

ROADMAP			
TITLE OF THE INITIATIVE	Targeted review of Commission Delegated Regulation (EU) No 639/2014 (Ecological Focus Areas) and Commission Implementing Regulation (EU) No 641/2014		
LEAD DG – RESPONSIBLE UNIT – AP NUMBER	AGRI.DDG2.D2 'GREENING, CROSS-COMPLIANCE AND POSEI'	DATE OF ROADMAP	01/2016
LIKELY TYPE OF INITIATIVE	Possible modification of the above Delegated and Implementing Regulations		
INDICATIVE PLANNING	2Q(presentation)/3Q(adoption) 2016		
ADDITIONAL INFORMATION	http://ec.europa.eu/agriculture/direct-support/direct-payments/index_en.htm		
<p style="text-align: center;">This indicative roadmap is provided for information purposes only and can be subject to change. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content and structure.</p>			

A. Context, Subsidiarity Check and Objectives

Context
<p>This review is part of the REFIT exercise (Commission Work Programme for 2016, Annex II). It follows up on the 2014 declaration by the Commission (<i>see below</i>) to evaluate the experience with the implementation of the obligations on Ecological Focus Areas (EFA) as part of the 'greening' obligations, after the first year of application. Moreover, this review takes place in the context of the ongoing simplification of the CAP.</p> <p>The 2013 CAP reform introduced the concept of greening to enhance the environmental performance of agriculture which enabled a better integration of natural capital objectives into the CAP¹. Greening links 30% of the direct payments received by the farmer to the respect of three obligatory practices beneficial for the environment and climate action: crop diversification, the maintenance of permanent grassland, and dedicating 5 per cent of arable land to ecologically beneficial elements (Ecological Focus Areas, EFA). EFA's specific objective is to safeguard and improve biodiversity on farms through areas directly (e.g. protection of landscape features) or indirectly (reduced use of input) affecting biodiversity. Greening practices should go beyond cross-compliance and can be supplemented by voluntary rural development measures which, among others, finance more demanding agri-environmental-climate activities targeted towards specific environmental needs.</p> <p>The basic rules of greening are set in Regulation (EU) No 1307/2013 on direct payments. Delegated Regulation (EU) No 639/2014 develops the requirements, definitions and other relevant parameters while Implementing Regulation (EU) No 641/2014 lays down procedural/administrative requirements. Commission services developed technical guidance documents for Member States' authorities e.g., on the EFA Layer, the LPIS (Land Parcel Identification System) etc. explaining and putting in context the relevant obligations.</p> <p>In terms of simplification, some technical adjustments at the level of guidelines by Commission services for Member States were introduced in the first half of 2015 (concerning e.g. the mapping of EFAs in the so-called EFA-layer, compensation of missing EFAs by another EFA found in the parcel in case of erroneous declaration, etc). As of November 2015, discussion is ongoing on certain changes related to greening concerning the IACS (Integrated Administration and Control System) framework at the level of Implementing Regulation (EU) No 809/2014 and Delegated Regulation (EU) No 640/2014.</p>
Issue
<p>At the time of the adoption of Delegated Regulation (EU) No 639/2014 the Commission committed itself to evaluate the EFA experience after the first year of application looking into the administrative burden for national authorities and producers, simplification potential and examining the situation in terms of a level playing field and EFA's impact on the EU production potential. The exercise will also take a broader view of other elements of greening.</p> <p>Based on the evidence and data available after the first year of application, this review will examine the implementation of greening including EFA obligations, in terms of the administrative burden experienced by farmers and national administrations, potential overlaps or inconsistencies; and more broadly the potential to</p>

¹ as referred to in the 7th Environmental Action Programme (Decision no 1386/2013/EU of the European Parliament and of the Council)

simplify- the rules without affecting the environmental objectives and benefits of the greening measures.

In the first year of implementation stakeholders have so far signalled to the Commission certain difficulties with the implementation of some aspects of greening and suggested some changes. Some of these problems were linked to the novelty of the system and the resulting need to adapt, while others were addressed by fine-tuning technical elements of the scheme and without affecting its objectives. Data and evidence gathering is ongoing to determine the origin and the extent of problems.

Subsidiarity check

The EU's right to act follows from Art. 38-39 of the Treaty on the Functioning of the European Union (TFEU) establishing the common agricultural policy and its objectives and from Art. 42 and 43(2) TFEU which confer on the EU the power to adopt measures for the working out and implementation of the common agricultural policy, which includes the direct payment scheme. Art.11 TFEU provides that environmental protection requirements must be integrated into the definition and implementation of the EU's policies.

Greening, an element of the direct payment scheme, is mostly defined at EU level due to the cross-border nature of environmental and climate change issues, the need to ensure consistency and coherence in the EU agricultural sector and the repercussions on the internal market. However, taking account of the diversity across MS and across farmers, the greening framework offers a number of options from which they can choose those most suitable to their national and individual circumstances, respectively.

Main policy objectives

The main policy objective is to facilitate the implementation of greening by farmers and public administrations in view of increasing its acceptability (e.g., understanding and motivation to offer/use options within the scheme that provide more environmental/biodiversity benefits). For this purpose, it is necessary to clarify some provisions and to simplify the administrative management, without jeopardising the CAP's environmental policy objectives and sound financial management while taking account of the subsidiarity dimensions. The final purpose is to ensure effectiveness and efficiency of the scheme as regards its environmental objectives and facilitate its implementation by farmers as straightforward requirements reduce the risk of non-compliance. Technical changes resulting from this review should be applicable as soon as possible i.e. as of claim year 2017 and be known in time for farmers' to take production decisions for 2017.

B. Option Mapping

Options include:

(a) No changes: In case of no action, the potential opportunity to increase effectiveness and efficiency as well as the smooth implementation of the greening scheme would be missed.

(b) Targeted modification of Delegated and Implementing Regulation (639/2014 and 641/2014) to:

(b1) better specify and/or clarify what is required from farmers and national administrations and/or;

(b2) remove burdensome technical requirements without lowering the environmental benefits and/or;

(b3) provide more flexibility where this increases the environmental and climate benefit of the greening and/or;

(b4) additional harmonisation of some requirements and conditions.

(c) More significant simplification of Delegated and Implementing Regulation (639/2014 and 641/2014) to reduce the (administrative) burden for farmers. In case of more substantial simplification, the opportunity to attain the greening objectives should not be compromised.

The possible modifications will be analysed from the perspective of their workability (agronomic and administrative practice), flexibility for farmers and national authorities to address their specific circumstances/needs, consequences for level playing field within the EU potential effects on the objectives of greening and controllability. This includes questions such as whether these technical fine-tuning could increase the attractiveness of certain greening elements for farmers and/or national administration or not; and if environmental objectives will still be achieved. Analysis of possible trade-offs will also be undertaken.

Regulation (EU) No 1307/2013 provides for legally binding delegated and implementing acts developing the requirements, definitions and other relevant parameters, as well as procedural/administrative requirements, respectively.

Proportionality check

The objective of the initiative respects the proportionality principle insofar as it will explore the ways to identify and reduce the administrative burden for farmers and national administrations.

C. Data collection and Better Regulation instruments

Data collection

In response to an invitation from Commissioner Hogan, DG Agriculture received in early 2015 a number of simplification proposals relating to different aspects of greening, which came from the AGRI/FISH Council, MS, Members of the European Parliament as well as European and national level stakeholder organisations. The AGRI/FISH Council communicated their simplification priorities on 11 May 2015 via Council Conclusions.

By 15 December 2015, further to Article 65 of Delegated Regulation (EU) No 639/2014, MS report on the uptake by farmers of greening (holdings and areas under each greening obligation).

In addition much information has been collected in the first year of implementation based on requests from MS and other stakeholders for clarification and explanation of the greening framework, as well as through structured and dedicated discussions within the Expert Group on Direct Payments (gathering experts from national administrations, paying agencies) and the Civil Dialogue Group (gathering civil society representatives). These meetings were used to share experience, signal problematic areas as well as to gather and discuss simplification ideas.

An ongoing online consultation (*see below*), open also to the broader public, targets especially professionals and seeks views in particular on implementation, the level playing field and the production potential. The public is being consulted on possible further ways to simplify greening (Delegated and Implementing Regulations) and the consultation should also provide the Commission with the respondents' first views on the effects of greening.

A current ongoing contract on mapping and analysis of the implementation of CAP on the theme of sustainable management of natural resources will provide information on Member States' greening choices and on their choices in the context of agri-environment-climate measures under RDPs and will contribute to identifying the possibilities for simplification.

Consultation approach

Consultation takes place in the context of broader consultation activities related to the ongoing efforts to simplify CAP.

Consultation linked to this initiative aims to ensure that across a series of consultation activities all relevant stakeholders are given an opportunity to express their views on the aspects stated in the 2014 Commission declaration and on possible ways to simplify the above mentioned Delegated and Implementing Regulations.

Given the scope and the level of detail of the initiative, consultation activities target in particular professionals and other stakeholders with in-depth knowledge and/or hands-on experience of greening who are considered most interested in and/or potentially affected by the initiative that is: farmers and farmers' organisations, public authorities responsible for implementation of the greening in EU Member States including paying agencies, civil society organisations representing environmental issues.

Of the various consultation tools and activities a number have already been completed or are ongoing.

The various ongoing CAP simplification exercises (*see above*) have resulted in a broad input from many circles including AGRI/FISH Council, Members of the European Parliament, the Expert Group on Direct Payments, farmers' representatives, etc. (*see above*).

Three dedicated discussions (experience with greening after 1st year) have taken place in the framework of the Expert Group on Direct Payments in the second half of 2015 and an additional discussion in the Expert group on Simplification (simplification ideas) is scheduled for beginning 2016.

There was also an exchange of simplification ideas in the framework of the Civil Dialogue Group which gathers EU level organisations representing agricultural and environmental issues.

An on-line public consultation was launched on 15 December 2015 (*see above*).

Will an Implementation plan be established?

Yes No

No transposition is foreseen as the concerned acts are delegated and implementing regulations. Framework for assistance to MS in their application is already well established.

Will an impact assessment be carried out for this initiative and/or possible follow-up initiatives?

No impact assessment will be carried out for this initiative because it is limited to targeted adjustments of certain technical elements of greening set at the level of details and components of requirements in the above mentioned Delegated and Implementing Regulations. The initiative aims at improving the clarity of these requirements and simplifying the said technical elements without affecting their core purpose. To determine concrete and coherent actions the review will draw on data and evidence coming from a broad range of sources (*see above*). Carrying out a dedicated assessment of impacts would be disproportionate to the scope of this exercise. Nevertheless, an analytical document accompanying the possible modification of the Delegated and

Implementing Regulations will provide a summary of the justifications for the specific adjustments adopted and assess their potential for administrative burden reduction and simplification. Quantitative estimates will be provided to the extent possible (or their absence justified).

2015 is the first year of application of the greening obligations; therefore, it is yet too early for a fully-fledged assessment of their impacts. A more in-depth analysis of EFA obligation will be undertaken at a later stage in the context of the evaluation report on its implementation set in Regulation (EU) No 1307/2013, to be completed by 31 March 2017.