

Commission targets tax regime for cooperatives¹

By Luc Vernet | 26 February 2008

The Commissioner for Agriculture, Mariann Fischer Boel, and her counterpart responsible for competition, Neelie Kroes, are currently developing a new European Commission 'doctrine' on cooperative law. The privileged tax status granted by certain member states to cooperatives risks not being spared if it is, as anticipated at this stage, disguised as state aid.

The preferential tax regime granted to agricultural cooperatives in Europe is perhaps also on borrowed time. Despite pressure, exerted in particular by Italian and Spanish political leaders, several complaints made over recent years against this status to the EU executive could soon lead to decisions which are deemed to be particularly worrying for cooperatives.

In the case of Italy and Spain, the Commission puts aside the 'logics and economics' of the system of cooperatives. It assimilates this dispensatory tax regime into that of state aid.

In the draft decision concerning Spain, the Commission's services underline that support measures for agricultural cooperatives in this country constitute state aid and must be examined as such in order to determine whether or not they are compatible with Community rules. This case is all the more important for the future of these organisations as it must serve as a model to the EU executive for other cases, particularly in France.

With regard to Spanish agricultural cooperatives, authorised by Madrid to distribute fuel at advantageous conditions, Fischer Boel's services acknowledge their specificity and that of the sector, but consider that aid must, despite everything, be justified and duly proportioned. They are thus calling for the facilities from which these entities benefit to be binding. The Commission is looking into the advantages granted to cooperatives one by one: corporation tax, property tax, local tax on economic activities and registration fees. Property tax exemptions are considered to be incompatible.

Concerning Italy, the complaint lodged by Federdistribuzione concerns the trade sector and, in particular, the advantages granted to the CoopItalia distribution cooperatives. The services of the competition commissioner, who is leading this case, anticipate distinguishing between the size of companies. They consider state aid to be compatible with EU legislation as long as it concerns small and medium-sized enterprises. Beyond a certain dimension, they no longer are or they must – at the very least – be subject to a ceiling. For large cooperatives (more than 250 employees and a turnover of €50 million), it is proposed that the reserves deductible from the company tax base be limited to 30% of the annual taxable amount.

The case of France

In May 2004, the Confédération Française du Commerce de Gros et du Commerce International (CGI) was referred to the Commission. The latter criticised the tax regime for agricultural cooperatives in France. In particular, it considered that advantages in the form of tax exemptions and deductions or state guarantees can be easily assimilated into state aid. Until now, the various arguments addressed to the Commission to justify a difference in treatment between cooperatives and companies have not convinced the EU services. The Commission does not, for the moment, appear to want to distinguish between large and small cooperatives, but the sector will need to have convincing arguments, which are much more well-grounded than in the past, in order to defend the advantages granted to it.

¹ In : <http://www.europolitique.info/?isPortalAccessed=true>