration of agricultural ecosystems, and, in particular, the consequences of Articles 41 and 42, which would result in more land than was originally anticipated coming within the remit of the Proposed Nature Restoration Law for re-wetting. Deputy Fitzmaurice highlighted that this provision was causing concern among landowners as it allowed for the re-wetting of drained bogland/peat soils and that these proposals would impact significantly on landowners in the Midlands, West and Northwest. The Deputy also stated that there was a further concern that the



proposed re-wetting of lands would not be voluntary, and that this would not be acceptable to private landowners.

Commissioner McGuinness's staff highlighted that it will be up to the respective member states to decide on implementation of the requirements and which elements of it will be voluntary, and not the Commission. Commissioner McGuinness stated that there was uncertainty as to how the legislative process relating to Proposed Nature Restoration Law would conclude, but that those proposing it want it to deliver substantial and tangible results. The Commissioner also stated that if there are concerns with the Proposed Nature Restoration Law, then those concerns should be dealt with as a matter of urgency before the Proposed Nature Restoration Law is agreed. However, Commissioner McGuinness believed that the Proposed Nature Restoration Law would be less severe than originally envisaged.

*(Note: at the time of the meeting with Commissioner McGuinness, the Trilogue negotiations were ongoing).*

A conversation then took place on a number of matters in the agriculture sector, which were not originally on the agreed agenda for the meeting. The agenda of the meeting was expanded accordingly, to include the following:

- Animal welfare;
- Environmental measures; and
- Food security.

The members of Delegation outlined their experiences in the context of the above items.

Commissioner McGuinness disclosed that new legislation on animal welfare would shortly be proposed by the Commission to reflect the public view of farming and agriculture production and that Ireland must be 'best in class' in this area. Commissioner McGuinness highlighted the transport of calves in this context. Deputy

Fitzmaurice agreed but highlighted that it is imperative for Irish farmers that the export of live calves continues.

Senator Lombard stated that during a discussion with the head of the UNWFP that it was disclosed that there are approximately 340 million people go hungry on a daily basis, globally. Senator Lombard queried whether food security is a priority of the EU, or if environmental issues are being prioritised at the expense of food security. Commissioner McGuinness stated that she believed that it was not the case that one issue was being prioritised over the other. Commissioner McGuinness stated that the Common Agricultural Policy ("CAP") has been reorientated when compared with previous iterations and is now producing more food than ever. The Commissioner also stated that when it comes to discussions on food security, it is clear that we have to assist countries whose citizens may be suffering from food shortages to develop their own efficient food production systems.

The discussion then turned to the adverse impacts on farmers, farm production and rural life, resulting from the environmental legislation which comes from Brussels and the Irish Government. The Delegation highlighted that it felt that in some instances the measures were counterproductive and onerous on the farming sector. Commissioner McGuinness stated that she believes that farmers are implementing these environmental measures, and environmentalists will have to give farmers credit for this. Commissioner McGuinness also highlighted that the attitude to farming and food production today is totally different then it was in the past, and that farmers voices are being diluted, but that farmers are generally resilient and positive. If Irish farmers can illustrate their credentials in this regard, then Commissioner McGuinness believes that they will be able to hold on to their markets.

The Cathaoirleach thanked Commissioner McGuinness and her staff on behalf of the Delegation for the opportunity to meet with her and for the valuable discussion.



*Fig. 2 – The Delegation met with Ms. Mairead McGuinness, European Commissioner for Financial Services, Financial Stability and Capital Markets Union.*

## Meeting with Members of the European Parliament

The Delegation met with several Irish MEPs or their representatives on the evening of Wednesday, 06 September 2023. The purpose of the meeting was for the Delegation to gain an understanding of their opinions, and that of the EU institutions, on the issues that the Delegation had come to discuss with Commissioner Sinkevičius, namely: the Proposed Nature Restoration Law, the Nitrates Directive Derogation and Ireland's Forestry Programme 2023-27.

### Nitrates Directive Derogation

A number of the MEPs expressed their frustration that the measures implemented by farmers and other state bodies to date, to improve water quality in rivers and other bodies of water, had not been given enough time to produce tangible results that could have resulted in more positive outcomes being reflected in the report from the EPA in relation to Ireland's water quality in 2022, which the Commission required for its review of Ireland's Nitrates Directive Derogation.

The MEPs also felt that another factor that did not seem to be appreciated in relation to the Nitrates Directive Derogation was the substantial number of implementation conditions that farmers had complied with.

One of the MEPs stated that Nitrates Directive Derogation had been in position for long time and that what was coming down the line in the form of the reduction in the manure nitrogen limit to 220 kg per hectare had been anticipated. In this MEP's opinion, the question now was how Ireland can ensure that it has thriving farming sector, in particular the dairy sector, once the Nitrates Directive Derogation has been removed entirely.

### Proposed Nature Restoration Law

The MEPs emphasised that the final version of the Proposed Nature Restoration Law had still not been decided, as the Trilogue negotiations were still ongoing. Some MEPs felt that the final proposed law will not have such adverse impacts as reported and national governments will have a high degree of flexibility in implementing the law's requirements. In particular, the MEPs highlighted that Article 9 of the Proposed Nature

Restoration Law, which relates to the restoration of agricultural ecosystems, and, in particular, the consequences of Articles 41 and 42, which would result in more land than was originally anticipated coming within the remit of the Proposed Nature Restoration Law for re-wetting, was still up for debate at the time of the visit of the Delegation.

The MEPs highlighted that the agreed final Nature Restoration Law will be significantly different from that which was originally proposed.

The Delegation raised concerns regarding the re-wetting of drained bogland and other areas, and in particular, the fact that the Proposed Nature Restoration Law did not specifically state that re-wetting was to be undertaken by landowners on a voluntary basis only.

The MEPs stated that they believed that national governments will be required to take on the responsibility for the provision of most of the re-wetting of boglands/drained boglands, and that this responsibility will not solely fall to private landowners. The MEPs stated that they also believed that land which is actively being farmed will not be subject to re-wetting measures.

In relation to the particular concern of the Delegation, that the Proposed Nature Restoration Law fails to specifically state that the re-wetting of drained bogland would be voluntary, one of the MEPs stated that they believe that this is implied in the Proposed Nature Restoration Law.

#### Ireland's Forestry Programme 2023-27

The discussion turned to Ireland's Forestry Programme 2023-27, and the Delegation outlined the disclosures made at several meetings of the Joint Committee on Agriculture, Food and the Marine, with the Minister of State at the Department of Agriculture, Food and the Marine with special responsibility for Land Use and Biodiversity and various Department officials. The Delegation stated that: it was of the belief that the proposed afforestation planting target of 8,000 hectares per annum is entirely unrealistic, that private foresters/farmers will be displaced from the forestry sector through Coillte's ability to purchase land that becomes available, and that



Ireland's Forestry Programme 2023-27 will not be an attractive proposal for farmers/foresters.

A number of the MEPs concurred with the Delegation's conclusions and felt that there is definitely a move from commercial forestry to state-only forestry. Several MEPs also stated that they believe that Ireland's Forestry Programme 2023-27 will neither deliver on national or EU objectives in this regard.

The MEPs also stated that there needs to be a substantive land use policy to be developed as there are so many demands on land at present, and that in the absence of such a plan, there will be a number of policies with regard to land use which will contradict one another.

The Cathaoirleach thanked the MEPs for agreeing to meet the Delegation and for providing their insights on the issues from both their perspectives and from the EU institutions' perspectives.

## Meeting with Ms. Elena Montani, Member of Cabinet of the Commissioner for the Environment, Oceans and Fisheries

On Thursday, 07 September 2023, the Delegation held a meeting with Ms. Elena Montani, Member of Cabinet of Commissioner Sinkevičius, whose portfolio of responsibility includes: the Implementation of the EU Forest and Soil Strategies.

The Delegation wished to discuss Ireland's Forestry Programme 2023-27 and outlined the key issues and concerns in the Irish forestry sector:

- Delay in the approval at EU level of Ireland's Forestry Programme 2023-27;
- Risk of failing to deliver on the target of planting 8,000 hectares per annum in 2023, as per the Programme's aim;
- Lack of confidence in the private sector in investing in the forestry sector;
- Administrative difficulties in the issuing of several types of forestry licences; and
- A belief among operators within the forestry sector that biodiversity receives a greater focus at EU level than ensuring that foresters can make a viable living from forestry activities.

Ms. Montani emphasised that the Commission has a forestry strategy that not only has a biodiversity focus, but which also has an equitable focus on commercial forestry. Ms. Montani also stated that member states have flexibility in the implementation of their respective forestry strategies. The Commission devises a forestry strategy for the EU. It also approves each member state's forestry programme, but it is up to each individual member state to implement it.

On the issue of the delay by the Commission in the approval of Ireland's Forestry Programme 2023-27, Ms. Montani said this arose due to the necessity to ensure that it complied with EU State Aid rules and that the outcome of the deliberations was satisfactory, as climate and biodiversity concerns had also been addressed.

The Delegation raised the issue of the planting of forestry on peatlands/peat soils, and how carbon storage in peatland is not being recognised. Ms. Montani stated that climate targets cannot be achieved at the expense of the destruction or degradation

of peatland, and that carbon removal/storage will have to be rewarded financially. Ms. Montani informed the Delegation that a business case was being developed to this end. The Commission is trying to ensure that the EU has healthy soils and forests that benefit all, and it is hoped that funding will be made available to do so, with the responsibility lying with members states to utilise such funding.

The Cathaoirleach thanked Ms. Montani and her staff for meeting the Delegation.

## Meeting with Mr. Virginijus Sinkevičius, European Commissioner for the Environment, Oceans and Fisheries

The Delegation met Commissioner Sinkevičius on Thursday, 07 September 2023, to discuss the following agenda:

- COM(2022)304 – Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL ON NATURE RESTORATION (the “Proposed Nature Restoration Law”); and
- Council Directive of 12 December 1991 Concerning the Protection of waters against pollution caused by Nitrates from Agricultural sources (91/676/EEC) (the “Nitrates Directive”), and Ireland’s derogation in the context of the Nitrates Directive (the “Nitrates Directive Derogation”).

Several members of Commissioner Sinkevičius’s Cabinet were also in attendance, including Ms. Elena Montani.

### Nitrates Directive Derogation

Ireland has historically availed of a derogation from the current 170kg per hectare livestock manure nitrogen limit provided for in the Nitrates Directive. Ireland’s Nitrates Directive Derogation has been in place since 2007 and periodically extended. At the time of the meeting with Commissioner Sinkevičius, the manure nitrogen limit in Ireland per hectare was 250kg, but there were indications that this rate would be reduced to 220kg per hectare as of 01 January 2024. Ireland’s Nitrates Directive Derogation is due to expire on 31 December 2025, when the derogated manure nitrogen limit per hectare will be subject to review by the Commission, which may result in a further reduction in the manure nitrogen limit per hectare.

The Delegation outlined the operations of the dairy sector in Ireland, the concerns of the dairy sector in this regard, and the anticipated difficulties arising from the probable reduction in the livestock manure nitrogen limit from 250kg per hectare, as follows:

- The dairy production system in Ireland is grass-based, and cattle can be grazing for up to three hundred days annually on grass, and in sheds for the balance of the time;
- Ireland's dairy produce is marketed in 130 countries with a unique selling point that it is sustainably produced;
- Reduction in the nitrogen limit will result in de-stocking of herds to ensure compliance with the reduced nitrogen limit, resulting in many family farms becoming financially unviable;
- The reduction in herd size will impact on the milk supply to the processors, which will have a further impact on production levels and reducing the output of food.
- Animal welfare issues will arise as there will be an overproduction of calves, as farmers had planned on stocking rates based on the current nitrogen limit per hectare and not on a reduced nitrogen limit rate.
- Increase in the cost of land arising from farmers looking for additional land to allow for manure spreading, based on maintaining current levels of stock.

The Delegation informed Commissioner Sinkevičius that the consensus of the Delegation and the stakeholders who attended meetings with the Joint Committee on Agriculture, Food and the Marine, is that small farm operations will suffer, in that they will not be financially viable, while the large farm operators, which have the necessary financial resources to access additional land, will be able to adapt. As the majority of farm units in Ireland can be defined as small farm operators, there is a significant risk to the rural economy and rural communities.

Commissioner Sinkevičius informed that Delegation that it was his opinion that Ireland had already received exceptional treatment in the provision of derogations in the context of the Nitrates Directive and alluded to the compliance of other countries already operating at the 170kg per hectare requirement. Commissioner Sinkevičius noted that other member states which currently have a similar type of derogation to Ireland are moving to the 170kg per hectare requirement. The Commissioner alluded to the fact that farmers are competing in a single market and that farmers in other



member states are currently adhering to the 170kg per hectare requirement, per the Nitrates Directive.

The Delegation informed Commissioner Sinkevičius that it believed that not enough time had been given to see the improvements to Ireland's water quality arising from the implementation of the requirements of Ireland's Nitrates Directive Derogation. This failure to provide enough time to allow the actions of farmers, who acted in compliance with Ireland's Nitrates Directive Derogation requirements, fed directly into the findings of the EPA report, which the Commission utilised in its decision on whether to continue with the current Nitrates Derogation or to propose changes to it.

Commissioner Sinkevičius referenced the data in the EPA report which showed that water quality had not improved. Commissioner Sinkevičius stated that it would be a difficult proposition to go back to the Nitrates Committee to seek to retain the Ireland's current Nitrates Directive Derogation, as support for retention would not be there due to the EPA's findings, and so the extension of Ireland's current Nitrates Directive Derogation could not be justified.

The Delegation then raised the 'red' map included in the EPA report and queried which manure nitrogen limit would apply and if there could be flexibility in the limits applied. Commissioner Sinkevičius stated that he believed the 220kg per hectare limit will apply to all areas.

Senator Lombard highlighted that any reduction in the 250 kg per hectare limit has animal welfare implications as farmers had planned their herd size in 2024 based on this limit, any reduction in this limit will result in calves, yet to be born to already impregnated heifers, being in excess to requirement. Senator Daly raised the question as to what the sector would do with these excess calves. The Commissioner was surprised at this disclosure and asked his staff if they had been aware of these implications, and they indicated they had not.

The discussion then turned to the end of the current derogation on 31 December 2025, and the Delegation asked Commissioner Sinkevičius for his thoughts on the continuation of Ireland's Nitrates Directive Derogation and the possibility of future reductions in the nitrogen limit per hectare. Commissioner Sinkevičius stated that he

could not say what will happen in the future in regard to Ireland's Nitrates Directive Derogation, but that it should be borne in mind that most other member states are now in compliance with the 170kg nitrogen limit per hectare. He also emphasised that Ireland needs to use the next two years up to the end of the current Nitrates Directive Derogation in order to support its case for its future retention.

#### Proposed Nature Restoration Law

The discussion turned to the Proposed Nature Restoration Law. The Delegation emphasised that a number of member states had raised concerns about the proposed law, and in some instances, are opposed to it. The Commissioner believed that the majority of the member states supported the law and that there were a lot of myths around it that will be proven to be unfounded.

The Delegation highlighted what they believed were the negative experiences of farmers arising from previous directives and referenced the Bird and Habitat Directives. Initially, farmers received significant grant payments when the directives were introduced but this tapered off quickly and the value of the designated land was significantly adversely impacted. Commissioner Sinkevičius said he has heard these arguments before, but the Proposed Nature Restoration Law was not similar to the directives referenced, and it does not introduce further restrictions to those which are already in place.

The Delegation raised the inclusion and interpretation of Article 9 of the Proposed Nature Restoration Law, which relates to the restoration of agricultural ecosystems, and, in particular, the consequences of Articles 41 and 42, which would result in more land than was originally anticipated coming within the remit of the Proposed Nature Restoration Law for re-wetting. Commissioner Sinkevičius emphasised that no land which is currently in use for agricultural activities will be re-wetted, and that Ireland's climate plan already includes bogs and forests. Commissioner Sinkevičius stated that Ireland had already made a case that agricultural land was not to be used for re-wetting purposes. In support of Commissioner Sinkevičius, Ms. Montani said that it was up to the member states to decide which areas would be affected and which actions to take, as there is no specific designation included in the Proposed Nature Restoration Law.

Commissioner Sinkevičius referenced where the trilogue negotiations currently stood and said the Commission's proposals are the bridge between the Council and Parliament, and that the Council is taking more cognisance of the Commission's position. Commissioner Sinkevičius stated that the final Nature Restoration Law is yet to be finally agreed.

The Delegation disclosed to Commissioner Sinkevičius that there is a firm belief among the farming sector in Ireland that EU policy is only concerned with a green agenda/climate change, and that the Proposed Nature Restoration Law only furthers this belief. The farming sector feels that there is no focus on food security. In fact, the Delegation informed Commissioner Sinkevičius, during recent discussions involving Members of the Joint Committee on Agriculture, Food and the Marine with the UNWFP on food production in Europe, and Ireland specifically, the UNWFP indicated that it felt that food production was not a priority, and that this must be viewed against a backdrop of approximately 340 million people going hungry on a daily basis, globally.

Commissioner Sinkevičius said that agriculture is well treated within the EU, as evidenced by it receiving the largest percentage of the budget, and that the EU is actually a big exporter of food, though food waste needs to be tackled.

Commissioner Sinkevičius went on to say that currently food production is far from being sustainable and we have to face the facts. The degradation of soil and water has a lot to do with pollution, climate change and unsustainable farming. Commissioner Sinkevičius concluded by stating that EU policies are not against farmers, and that they are, in fact, good for all of the stakeholders involved.

The Delegation thanked Commissioner Sinkevičius and his staff for the engagement.



*Fig. 3 – The Delegation met with Mr. Virginijus Sinkevičius, European Commissioner for the Environment, Oceans and Fisheries, and his staff.*

## Conclusion

The Committee agrees that the visit to Brussels to outline the concerns disclosed above to the Commissioner and various officials was a worthwhile undertaking.

The Committee agrees that a future report on probable future changes to the Nitrates Directive Derogation, and its implications for the agriculture sector, be discussed by a delegation of the Committee with the Commissioners for Agriculture and Environment and their officials in Brussels.

The Committee is of the opinion that proposals emanating from Brussels can have a material impact on the agriculture sector and as such the Committee needs to identify these proposals as early as possible to get on the 'front foot' and engage with respective Commissioners and officials to outline the potential adverse implications for the Irish agriculture sector.



## Appendix 1: Terms of Reference

### Powers of Select Committees (DSO 96 and SSO 72)

#### **DSO 96**

Unless the Dáil shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:

10. power to—

- (a) engage the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and
- (b) undertake travel;

Provided that the powers under this paragraph are subject to such recommendations as may be made by the Working Group of Committee Chairmen under Standing Order 120(4)(a).

#### **SSO 72**

Unless the Seanad shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:

10. power to –

- (a) engage the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and
- (b) undertake travel;

Provided that the powers under this paragraph are subject to such recommendations as may be made by the Working Group of Committee Chairmen under Standing Order 107(4)(a).





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