STAKEHOLDER SUGGESTIONS

I - AGRICULTURE AND RURAL DEVELOPMENT

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The Commission services have complemented relevant quotes from each suggestion with a short factual explanation of the state of play of any recent, relevant ongoing or planned work by the EU institutions.

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The Common Agricultural Policy (CAP)

Ecological Focus Areas

Submission I.1.a by the Danish Business Forum (DBF)

The newly reformed Common Agricultural Policy includes new rules on so-called weighting factors and ecological focus areas. When defining so-called ecological focus areas, the European Commission sets a weighting factor for each of the different categories of ecological focus areas. By multiplying the weighting factor with the size of the particular area in question, it is calculated how much that area contributes to fulfilling the requirement of an ecological focus area.

Short rotation coppice, nitrogen-fixing crops and catch crops were originally all set to a weighting factor of 0.3. Subsequently, the European Commission has raised the weighting factor for nitrogen-fixing crops to 0.7. There is no environmental or biodiversity gains to be made from favouring nitrogen-fixing crops. Contrastingly, diversity of weighting factor leads to unnecessary confusion, uncertainty and unnecessary administrative work.

It is proposed to work toward a simplification of the rules; including setting a uniform weighting factor for short rotation coppice, nitrogen-fixing crops and catch crops.

Policy Context

To enhance the environmental performance of the new CAP, a mandatory "greening" payment has been established to support practices beneficial for the climate and environment. Such practices take the form, among others, of an obligation to dedicate at least 5% of arable land to Ecological Focus Areas (EFA) established to safeguard and improve biodiversity on farms. The legislation (Basic Act i.e. Regulation (EU) 1307/2013\(^1\) and Delegated Regulation 639/2014\(^2\)) establishes a broad range of EFA types (i.e. land lying fallow, terraces, landscape features, buffer strips, hectares of agro-forestry, strips of eligible hectares along forest edges, areas with short rotation coppice, afforested areas, areas with catch crops and areas with nitrogen-fixing crops), comprising both elements of a productive and non-productive nature so that the EFA requirement can be fulfilled in a balanced way. It is for Member States to select EFA types that farmers can

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use for this purpose.

Each EFA type has been assigned a weighting factor and some of them also a conversion factor. The aim of conversion and weighting factors is to reduce the burden on farmers, to facilitate the measurement of certain EFAs and to take account of different characteristics of individual EFAs. This principle was set up in Regulation (EU) No 1307/2013 while the values of the factors are set out in the annex to Delegated Regulation (EU) No 639/2014 which also established corresponding requirements per EFA type. The said Delegated Regulation, in recital (77), explains that the different weighting factors acknowledge "the differences in terms of importance for biodiversity."

Against this background and as a result of observations by both legislators during the scrutiny period after the adoption of Delegated Regulation No 639/2014, it was decided that the weighting factor for nitrogen-fixing crops initially set at 0.3 should be raised to 0.7 to better reflect its impact on biodiversity (see Recitals (1) and (4) of Delegated Regulation No 1001/2014). For reasons of timing and in order not to delay the implementation of Delegated Regulation No 639/2014 this was carried out subsequently by Delegated Regulation No 1001/2014.

Submission I.1.b by the Danish Business Forum (DBF)

_The newly reformed Common Agricultural Policy (CAP) includes new requirements for wind breaks. On farms with more than 15 hectares of farm land (area, which is part of a natural rotation), there has to be an Ecological Focus Area (EFA) equivalent to 5%. Only certain types of areas can be considered as ecological focus areas._

_The regulation allows windbreaks to count as EFAs. However, the rules in the delegated act for the use of such windbreaks as EFAs are now so complex that when implementing, Denmark chose not to include these confusing and complex rules. Consequently, it is not possible to use windbreaks as EFAs in Denmark._

_The way in which windbreaks are considered as EFAs should be simplified. The objective being that the original intention to use windbreaks as EFAs can be carried out in practice by the Member States._

Policy Context

To enhance the environmental performance of the new CAP, a mandatory "greening" payment has been established to support practices beneficial for the climate and environment. Such practices take the form, amongst others, of an obligation to dedicate at least 5% of arable land to Ecological Focus Areas (EFA) established to safeguard and
improve biodiversity on farms. The legislation (Basic Act i.e. Regulation (EU) 1307/2013\(^3\) and Delegated Regulation 639/2014\(^4\)) establishes a broad range of EFA types, comprising both elements of productive and non-productive nature, so that the EFA requirement can be fulfilled in a balanced way. It is for Member States to select EFA types that farmers can use for this purpose. The legislation does not provide for a specific “windbreak” EFA. However, this purpose may be served by landscape features such as trees (e.g. trees in line) or hedges/wooded strips, which the current legislation qualifies as EFA types to fulfil the 5% obligation. According to a 2014 notification (for 2015 claim year), 13 Member States have chosen hedges and 16 have chosen trees in line to be eligible for EFAs (Denmark did not choose either of them).

Currently, the only requirement related to the qualification of trees in line or hedges/wooded strips as EFA provided for in Delegated Regulation (EU) No 639/2014 are minimum and maximum dimensions which helps their identification and also helps ensuring that the area is predominantly agricultural.

Moreover, in accordance with Article 70(2) of Regulation (EU) No 1306/2013 and a guidance document for Member States, Member States are required to establish the so-called EFA-layer in their Land Parcel Identification Systems (LPIS)\(^5\), i.e. a reference layer containing all potential EFAs or, as agreed with Member States in the on-going simplification process, at least EFAs that are stable in time or expected to remain stable for 3 years. The purpose of asking Member States to establish the EFA layer is to help farmers filling in their aid application (data from the EFA layer have to be included in the pre-established form provided annually to farmers by the national administrations). Further specification has been provided to Member States by the previously mentioned guidance document on the establishment of the EFA–layer in the LPIS).


\(^5\) This computer database contains all agricultural areas that are eligible for a direct payment under the Common Agricultural Policy. It is used to cross-check the parcels for which payments have been claimed by the farmer. The land parcel identification system ensures that the farmer is paid for the correct area and that overpayment is avoided. [http://ec.europa.eu/agriculture/glossary/index_en.htm#l](http://ec.europa.eu/agriculture/glossary/index_en.htm#l)
EU Framework for Farmers in relation to Cross Compliance

Submission I.2.a by the Danish Business Forum (DBF) (ADOPTED)

Farmers receiving direct aid or subsidy from the Rural Development Programmes must meet a number of requirements regarding e.g. the environment, health, and animal welfare (so-called cross compliance). The purpose of cross compliance (CC) is to promote sustainable agricultural production. However, cross compliance is administered in different ways in the Member States, creating an unlevel playing field and disproportionate penalties, unclear rules and disproportionately large aid reductions which make it difficult for farmers to organise their operation appropriately.

A revision of the CC-rules should be conducted in order to create greater transparency and proportionality of the regulatory framework and to minimise the risk of differing interpretations in the Member States. Furthermore, the European Commission should ease the possibility for the Member States to learn from each other’s implementation of EU rules on cross compliance by, for example, having tables of comparison.

Policy Context

Cross compliance links CAP support to farmers (direct payments, certain rural development payments and certain wine payments) with their respect of standards of environmental care, of public, animal and plant health and of animal welfare. The principle is straightforward: before the 2003 reform, a farmer infringing the rules laid down in EU legislation in the areas of environment, public and animal health, animal welfare and management of land, did not see any consequences on the support he received. With cross compliance, this support is reduced proportionately to the extent, severity, permanence and recurrence of the infringement.

The cross-compliance system is based on two instruments listed together in Annex II Regulation (EU) No 1306/2013: the Statutory Management Requirements (SMRs) and the standards for Good Agricultural Environmental Condition (GAECs) of land. The SMRs stem from sectorial legislation in the areas of animal and public health, animal welfare and environment. These refer to basic requirements applicable to all farmers, not only CAP beneficiaries. Accordingly, no additional burden is imposed on CAP beneficiaries and...
requirements are harmonised in Member States as they stem directly from European legislation. From the beginning, only the relevant parts were introduced to cross-compliance but not entire Regulations or Directives. Additional stricter national requirements are not to be enforced via cross-compliance. The GAECs are to be defined by Member States achieving the set aim by taking account of local conditions. Such approach ensures the flexibility for Member States reflecting the principle of subsidiarity. Both SMRs and GAECs serve as baseline for certain Rural Development (RD) measures, as RD support should be calculated taking account of the cost incurred and the income foregone.

The scope of cross-compliance was already reviewed exhaustively and several times in the course of the past discussions on the CAP (in particular the 2009 Simplification exercise, the Health Check and the 2013 CAP reform).

The 2013 reform was designed to achieve continued food security and safety in Europe, whilst also ensuring a sustainable use of land and maintaining natural resources, preventing climate change and addressing territorial challenges. In this framework, changes have also been introduced for cross compliance. The objectives have been clearly included in the text of the legislation and the legal basis has been harmonised and streamlined. The scope of cross compliance has been simplified into one single list, including all Statutory Management Requirements (SMRs) and Good Agricultural Environmental Condition (GAECs) standards. Moreover, the number of SMRs was reduced from 18 to 13 clearing out cases where there are no clear and controllable obligations for farmers. The GAEC legal basis has overall been harmonized and the number of the GAEC standards has been reduced from 15 to 7 to ease their implementation in the context of agricultural activity and to ensure consistency with the "Greening". All obligations in place have been also before in the scope of cross-compliance.

Member States have a legal obligation to inform beneficiaries in an exhaustive, understandable and explanatory way on their obligations arising from cross-compliance.

The new early warning system is voluntary for Member States. It has been incorporated in order to simplify and to ease the cross compliance implementation by farmers and by competent national authorities. It provides for the possibility not to sanction first time offenders but to issue an early warning letter provided that the non-compliance does not constitute direct risk to animal or public health. Beneficiaries receiving an early warning may get granted preferential access to the farm advisory system.

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* The 2013 reform of the Common Agricultural Policy introduced several instruments to promote environmental sustainability and combat climate change. These instruments comprise a green direct payment, enhanced cross-compliance obligations, an obligation to allocate 30% of the Rural Development budget to projects and measures that are beneficial for the environment and climate change (including voluntary agri-environment-climate measures), training measures and support from the farm advisory services. http://ec.europa.eu/agriculture/glossary/index_en.htm#g
Another simplification introduced by the new CAP reform is the exemption from the cross compliance system for farmers participating in the Small Farmers Scheme.

Platform Opinion

Adopted on 20 September 2016
Overlap Pillar I and II

Submission I.3.a by Freistaat Sachsen (ADOPTED)

The EU promotion of rural development (Pillar II) increases the competitiveness of agriculture, ensures the sustainable management of natural resources and supports economic strength in rural areas. The direct payments from Pillar I should be accompanied and complemented. However, due to the new elements and the increased greening of Pillar I, there are overlaps between the two pillars. This results in the risk of additional compensation and further administrative burden in managing consistently the respective measures in both pillars. The result of the legislative procedure is a compromise which will bring all parties (farmers, authorities and testing bodies) to the limits of feasibility.

- The environmental performance ("greening") in Pillar I contains elements (e.g. maintenance of permanent grassland areas, diversity in the cultivation of crops on arable land, providing "ecological compensation areas") which are also promoted in the agro-environmental measures of Pillar II.

- In both pillars, payments for areas with natural handicaps and to young farmers (i.e. farmers who are no more than 40 years old) are possible.
**Policy Context**

**Greening**

The so-called "greening" layer is new in Regulation (EU) No 1307/2013 of 17 December 2013. It responds to calls in the run-up to the 2013 CAP reform to link direct payments even more strongly in order to care for the environment and climate (i.e. in ways which go beyond the mechanism of "cross-compliance").

Greening payments in Pillar I of the CAP comprise three obligations that can also be addressed by "agri-environment" measures in Pillar II provided for in Art. 28 of Regulation (EU) No 1305/2013 of 17 December 2013. Member States are obliged to avoid "double funding" between the greening payments of Pillar I and agri-environmental payments of Pillar II. In practice, this should mean that agri-environment payments relate to practices which are either different in nature from those covered by greening payments, or of the same nature but more demanding.

It should be understood that there is also a thematic overlap between greening and rural development support for organic farming (Art. 29 of Reg. 1305/2013) and for Natura 2000 and the Water Framework Directive payments (Art. 30 of the same regulation). Support for organic farming was part of agri-environment payments prior to Reg. 1305/2013. Natura payments were provided for in previous regulations. Water Framework Directive payments were first provided for in Reg. (EU) No 1698/2005 but were not available in practice until several years later, when the Commission issued implementing rules. The same prohibition on "double funding" applies to these measures as to agri-environment payments (see above) – although in the case of these latter measures, the issue has provoked little comment. Overall, the issue is new and systemic at EU level.

**Payments for areas with natural constraints**

If a Member State wishes to do so, the CAP can provide an income support to farmers in areas with natural constraints (such as altitude, aridity or poor soil) (ANCs) in the form of a decoupled area-based direct payment. This support as part of the direct payment system, which can complement or not the equivalent support under rural development, it is granted only in one Member State.

The main purpose of the payments for areas with natural constraints in both pillars is to allow Member States to choose from which part of the CAP budget they support farmers whose farming activity and the income derived from it are permanently limited by natural constraints.

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constraints. On average, these areas are less productive while income needs and provision of public goods in them are important.

Provision for such payments in Pillar I is new, introduced with Regulation (EU) No 1307/2013 of 17 December 2013.

Provision in Pillar II has been made for several multi-annual budgetary periods. The current provisions are in Arts. 31-32 of Reg. 1305/2013 – with a new basis for the delimitation of the areas, based on biophysical criteria (except for mountain areas and areas facing "specific" rather than "natural" constraints). This new delimitation also applies to first pillar support, where relevant.¹²

The fact that ANC-related payments are possible in both Pillar I and Pillar II cannot be described as an "EU-wide problem", as a given Member State is free to offer the payments in both pillars, in one pillar, or in neither.

**Support to Young Farmers**

Support to Young Farmers can be granted under both Pillars of the CAP, although following different forms. Among others:

- Under Pillar I: annual payments for a maximum period of 5 years are granted to Young Farmers having already set-up as "active farmers".

- Under Pillar II: lump-sum payments in at least two instalments, linked to the correct implementation of a business plan are granted to Young Farmers still in the process of setting-up.

These differences can trigger difficulties in managing the two types of support by the concerned authorities.

**Platform Opinion**

*Adopted on 20 September 2016*

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¹² Three types of areas are designated: mountain areas, areas facing significant natural constraints other than mountain areas and areas affected by specific constraints.
Effectiveness and Efficiency of the CAP

Submission I.4.a by the European Environmental Bureau (ADOPTED)

Under the CAP around 53 billion EUR per year is given to farmers which represents approximately 40% of the EU budget. With almost 50% of the EU land area under farming, improving agricultural practices are crucial to achieving existing EU policy goals. Despite successive reforms however including the last one, there continues to be widespread evidence of significant inefficiencies across a range of indicators. For example it is meant to provide income support to all farmers yet 70% goes to 20% of farmers, mostly cereal. The state of nature in Europe is worst for farming dependent ecosystems, with for instance a 53% decline of common farmland birds since the 80s. The recently reformed CAP is unlikely to change much in this regard with first evidence that Member States are unlikely to be using the already weak greening measures put in place.

A Fitness Check of the CAP is the only way to ensure a rigorous fact based and unbiased review of the available evidence on how the new CAP is delivering towards the objectives of viable food production, sustainable management of natural resources and balanced territorial development. This could yield significant gains either in terms of reduced expenditure for achieving the same goals or achieving more ambitious goals for the same amount of money.

Policy Context

The implementation of the new CAP started on 1 January 2015.

In line with its overall objectives laid down in the Treaty on the Functioning of the European Union (Article 39), the new Common Agricultural Policy (CAP) has three key objectives:

- Viable food production
- Sustainable use of resources
- Balanced territorial development

In order to fulfil these key objectives the CAP disposes over several complementary instruments which for explanatory reasons are often divided in what is called the "two pillar structure".

Pillar 1, made of:

- Direct Payments conceived to provide support to farm income and to remunerate farmers for public goods (normally not paid for by the markets such as landscape
Market measures conceived to provide support in case of market crisis. Pillar 2 or the "Rural Development Policy" whereby Member States and/or regions obtain pre-allocated multiannual budget for which they (together with the Commission services) develop programmes in line with their strategic needs by choosing from a menu of common measures conceived to benefit farm competitiveness, environment and climate action and activities linked to the wider development of rural areas.

With a view to the sustainability objective the CAP disposes over several instruments:

- **Cross compliance:** For both Direct Payments and Rural Development Policy farmers are required to respect certain rules: statutory management requirements (laid down in a number of EU directives and regulations concerning public health, animal and plant health etc.) and good agricultural and environmental conditions (protection of soil against erosion etc.; exact specifications are decided by Member States).

- **Greening:** For Direct Payments the 2013 reform introduced for the first time the requirement that 30% of the national direct payments envelopes are spent for three environmental and resource friendly production methods: maintaining permanent grassland, crop diversification, ecological focus areas (EFA). The basic acts of the 2013 reform were published only in December 2013; in order to allow for a proper preparation – there are several choices for Member States regarding the design of greening (including allowing for practices which are already taking place and considered as "equivalent") – the full implementation of greening only kicked off in January 2015.

- **For the Rural Development Policy at least 30% of the EU-budget for each rural development programme must be reserved for a series of measures benefitting the environment or the fight against climate change (such as agri-environment climate measure, organic farming, support for areas with natural constraints, Natura 2000, forestry measures and investments beneficial for the environment or climate). For the period 2014-2020 a total of 51% of the EAFRD has been earmarked to these measures.**

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**Platform Opinion**

**Adopted on 20 September 2016**
The ESI Regulation is intrinsically a problem for funding of the EAFRD, because in comparison with previous funding periods in which there was no comparable umbrella regulation for the EAFRD, it contains newly-added additional regulations and generates through its primary focus on the structural funds, inconsistencies within the EAFRD Regulation. The aim of the ESI Regulation to create added value has not been achieved. Instead, the regulation has prompted contradictions and is, as a result, unnecessary.

Policy Context

Regulation (EU) No 1303/2013 of 17 December 2013 (the "Common Provision Regulation" – CPR) defines common principles, rules and standards for the implementation of the five European Structural and Investment Funds: the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund, the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF). The regulatory framework covers the programming period 2014-2020.

The CPR aims at harmonising, as far as possible, implementation rules for the Funds. It defines a common set of thematic objectives and lays down common procedures in a number of areas, such as programming, programme adoption and amendment, monitoring and control. It also harmonises and reinforces the partnership principle and strengthens the result-orientation of the Funds through ex-ante conditionalities and the requirement to establish a performance framework. As regards common delivery systems for implementation, it broadens the possibilities for the use of innovative financial instruments.

The EAFRD aligns with the common provisions as defined in the CPR within the above-mentioned remits. Nevertheless, rural development policy is established to accompany and complement direct payments and market measures of the CAP. Therefore, the activities of the EAFRD and the operations to which it contributes should be consistent and compatible with support from other instruments of the CAP. Because of this special situation of being part of the CAP, the Rural Development Regulation (EU) No 1305/2013 only complements the provisions of Part II of the CPR.

The rules for the RD programmes intervention logic are therefore defined in the Fund specific regulation (EU) No 1305/2013 and aligned with the common CAP objectives. In particular, RD programmes should contribute to the achievements of the CAP objectives trough six EAFRD Union priorities, using a predefined set of measures. To ensure
consistent implementation with the CAP 1st pillar, common provisions for financial management and controls, in particular for the area and animal related measures have been laid down in the CAP Horizontal Regulation (EU) No 1306/2013.

The ESIF DGs are working closely together to ensure common and consistent interpretation of common provisions. Moreover, common procedure design is ensured and common IT tools are promoted (e.g. SFC\textsuperscript{13}). Other joint exercises with the ESIF DGs include a policy communication on the programming in 2015, annual reports as of 2016 to the Council and EP, studies, interpretation network, scoreboard for simplification including simplified costs options SCO, e-governance and payment efficiency, monitoring of ex ante conditionalities, providing trainings in Member States, running of a High level group on simplification etc. At Commission level we are also working at IT and process rationalisation e.g. common procedure design and IT tools (RDIS, SFC, EC data tool).

Evaluations and studies are currently conducted to analyse the effects of the new provisions and the common framework on the administrative burden for administrations and beneficiaries. The first results of this exercise are expected in 2016.

\section*{Platform Opinion}

Adopted on 23 November 2016

\textsuperscript{13} "Shared Fund Management Common System" – an IT system to exchange and store documents among the Commission and the Member States.
MARKETING STANDARDS FOR FRESH FRUIT AND VEGETABLES

Submission I.6.a by the Danish Business Forum (DBF) (ADOPTED)

Businesses may only present, offer, deliver or sell fruit and vegetables within the EU in ways that live up to the so-called marketing standards. For example, a bag of oranges that has one or more mouldy oranges can no longer be sold (or even be given away) unless the mouldy oranges are removed from the bag. These marketing standards are time-consuming and consequently lead to increased food waste, as the bag of oranges is likely to simply be thrown out.

Instead the company could contribute to reducing the food waste by, for example, giving away the fresh fruit and vegetables that for various reasons cannot be sold in its existing form.

It is proposed to drop the EU regulatory framework on marketing standards for fresh fruit and vegetables and leave it to the industry to agree on standards in this area. In this regard, the UN-ECE standards are a possible reference. Alternatively, there could be a modernisation and simplification of the rules in order to prevent food waste. Furthermore, it could be made possible under specific conditions and for specific purposes to supply products which do not comply with the standards, or specify that sorting of fresh fruit and vegetables only has to take place before it is issued for direct human consumption.

Policy Context

a) Marketing standards for fruit and vegetables have a long tradition in the EU and also exist at international level. They are set to contribute to improving the economic conditions for the production and marketing of such products and ensure their quality. The general provision for fruit and vegetables provides that the products must be sound, fair and of marketable quality. These general conditions have been further elaborated (only for some products), with the degree of detail depending on the product, i.e. its economic importance and its particular characteristics.

b) EU legislation on marketing standard for fruit and vegetables is found in Regulation (EU) No 1308/201314 of the European Parliament and the Council establishing a common organisation of the markets in agricultural products and Commission Implementing Regulation (EU) No 543/201115 of 7 June 2011 laying down detailed rules for the


Platform Opinion

Adopted on 23 November 2016
CONTROL AND AUDIT OF THE CAP

Submission I.7.a Submission by the Board of Swedish Industry and Commerce (NNR) (ADOPTED)


Burden on business

Today the legal framework seems to be based on the notion that on-the-spot-controls (OTSC) should be performed unannounced, in order to deliver correct results. This reflects an unrealistic demand for perfection in every detail, rather than a demand for performance with high quality of the agricultural activity, in accordance with the purpose of all requirements. The focus of the OTSC should be to find out if the farmer has reliable routines which ensure that the purpose of the requirements are fulfilled, instead of focusing on the execution of minor details in the requirements, which can be corrected within a few hours or days. If the farmer lacks these reliable routines, it will be almost impossible to comply with the purpose of the requirements, even if the OTSC is announced a few days ahead, as a general rule. Announcing the OTSC for the farmer a few days ahead will certainly ease the perceived administrative burden for the farmer. It will also allow for quicker and more efficient visits, since the farmer can prepare and plan for the visit. A notice in advance will also show consideration of the farmers work. Especially if the farmer has animals that needs to be taken care of or if the revision takes place during harvest time. A sick cow, a calving cow or harvesting of crops cannot wait. However, certain requirements, like of animal welfare based on risk or indications, might be better performed unannounced.

Simplification suggestion

All OTSC should be notified in advance. At least 48 hours. Notified OTSC results in higher quality and signals a better trust in the farmers. Although in cases with severe circumstances e.g. animal suffering or if there is a strong suspicion that the purpose of the OTSC will be jeopardized, the OTSC should not be notified.

Effects of the simplification proposal

Time-saving, reduced costs, reduced uncertainty

Submission I.7.b Submission by the Board of Swedish Industry and Commerce (NNR) (ADOPTED)

Legislation: Agricultural legislation (EU)

Burden on business

Risk based controls and audits would ensure an efficient use of resources compared to audits based on random samples.

Simplification proposal

The sample of controls and audits should be risk based.

Effects of the simplification proposal
Submission I.7.c Submission by the Board of Swedish Industry and Commerce (NNR) - (ADOPTED)

Legislation: Agricultural legislation (EU)

Burden on business

There are too many levels of controls with different audit methods that are not harmonized. Harmonized procedures would ensure a more efficient audit procedure.

Simplification proposal

Harmonize the procedures and methods for audit.

Effects of the simplification proposal

Time-saving, reduced costs, increased investments, reduced uncertainty

Submission I.7.d Submission by the Board of Swedish Industry and Commerce (NNR) - (ADOPTED)

Legislation: Article 36 (EU) No 809/2014

Burden on business

The current rules only provides for the possibility to decrease the control rate for basic payment, SAPS, redistributive payment, small farmer’s scheme and agri-environmental support. There is no reason for excluding the greening payment from the provisions in Article 36 in (EU) No 809/2014 since the greening payment also is an area-related support which is controlled within IACS.

Simplification proposal

It should be possible for Member States to also decrease the control rate for the greening payment on the same conditions as for the other support measures

Submission I.7.e Submission by the Board of Swedish Industry and Commerce (NNR) - (ADOPTED)


Burden on business

The current rules require that for a certain percentage, all eligibility criteria for the greening payment have to be checked on-the-spot. This means that the on-the-spot-check often has to be performed during several visits so that all criteria can be checked. When the on-the-spot-checks have to be performed during several visits it causes extra burden
on farmers. Furthermore, it will be more difficult for the control bodies to coordinate and plan the on-the-spot-checks. It will also increase costs for the control bodies.

**Simplification proposal**

The control of the greening payment should be amended in line with the cross-compliance system. This means that only the criteria that can be checked at the time of the visit are checked. Account should still be taken to the timing of the on-the-spot-check and the possibility to check as many criteria as possible.

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**Submission I.7.f Submission by the Board of Swedish Industry and Commerce (NNR) - (ADOPTED)**

**Legislation: Agricultural legislation (EU)**

**Burden on business**

For Sweden it is a priority to have a sound financial management of EU-funds. However a too low tolerance for errors places un-proportional administrative burdens on the applicants, to supply the authorities with very detailed verifications and data to prove the eligibility. The costs and benefits of this thus needs to be analysed and the 2 % materiality threshold should be reviewed for all support schemes.

**Simplification proposal**

The Commission should review, explain and develop the reasoning behind the 2 % materiality threshold for all support schemes

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**Policy Context**

1. **Notify all on-the-spot checks on farms**

On-the-spot checks (OTSC) for the purpose of the verification of eligibility criteria are performed within a specific time frame (Article 25 of Implementing Regulation (EU) No 809/2014). There are already some possibilities for advance notification offered by the legislation:

- an OTSC check may be announced in advance, up to 14 days, provided it does not prejudice its purpose and/or its effectiveness;
  - announcement up to 48 hours is foreseen for animal-related aid or support (animal premia), except in duly justified cases. This time span of 48 hours for advance notice was introduced in order to cover the situation where claimed animals need to be gathered from remote hill grazing or remote places. The same Article even foresees a possibility to extend the time span for notification above 48 hours ("in duly justified cases"), provided that this extension is properly justified and recorded and the purpose of the control is not jeopardised.
  - If the legislation relevant to cross-compliance requires that checks are not announced, those rules should be implemented for cross-compliance OTSC as well.
2. Risk based sample of controls and audits

To assure effective controls the control sample in respect of the on-the-spot checks (OTSC) of the area-related schemes is done on the basis of sampling methodology which should comprise a random part, in order to obtain a representative error rate, and, for some schemes, a risk part, which shall target the areas where the risk of errors is the highest.

3. Harmonize the procedures and methods for audit

Article 59 of Regulation (EU, EURATOM) 966/2012 provides "Where the Commission implements the budget under shared management, implementation tasks shall be delegated to Member States. The Commission and the Member States shall respect the principles of sound financial management, transparency and non-discrimination and shall ensure the visibility of Union action when they manage Union funds. To this end, the Commission and the Member States shall fulfil their respective control and audit obligations and assume the resulting responsibilities laid down in the financial regulation." The largest part of the expenditure under the Common Agricultural Policy (CAP) is implemented under shared management, and it is, in first instance, the Member States that must take any measures in order to prevent, detect and correct irregularities and fraud.

In order to protect the Union's financial interests, article 59 of Regulation (EU, EURATOM) 966/2012 provides for the establishment of the different levels of controls which are incorporated in Regulation (EU) 1306/2013 of the CAP as controls conducted by the accredited Paying Agency, Certification Body and Commission.

The CAP legislation systematically integrates these different layers of controls (going towards a single audit approach) with a view to reduce the overall administrative burden while protecting the Union's financial interests.

(In addition and to put it in a wider context, the European Court of Auditors (ECA) as the Union's supreme audit institution is an institution in its own right and is independent of the Commission, other institutions and the Member States (see Article 287 TFEU). The ECA has wide-ranging audit powers and may signal system weaknesses in the Member States or errors in individual payments following its audit. The Commission has a general obligation to follow up these weaknesses as well as the Member States having the duty to follow up on individual errors.)

Different levels of controls integrated in one assurance model for CAP

At the level of the Member State, the accredited Paying Agency must conduct 100% administrative checks as well as 5% on the spot controls (as a general rule) before payment to the beneficiary (and thus, before reimbursement from the Commission to the Paying Agency). Each paying agency is subject to an annual audit by an independent audit body (i.e. "Certification Body") appointed by the Member State. Certification Bodies must draw up an opinion covering the completeness, accuracy and veracity of the annual accounts of the Paying Agency; the proper functioning of its internal control system; and the legality and regularity of the expenditure for which reimbursement has been requested from the Commission (see article 9 of Regulation (EU) 1306/2013).

At the level of the Commission, audit work by DG AGRI within the annual financial clearance exercise focuses on analysis of Paying Agencies' annual accounts (including
the management declaration of the Paying Agency) and the corresponding reports and certificates issued by the Certification Bodies, thus allowing the Commission to take a decision on whether or not to clear those accounts (article 51 of Regulation (EU) 1306/2013). Within the multi-annual conformity clearance procedure, the audits carried out by DG AGRI on legality and regularity of expenditure are system-based and risk-based audits checking specific components of the Paying Agencies’ (or Member States) control systems (article 52 of Regulation (EU) 1306/2013).

Commission's assurance building and the protection of the Union's financial interests

Under the CAP the different levels of controls (as mentioned above) are integrated in the assurance building when preparing the declaration of assurance in the framework of the Annual Activity Report. In this exercise, DG AGRI assesses the controls carried out by the Paying Agencies, the audit opinions issued by the Certification Bodies as well as the audit findings by the European Court of Auditors and DG AGRI's own audit findings.

Possibility of reducing the minimum level of controls for Member States

Regulation (EU) 1306/2013 (see article 59(5)) already provides that "Member States may reduce that minimum level where the management and control systems function properly and the error rates remain at an acceptable level." Thus, there is a possibility of reducing the minimum level of on-the-spot checks for cases where the Certification Body reports an error rate below materiality and the Commission is fully satisfied that the Certification Body's work has been performed to the necessary standard (see Regulation (EU) 809/2014 for further specifications).

4. Decrease of control rate

The introduction of the greening payment and the related requirements concerning crop diversification, ecological focus areas (EFA) and permanent grassland is applicable since 1st January 2015. Therefore, claim year 2015 is the first year of application of this requirement with no experience of its implementation and the level of error rate established/encountered.

The reduction of a control rate, as indicated in Article 36 of the Regulation (EU) No 809/2014, is relevant only for the scheme indicated in this Article (basic payment scheme, the single area payment scheme, the re-distributive payment and the small farmer's scheme). Schemes which are area-related where solid control system is run using the Land parcel identification system (LPIS).

5. Simplify the control of greening

According to the Basic act (Article 74 of Regulation (EU) No 1306/2013), Member States shall carry-out administrative checks supplemented by on-the-spot checks to verify the eligibility conditions for the aid. On-the spot checks shall verify compliance with all eligibility criteria, commitments and obligations of those aid schemes or support measures for which a beneficiary has been selected (Article 26 of Regulation (EU) n°809/2014).

The requirement to carry-out an additional visit for the verification of the fulfilment of all eligibility criteria has been introduced in the Commission Implementing Regulation (EU)
N°809/2014 (Article 26(4)).

The provision at stake foresees that where certain eligibility criteria, commitments and other obligations can only be checked during a specific time period, the on-the-spot checks may require additional visits at a later date.

This regulation and this particular provision are applicable since 1st January 2015. Claim year 2015 is the first year of application of this requirement.

6. Materiality threshold

**Materiality threshold:** The materiality threshold is a sound financial management criterion used (and therefore implicitly fixed) by the Court of Auditors and the Budget Authority. There is no reference to, or direct relation with, the materiality threshold used by the budgetary Authority in the CAP legislation.

The concept of the materiality threshold is based on statistical data related to the overall expenditure concerned, it does not apply at the level of each single transaction with a beneficiary and it has nothing to do with the idea of tolerance for individual errors. Introducing tolerance at the level of individual beneficiaries may be to the benefit of the concerned beneficiaries but actual experience (for instance non-application of sanctions for minor infringements to cross-compliance) shows that it does not result in decreasing management and control costs.

In its Annual Activity Report, DG AGRI, in accordance with the standard instructions from the central Commission services, uses the 2 % threshold as a basis for assessing the need for a reservation to the declaration of assurance by the Director General.

However, mitigating factors are also considered in cases where the error rate is between 2 % and 5 %.

The issue of "a too low materiality threshold" is not specific to the CAP expenditure, it concerns all areas of expenditure where the error rates reported by the Court of Auditors are higher than 2 %.

**Platform Opinion**

Adopted on 19 April 2017
**CROSS COMPLIANCE**

Submission I.8.a by the Board of Swedish Industry and Commerce (NNR) - (ADOPTED)

*Legislation: Article 99.3 of Regulation (EU) No 1306/2013*

**Burden on business**

The current rules mean that intentional non-compliances shall lead to a 20% reduction of payment. Intent is hard to prove and intentional non-compliances may not always be severe. Since intent is hard to prove and may result in more costs than benefits, the word intentional should be deleted. Furthermore, intentional non-compliance may not always be severe. For example, a farmer may intentionally decide not to register a new born calf on the exact deadline due to unexpected circumstances. For example an on-the-spot check or an urgent visit from a veterinarian.

**Simplification proposal**

Abolish the criteria of “intent” in the cross-compliance system.

Submission I.8.b by the Board of Swedish Industry and Commerce (NNR) - (ADOPTED)


**Burden on business**

Article 39.1 in (EU) No 640/2014 states that reductions on support should as a general rule be 3%. In the meantime Article 99.1 in (EU) No 1306/2013 states that non-compliances should be assessed according to the criteria severity, extent, permanence and reoccurrence. This is contradictory. The rule in Article 39.1 in (EU) No 640/2014 means that even though non-compliance was assessed to cause a reduction of 1% the reduction may have to be increased to 3% in order to follow the rule on 3% reduction as a general rule. The reduction is increased to 3% in order to get a correct statistical result. This has a disproportionate effect on farmers’ payments. Reductions should always be based on the authority’s assessment according to the criteria severity, extent, permanence and reoccurrence of the non-compliance.

**Simplification proposal**

Delete the rule in Article 39.1 in (EU) No 640/2014 where it says that reductions on support should as a general rule be 3%.

Submission I.8.c by the Board of Swedish Industry and Commerce (NNR) - (ADOPTED)

*Legislation: Article 91 and 97-99 (EU) No 1306/2013*

**Burden on business**

The current system for penalties related to cross-compliance infringements is disproportionate and difficult to understand for farmers due to its complexity, especially since the effective penalty is more related to the size of the payment than to the severity of
the infringement. This causes worries and uncertainties as regards the size of the penalty to be applied in case of non-compliance. Among farmers there is today little acceptance for a system that sometimes implies disproportionate penalties. An example is that reductions on support should as a general rule be 3% even though the non-compliance is minor to its nature.

**Simplification proposal**
There is a need to evaluate the cross-compliance penalty system in order to find a more transparent and proportionate model. The different criteria for assessing the infringements should also be assessed. It should also be assessed to what degree an effective prevention of diseases should be related to the support system. In many cases minor infringements in reporting, ear tagging etc. causes administrative penalties even though there is no direct harm on the environment or the public or animal health.

**Submission I.8.d by the Board of Swedish Industry and Commerce (NNR)**

**Legislation: Guidelines on lost ear tags**

**Burden on business**
The document on lost ear tags gives good guidance for Member States. However, there is no guidance on how to deal with minor non-compliances as regards reporting of incidents and record keeping. It is important to have guidance from the Commission in order to get a correct and harmonized implementation among Member States.

**Simplification proposal**
Clarify and develop the guidelines on lost ear tags to also cover guidance on how to deal with non-compliances as regards reporting of incidents and record keeping.

**Submission I.8.e by the Board of Swedish Industry and Commerce (NNR)**

**Legislation: Agricultural legislation (EU)**

**Burden on business**
The number of rules and hence the risk for penalty differs between farmers with different types of production. For example, within SMR 4 there are many rules that only apply to the milk sector. There seems to be an unreasonably imbalance of the set of rules. Farms with animals have a lot more rules to comply with than other farms. Therefore farms with animals have a greater risk for being penalized due to cross-compliance infringements. This means that active farmers are disadvantaged due to the current cross-compliance system. This contradicts the aim of the CAP. Furthermore, some rules have little relevance for agriculture and some are very difficult to control in a systematic manner.

**Simplification proposal**
There is a need to evaluate what rules that should apply within the cross-compliance system. Account shall be taken to the controllability of the rules, the relevance for the agricultural sector and the proportionate spreading and balance of rules between types.
Submission I.8.f by the Board of Swedish Industry and Commerce (NNR) – (ADOPTED)

Legislation: Article 92 (EU) No 1306/2013

Burden on business

Today cross-compliance applies for both direct payments and agri-environmental commitments in pillar II. As Rural development measures concern targeted payments based on individual requirements which go beyond the standards and requirements included in cross-compliance, it should be assessed whether it is justified to apply cross-compliance for agri-environmental measures carried out within pillar II. The links between the cross-compliance rules and the specific measures applied within pillar II are not always clear.

Simplification proposal

Assessment of the link between cross-compliance rules and agri-environmental commitments.

Policy Context

Cross compliance links CAP support to farmers (direct payments, certain rural development payments and certain wine payments) with their respect of standards of environmental care, of public, animal and plant health and of animal welfare. Before the 2003 reform, a farmer infringing the rules laid down in EU legislation in the areas of environment, public and animal health, animal welfare and management of land did not see any consequences in the support he received.

With the introduction of cross compliance as of 2005, the calculation of cross-compliance penalties is expressed as a percentage of reduction of CAP support. The Paying Agency is responsible to assess the importance of the non-compliance based on the severity, extent, permanence and reoccurrence of the non-compliance found, which determines the % of reduction of the aid support.

Concept of intentionality

The concept of intentionality ensures the proportionality of penalties. Infringements resulting from mistakes, negligence or factors outside the control of the former need to be differentiated from those which are intentional. Certain cases of intentional infringements are so severe that it would be disproportionate to sanction them at the same level as a case of unintentional infringements. Intentionality provides a justifiable basis on which Member States apply higher and proportional penalties in extreme cases.

The principle of intentionality is a cross-cutting criterion taken into account for the implementation of the EU budget fixed by the financial regulation (protection of the financial interests of the European Union by criminal law – ‘PIF’ Regulation).

The 3% rule
The 3% rule applies since the entry in force of the cross compliance scheme in 2005. As previously established, the current Article 39(1) of Regulation (EU) No 640/2014 establishes the general rule of a 3% penalty although with the following flexibility: "However, the paying agency may, on the basis of the assessment of the importance of the non-compliance (...) decide to either reduce that percentage to 1% or increase to 5%".

Member States shall provide CAP beneficiaries with the list of the requirements and standards to be applied at farm level, as well as clear and precise information thereon. The Farm Advisory System also has the objective to help farmers to understand the rules. Cross-compliance does not introduce any additional requirements applicable to CAP beneficiaries but applies the basic rules applicable to all farmers due to sectorial legislation independent from the fact whether they are CAP beneficiaries or not.

**Effective prevention of disease as criterion for cross-compliance administrative penalties:**

In the last reform three SMRs were taken away from the scope of cross-compliance dealing with animal diseases (former SMR 13 on control of foot-and-mouth disease, former SMR 14 on control of certain animal diseases and spread of swine vesicular disease and former SMR 15 on control and eradication of blue tongue disease). Such reduction of scope was driven by the intention to simplify the scope of cross-compliance by only maintaining requirements which are linked to farming activity, under control of the farmer and which are controllable. A system of animal traceability does not prevent animal diseases but serves to better control disease outbreaks as animal can be located.

**Guidelines on lost ear tags**

As from 2000 for cattle and from 2004 for sheep, EU legislation on the Identification and Registration of animals establishes that each keeper of animals shall keep an up-to-date holding register of animals. This rule shall be implemented by Members States competent authorities independently of the cross-compliance scheme.

In 2009, the Commission services issued a Guidance document on missing ear tags in the context of cross compliance. This Guidance document aims at providing further clarification, especially in case of repeated losses of ear tags, in order to avoid inappropriate increases of the cross-compliance penalties. The scope of this Guidance document is limited to the failures, breakdowns, shortcomings, which are not within the range of influence of the keeper but causally determined by the technology used. This means that ear tag losses can occur, especially when animals are kept outdoors or in stables by regular contact with certain elements of the facilities as the head locks at the feeding time.

With regard to animal movement notification, the early warning system and the human error approach already provide on a voluntary basis flexibility to Member without jeopardizing animal traceability.

**Number of rules in the cross-compliance system; need for balance between types of production**

The scope of the cross compliance scheme was reviewed several times in the past (in particular the 2009 Simplification exercise, the Health Check and the 2013 CAP reform). In particular certain obligations of these Directives were removed from the scope of cross compliance (in the Health Check) due to difficulties to control them and the lack of direct
In 2006 the Commission issued a Guidance document on hygiene provisions relevant for cross compliance where it was explained that the hygiene rules relevant for cross compliance are limited to those addressed to primary production. This Guidance document selected the minimum hygiene obligations that the farmers should respect based on criteria such as that obligations should clearly target the farmer and that obligations should be formulated in a clear and unequivocal way. The selected list of obligations relevant for cross compliance was incorporated in Annex II of Regulation (EC) No 73/2009.

The 2013 reform was designed to achieve continued food security and safety in Europe, whilst also ensuring a sustainable use of land and maintaining natural resources, preventing climate change and addressing territorial challenges. In this framework, changes have also been introduced for cross compliance. The objectives have been included in the text of the legislation and the legal basis has been harmonised and streamlined. The scope of cross compliance has been simplified into one single list, including all Statutory Management Requirements (SMRs) and Good Agricultural Environmental Condition (GAECs) standards. Five SMR standards have been removed as there are no clear and controllable obligations for farmers. The GAEC legal basis has been harmonized and the number of the GAEC standards has been reduced from 15 to 7 to ease their implementation in the context of agricultural activity and to ensure consistency with the "Greening".

**Difference in number of requirements between plant and animal production sector**

It is worth noting that cross-compliance links the fact that a beneficiary receives CAP money to the fact that basic rules of sectorial legislation are respected which have to be respected by ALL farmers not only CAP beneficiaries. Accordingly, the proposal is not simplification but implies a major change of the CAP policy.

It is inherent that animals are submitted to e.g. animal welfare while plants are not. On the other hand, GAEC obligations apply mainly to vegetal production. It’s the farmer’s decision for what kind of farming activity s/he opts for. The current set of acts and standards submitted to cross-compliance also reflects societies’ expectations linked to e.g. animal welfare and environment.

**Link between cross compliance and rural development support (pillar II of the CAP)**

Most rural development payments fall under the cross-compliance system. These are the Area Based Payments which include agri-environmental measures, Areas with natural constraint, NATURA 2000 measures, Afforestation measures, Forest environmental payments, Agroforestry, Organic farming.

The proposal is not a simplification but implies considerable regression on the CC scope, as currently CC sanction are applied to all payments a beneficiary receives from the CAP.

It is also a regression of the objectives of the RD reform, as RD measures recognise that farmers receive Pillar 2 support for commitments going beyond the baseline set by the CC scope. It seems difficult explaining EU citizens that beneficiaries should still receive financial support from Pillar 2 while infringing the minimum standards (e.g. for animal welfare or TSE legislation) required by Pillar 1.
DIRECT PAYMENTS

Submission I.9.a-g by the Board of Swedish Industry and Commerce (NNR) (Closed)

Legislation: Article 9 (EU) No 1307/2013

Burden on business
The current definition of an active farmer increases the administrative costs for both farmers and authorities. The cost-effectiveness of the definition is questioned. It is very important that support from the CAP is targeted to active farmers. However, a negative list might not be the most appropriate way of targeting the support. First of all, the negative list might affect farmers that have diverse activities at the farm, for example an active farmer that also has some kind of sport activity at the farm. Secondly, we already have rules on how to exclude ineligible land from support, such as golf courses or racing courses. The ongoing milk crisis reveals how important it is for farmers to have more than one source of income. In Sweden the rules on how to exclude ineligible land from support has worked very well. There has not been any major critique or problem related to support being distributed to non-farm-companies.

Simplification proposal
There is a need to thoroughly evaluate the cost-effectiveness of the definition. It should be considered if the negative list could be deleted or made voluntary for Member States to apply.

Effects of the simplification proposal
Time-saving, Reduced costs, Increased investments, Reduced uncertainty.

Submission I.9.b by the Board of Swedish Industry and Commerce (NNR) (Closed)

Legislation: Article 14.1(f) and (h) (EU) No 809/2014

Burden on business
The current provision means that farmers have to declare negative-list activity in the single application at a certain date and provide evidence proving that he/she is an active farmer at the latest on the last day for amending the aid application. Article 14.1 (H) implies that the application is not complete without the declaration of the activity, if the farmer has this activity or manages one in an affiliated company. This is unfortunate since several of the negative-list activities are ambiguous and the consequences of such activity or non-declaration of it is very severe. In combination with a requirement/method that any evidence provided during a control is not valid even though the farmer clearly is fulfilling the definition is especially unfortunate. This is a too stringent way of implementing the definition, especially the first year of implementation. It is not reasonable that evidence is not valid for example during a control if the authority questions the eligibility. The active farmer clause is a new provision with unclear terms such as “real estate services, permanent sport and recreational grounds”. It is very difficult for the applicant to predict whether he/she is on the negative list and might therefore send in evidence “just in case”. This causes unnecessary administrative burdens for authorities and also worries for farmers.
**Simplification proposal**

It should be possible for farmers to prove the fulfilment of an exemption from the requirement after the last day of amending the application, even if the activity is not declared in the single application.

**Submission I.9.c by the Board of Swedish Industry and Commerce (NNR) (Closed)**

**Legislation:** Guidelines on an active farmer

**Burden on business**

The meaning and definition of permanent sport and recreational grounds in the context of the active farmer clause is problematic since sports and recreation often are activities provided for on diversified farms. According to the guidance document the aim is “targeting specialized operators of permanently existing areas of land with permanent fixtures and/or permanent artificial structures for spectators that are being used for a purpose of sport and recreational activities”. The clarification of permanent sport and recreational grounds in the Commission’s guidelines on an active farmer will have the effect that diversified farms are at risk of being on the negative list. A farmer that has diversified his/her farm by arranging for example horse shows or another sport/recreational activity with a permanent structure for spectators is according to the guidance on the negative list and should therefore be excluded from support (if no derogation is applicable). Member States should be able to further develop the meaning of a permanent sport and recreational ground in a national context.

**Simplification proposal**

The presence of “permanent fixtures” and “permanent artificial structures” is unclear. These terms should be developed, for example the extent, scope or number of fixtures and structures that qualify for the negative list could be mentioned. It is not reasonable that a small permanent structure for spectators means that the company is put on the negative list. It should also be considered to delete the terms from the guidance in order to let Member States develop the meaning of a permanent sport and recreational ground.

**Effects of the simplification proposal**

Time-saving, Reduced costs, Increased investments, Reduced uncertainty.

**Submission I.9.d by the Board of Swedish Industry and Commerce (NNR) (Closed)**

**Legislation:** Article 13 (EU) No 639/2014

**Burden on business**

The current rules on criteria for proving exemption based on agricultural income, is too complex and complicated to understand and apply correctly. This causes a lot of administrative burdens for both companies and authorities.

**Simplification proposal**

There should be a possibility for the Member State to adjust the calculation/definition of agricultural income to parameters used, known and easily retrievable for all parties in the Member State concerned.

**Effects of the simplification proposal**

Time-saving, Reduced costs, Increased investments, Reduced uncertainty
Submission I.9.e by the Board of Swedish Industry and Commerce (NNR) (Closed)

Legislation: Article 49 (EU) No 639/2014

**Burden on business**
The current rules on payment for young farmers in pillar I and the business start-up aid for young farmers in pillar II are not harmonized. At the moment it is not possible to control the access of legal persons to the payment for young farmers in pillar I by analysing the ownership status. This causes administrative burdens for authorities when controlling eligibility and for farmers to prove the effective and long-term control over the legal person. By harmonizing the rules so that it is possible to analyse the ownership status for both support schemes it will be simpler for farmers to understand the rules and to prove the effective and long-term control over the legal person and it will also be simpler for the authorities to control eligibility.

**Simplification proposal**
Amend Article 49 in (EU) No 639/2014 so that it is possible to analyse ownership status when assessing the access of legal persons to the payment for young farmers in pillar I.

Submission I.9.f by the Board of Swedish Industry and Commerce (NNR) (Closed)

Legislation: Article 26 of Regulation (EU) 1306/2013

**Burden on business**
The current rule means farmers will get a reduction of payment every year due to financial discipline in order to establish the crisis reserve. If the crisis reserve is not used the money left shall be reimbursed to the farmers concerned. This does not seem to be the most cost-efficient way to establish the reserve. A yearly withdrawal and a yearly reimbursement cause unnecessary administrative burdens for authorities and burdens and confusion among farmers when they get an extra withdrawal and extra payment every year.

**Simplification proposal**
It should be possible to establish the crisis reserve once and then fill it when needed so that the yearly process of reimbursement is avoided.

Submission I.9.g by the Board of Swedish Industry and Commerce (NNR) (Closed)

Legislation: Article 19 and 28 (EU) No 640/2014

**Burden on business**
The current rules states that area-related non-compliances that are larger than 3 % or 2 ha should lead to administrative penalties. Having two different thresholds for applying administrative penalties have a disproportionate effect on farms. An area-related non-compliance of 2 ha may be less than a non-compliance corresponding to 3 % on a large farm. To only apply the 3 %-threshold is more proportionate.

**Simplification proposal**
Delete the 2 ha-threshold and keep the 3 %-threshold.

Policy Context

1. Definition of an active farmer
In order to resolve a number of legal gaps which have enabled a limited number of companies to claim Direct Payments, even though their primary business activity is not agricultural, the CAP reform tightened the rule on active farmers. A new negative list of professional business activities which should be excluded from receiving Direct Payments (covering airports, railway services, water works, real estate services and permanent sports & recreation grounds) is mandatory for Member States, unless the individual businesses concerned can show that they have genuine farming activity. Member States are able to extend the negative list to include further business activities.

Until 2009, all claimants for direct payments complying with the definition of "farmer" as set by the EU legislation were granted support for their eligible area of agricultural land. This created situations where the public support was granted to entities having land at their disposal but whose agricultural activity was only marginal, for example if their main business was essentially non-agricultural (e.g. railway companies, waterworks, real estates). During the Health Check, a possibility for the Member States to better target the support to "active farmers" was introduced, but only one Member State chose to implement this provision.

Those past situations were criticized by both the general public and the Court of Auditors, affecting the legitimacy and credibility of the CAP. In its Communication on the CAP towards 2020, the Commission proposed to introduce a mandatory mechanism whereby the situation of the applicants for direct support would be evaluated before being granted direct support. As a result of the negotiations, the Member States shall identify the entities operating certain activities and businesses. Those entities are presumed non-active unless they prove that their agricultural activity is not insignificant (Article 9(2) of Regulation (EU) No 1307/2013). Member States also have the possibility to apply a test on all claimants (Article 9(3) of the above-mentioned Regulation).

Smaller part-time farmers are exempted from that targeting, since they contribute to the vitality of rural areas (Article 9(4)).

The system currently defined under Article 9 of Regulation (EU) No 1307/2013 aims at reaching the political objective of better targeting the support by excluding some entities whose agricultural activity is marginal, which complements the targeting mechanism based on area-related eligibility criteria (activity conditions).

2. Application of support – declaration of an active farmer

All information necessary to establish eligibility for the aid shall be included in the single application and by that time the applicant should know if he is covered or not by the list of non-agricultural businesses or activities referred to in the first and second subparagraphs of Article 9(2) of Regulation (EU) No 1307/2013.

3. Definition of permanent sport and recreational grounds

The businesses listed in the first subparagraph of Article 9(2) are not further defined in Regulation (EU) No 1307/2013 and the Commission has no power to further define them.

According to settled case-law, the terms of a provision of EU law which makes no express reference to national law for the purpose of determining its meaning and scope is normally to be given an independent and uniform interpretation throughout the EU. That interpretation must take into account the context and the objective of Article 9(2), i.e. to establish a negative presumption for those businesses which have land at their disposal
but whose activities are typically not (or only to a marginal extent) agricultural.

It is for the Member States to further implement that provision in compliance with the purpose of the active farmer provisions and the general principles of EU law.

The main issues raised so far with respect to the implementation of the negative list concern the terms “real estate services” and “permanent sports and recreational grounds”. In that context, the Commission elaborated a guidance document presented to the Member States in the Committee for Direct Payments (May 2014).

As far as “permanent sport and recreational grounds” are concerned, that guidance document reads: "the negative list aims at targeting specialised operators of permanently existing areas of land with permanent fixtures and/or permanent artificial structures for spectators that are being used for a purpose of sport and recreational activities, e.g. golf courses, race courses, or permanent football pitches. In this context, renting out a horse stable is not, as such, a sufficient condition for being considered as operating a “permanent sport and recreational ground”.

4. Criteria for proving exemption based on agricultural income
In order to rebut a negative presumption, an entity operating an activity of the negative list (Article 9(2) of regulation (EU) No 1307/2013) shall demonstrate that its agricultural activity is not insignificant.

For that purpose, the Commission was empowered to adopt delegated act laying down criteria for proving that agricultural activities are not insignificant and that the principal business or company objects consist of exercising an agricultural activity (Article 13 of Regulation (EU) No 639/2014).

In that context, Member States have different choices in the criteria they want to apply, including the possibility to establish alternative criteria to those already proposed in the Regulation.

In the case a Member State implements a criterion whereby the agricultural income is evaluated in comparison to the income generated by other economic activities, Article 11 of Regulation (EU) No 639/2014 is to be applied (definition of the receipts obtained from agricultural activities).

State of Play: In the context of the Omnibus proposal the Commission addressed the issue of the Active Farmers provision in two ways: introducing flexibility in terms of a reduced number of rebuttal tests and in terms of possibility to render the entire provision optional. The Commission trusts MS in their ability to ensure that CAP payments are targeted to the right beneficiaries. Making the clause optional will in particular allow MS in which the implementation of the clause did not bring any significant result to put an end to it and therefore, not to suffer from a disproportionate administrative burden. On the contrary, Member States in which the provision achieved its objective to better target the payment will have the possibility to continue. The flexibility is provided so that MS can take into consideration their situation to judge whether or not implementing the AF clause is necessary.

5. Access of legal persons to the payment for young farmers
Support to Young Farmers can be granted under both Pillars of the CAP, although
following different forms. Among others:

– Under Pillar I: annual payments for a maximum period of 5 years are granted to Young Farmers having already set up as "active farmers".

– Under Pillar II: lump-sum payment, in at least two instalments, linked to the correct implementation of a business plan are granted to Young Farmers still in the process of setting-up.

While these different entry conditions stem from different mechanisms for granting support under the two pillars, it is also acknowledged that the legislator intended to allow complementary support for the setting-up of young farmers under the two pillars of the CAP. Accordingly, young farmers who have already applied for the specific direct payment top-up can also apply for business start-up support under the second pillar.

During the 2015 simplification exercise in the DA Regulation (EU) 639/2014 a derogation has been introduced from the joint control provision under the Young Farmer Payment. The purpose of providing derogation from the joint control provision is to increase the effectiveness of the Young Farmer Payment, to reduce the administrative burden linked to controls, as well as to align the Pillar 1 provisions for access to YFP with those of Pillar 2.

6. Financial discipline – establish the crisis reserve once

Article 25 of Regulation (EU) No 1306/2013 determines that the reserve for crises in the agricultural sector has to be established each year by applying a reduction rate to direct payments with the financial discipline mechanism. In accordance with Article 26(1) of that regulation the same mechanism can be applied in order to respect the sub-ceiling for market related expenditure and direct payments within heading 2 of the Multiannual Financial Framework (MFF).

In accordance with Article 169(3) of Regulation (EU, Euratom) No 966/2012 (Financial Regulation) and with paragraphs 5 and 7 of Article 26 of Regulation (EU) No 1306/2013, non-committed appropriations related to the actions under shared management of the European Agricultural Guarantee Fund, including the appropriations remaining in the reserve for crisis, may be carried-over, respecting certain limits, to the following year to be reimbursed to the farmers subject to the reduction rate in this new year.

The reduction rate for financial discipline was applied in calendar year 2013 (financial year 2014) to establish the crisis reserve and to respect the MFF sub-ceiling (Council Regulation (EU) No 1181/2013) and in calendar years 2014 and 2015 (financial years 2015 and 2016) only to establish the crisis reserve (Commission Implementing Regulation (EU) No 1227/2014 and Regulation (EU) 2015/1146 of the European Parliament and of the Council).

Reimbursement in accordance with Article 26(5) of Regulation (EU) No 1306/2013 was possible on the basis of the appropriations carried over from financial year 2014 and from financial year 2015, respecting the limit of the amount of financial discipline applied. In accordance with Article 26(6) of Regulation (EU) No 1306/2013, the Commission set the amounts to be reimbursed by each Member State and the deadlines of the eligibility for Union financing of such a reimbursement in respectively Commission Implementing
Regulations (EU) No 1259/2014 and 2015/2094.

In accordance with the current regulations, applying a reduction rate is an annual procedure whereas its reimbursement depends on the presence or not of remaining appropriations available in this context for a carry-over from one financial year to the following one.

7. Administrative penalties area-related support

This provision has been in place before the introduction of the new CAP (Article 58 of Regulation (EC) No 1122/2009).

In case where the difference between the area declared in the single aid application and the area determined after finalisation of the administrative controls and on-the-spot checks is higher than 2 ha or 3% of the area determined, administrative penalties are applicable both for area related aid schemes or support measures and greening payment (Articles 19 and 28 of Regulation (EU) No 640/2014).
**GREENING**

Submission I.10.a by the Board of Swedish Industry and Commerce (NNR) (ADOPTED)

*Legislation: Article 44 and 46 (EU) No 1307/2013*

**Burden on business**

Different minimum hectare thresholds for the two requirements makes the rules more difficult to understand and hence more complex for the farmers. Especially for crop diversification the current thresholds are unfavourable for smaller farms and may increase their costs without any real benefit for the environment. A higher threshold would recognize the diversity that is already delivered by smaller farms.

**Simplification proposal**

The hectare thresholds for derogations from greening should be evaluated and the minimum threshold aligned for the two requirements. Also consider increasing the threshold. One idea is to relate the threshold to the median farm size in the MS.

**Effects of the simplification proposal**

Time-saving, Reduced costs, Increased investments

Submission I.10.b by the Board of Swedish Industry and Commerce (NNR) (ADOPTED)


**Burden on business**

The requirement of proving and controlling the share of different crops within the most relevant cultivation period leads to reduced flexibility for farmers and a barrier for an effective control regime for authorities. The costs and worries that are expected due to the requirement are not proportionate to the rather limited positive effects of the crop diversification rule (effects according to COM’s impact assessment). The cultivation period also differs widely between crops. The requirement does not make it possible to control all eligibility criteria at the same time which is why the on-the-spot-checks have to be made at several visits. This is burdensome for both farmers and administration.

**Simplification proposal**

It should be possible to control crop diversification on the basis of the farmers’ aid application and there must be some flexibility in what kind of evidence that is acceptable to prove the fulfilment of the requirement. Preferably the reference in Article 40 to a specific cultivation period should be deleted.

**Effects of the simplification proposal**

Time-saving, Reduced costs, Increased investments, Reduced uncertainty
Submission I.10.c by the Board of Swedish Industry and Commerce (NNR) (ADOPTED)

**Legislation:** Annex X (EU) No 1307/2013

**Burden on business**
The many different weighting factors make a complex system for calculating the value and size of ecological focus areas. The difference in weighting between some EFAs is not possible to explain. Salix and catch crops/green cover have widely recognized positive impacts on the environment. By giving them the same weighting factor as nitrogen fixing crops the number of factors can be reduced and the unjustified difference between EFAs eliminated.

**Simplification proposal**
Reduce the number of weighting factors by increasing the factor for short rotation coppice and catch crops/green cover to 0.7.

Submission I.10.d by the Board of Swedish Industry and Commerce (NNR) (ADOPTED)

**Legislation:** Article 45 (EU) No 1307/2013

**Burden on business**
There is a risk that the rule on keeping the share of permanent grasslands on national level actually leads to contra-productive behaviour which will reduce the share of permanent grassland. These effects cannot be avoided through regulation. Such effects would mean that the rule is inefficient and lead to undue costs and worries for farmers. Environmentally sensitive permanent grasslands are now protected through the regulation; hence the need to generally maintain permanent grasslands is reduced.

**Simplification proposal**
An assessment needs to be made whether the measure of keeping the share of permanent grassland at a national level is effective. Consider abolishing the requirement on the basis that environmentally sensitive permanent grasslands are now protected.

Submission I.10.e by the Board of Swedish Industry and Commerce (NNR) (ADOPTED)

**Legislation:** COM guidelines on LPIS

**Burden on business**
The current guidance, where fallow arable land covered by grass sometimes can be used as EFAs and other times not, contribute to complexity. It will also lead to actual ploughing of permanent grassland/fallow arable land since it is the only way to be able to use them as EFAs.

**Simplification proposal**
Keep a clear distinction between permanent grassland and arable land by letting fallow arable land be labelled as arable land, independent of cover.
Submission I.10.f by the Board of Swedish Industry and Commerce (NNR) (ADOPTED)

**Legislation:** Article 24-28 (EU) 640/2014

**Burden on business**
The current rules on calculation and reduction of the greening payment are disproportionate and difficult to understand for farmers. The actual reduction or sanction is very hard to relate to the actual non-compliance. Small errors may also lead to unreasonably large reductions. Furthermore, there are no rules on how to apply reductions when farmers are close to fulfilling the exemptions, e.g. the exemption for farmers with more than 75 % grassland. The greening payment is a new system and it will be difficult for farmers to implement it exactly correct in the beginning. Therefore, appropriate tolerances for when to apply reductions should be introduced. For example, it is not reasonable that a farmer that has 74 % grassland, hence being very close to being exempted from a greening requirement shall be punished as if he/she was required to do greening as a whole.

**Simplification proposal**
A more proportionate and transparent model is needed. There should be a separate set of rules for administrative penalties related to fulfilling the derogations

Submission I.10.g by the Board of Swedish Industry and Commerce (NNR) (ADOPTED)

**Legislation:** Article 43-47 (EU) No 1307/2013

**Burden on business**
The greening requirements add substantial complexity to the Direct payments, while the effects and efficiency of the system could be questioned.

**Simplification proposal**
A fundamental review of greening would be welcome, evaluating the costs and benefits of the greening payment, preferable already in 2017 or at least in the view of the next CAP reform. All parts of greening should be evaluated. An evaluation should preferable also include an analysis on how environmental benefits are best achieved within the CAP framework.

**Policy Context**
To enhance the environmental performance of the new CAP a mandatory "greening" payment has been established to support practices beneficial for the climate and environment. Such practices take the form of crop diversification, the maintenance of permanent grassland, and dedicating 5 % of arable land to ecologically beneficial elements (Ecological Focus Areas, EFA).

**Crop diversification**
The crop diversification requirement stems from agronomic studies demonstrating that this practice improves considerably soil quality of arable land, while EFA obligation aims at safeguarding and improving biodiversity on farms.

Further to Article 44 of Regulation (EU) 1307/2013 crop diversification requirement
applies to farmers with over 10 ha of arable land. Up to 30 ha farmers have to grow at least 2 crops and the main crop cannot cover more than 75% of the land. Over 30 ha farmers have to grow at least 3 crops, the main crop covering at most 75% of the land and the 2 main crops at most 95%. The 15ha threshold from which EFA requirement applies is set in Article 46 of the same Regulation.

According to Articles 44 and 46, farmers who already meet the objectives of crop diversification and EFA - because a significant amount of their overall land is grassland or fallow – are exempt. There are also exemptions from one and/or the other obligation for farmers in e.g. a specific geographical location or with specific production (crops under water).

**Permanent Grassland**

The current definition of permanent grassland is set in the basic act under Article 4 h) of Regulation (EU) No 1307/2013 and maintains it as being land used to grow grass and herbaceous forage for more than five years. The court judgment C-47/13 confirms these rules, while it allows farmers to actively manage their grasslands even in case of renewal by ploughing up.

Article 45(1) of Regulation (EU) No 1307/2013 lays down obligations which aim at preserving the permanent grassland areas that contribute most to the protection of the environment and in particular carbon sequestration, biodiversity and soil protection.

Article 45 (1) foresees a full protection for sensitive permanent grassland. Such grasslands, which constitute areas of high environmental interest, are located within but also outside of the Natura 2000 network. For those which are located outside, it is necessary in order to secure their effective protection, to establish a framework for Member States for their designation which should allow them to take account of conditions in the Member State

Article 45 (2) foresees that Member States will ensure the maintenance of ratio of areas of permanent grassland. This ratio does not decrease by more 5 % compared to a reference ratio. This mechanism set at national or regional level aims to avoid a massive conversion of permanent grassland, while it allows to some extent some flexibility at farm level. Some ploughing up is possible at farm level if the ratio has not yet decreased by more than 5 %.

Both obligations should be implemented in synergy.

Based on the current rules and corresponding interpretation, Land Lying Fallow (LFF) cannot be excluded from the application of permanent grassland classification. By definition when land is used to grow grass or other herbaceous forage and it has not been included in the crop rotation for five years or more, this land has to be classified as permanent grassland according Article 4 h) of basic act regulation n° 1307/2013.

In order to provide incentives for the use of LFF under EFA, LFF can be subjected to derogation as soon as the parcel with LFF is declared as EFA. LFF can keep the arable land status when declared as EFA.

**Ecological Focus Areas (EFA)**

The obligation to dedicate at least 5% of arable land to Ecological Focus Areas (EFA) was established to safeguard and improve biodiversity on farms. The legislation (Basic Act i.e. Regulation (EU) 1307/2013, Delegated Regulation 639/2014) establishes a broad range of EFA types, comprising both elements productive and non-productive in nature.
It is for Member States to select EFA types that farmers can use for this purpose.

Each EFA type has been assigned a weighting factor and some of them also a conversion factor. The aim of conversion and weighting factors is to reduce the burden on farmers, to facilitate the measurement of certain EFAs and to take account of different characteristics of individual EFAs. This principle was set up in Regulation (EU) No 1307/2013 while the values of the factors are set out in the annex to Delegated Regulation (EU) No 639/2014 which also established corresponding requirements per EFA type. The said Delegated Regulation, in recital (77), explains that the different weighting factors acknowledge "the differences in terms of importance for biodiversity". So the Delegated Regulation assigned lower weighting factors (below 1) to elements that are productive in nature as compared to elements that are not productive and whose function is, in principle, environmental.

Against this background and as a result of observations by both legislators during the scrutiny period after the adoption of Delegated Regulation No 639/2014, it was decided that the weighting factor for nitrogen-fixing crops initially set at 0.3 should be raised to 0.7 to better reflect its impact on biodiversity (see Recital (1) and (4) of Delegated Regulation No 1001/2014). For reasons of timing and in order not to delay the implementation of Delegated Regulation No 639/2014 this was carried out subsequently by Delegated Regulation No 1001/20.

Administrative penalties
Claim year 2015 is the first year of application of the greening scheme with no feedback yet in its implementation on the ground.

There are no administrative penalties for greening for claim years 2015 and 2016. The administrative penalty must be divided by 5 in claim year 2017 and divided by 4 for 2018 onwards. The system of administrative penalties as established by the co-legislator is thus already more favourable for greening than for other direct payments schemes.

As regards the reductions, for greening this represents a proportional way of calculating the areas which should not be paid because they do not meet the eligibility requirements. The general principle is indeed that, in case of over declaration, the farmer should only be paid for the area found compliant. However, for the greening measures, there is no 1 to 1 relation between the area declared and the area actually found compliant. For ecological focus areas in particular, the greening requirements have to be fulfilled on limited areas but they give right to the greening payment on the whole holding. For instance, for a holding of 100 hectares of arable land, having ecological focus areas on 5 hectares (= 5% of the total area of arable land) will lead to a greening payment for the 100 hectares. Therefore, the way the calculation of the reductions for greening has been established takes this into consideration.

Review of greening
The review of the greening measures after the first year of their implementation was included in the Commission Work Programme for 2016 (Annex II REFIT Initiatives).

In its Declaration of 2 April 2014 (made at the occasion of the adoption of the Delegated Regulation (EU) No 639/2014) the Commission undertook the commitment to evaluate the experience with the implementation of Ecological Focus Areas (EFA) obligation after the first year of application, and looking in particular at administrative burden, simplification of procedures, level playing field and production potential. In addition,
responding to the mission letter by President Junker to Commissioner Hogan to review within the first 12 months the potential for further simplification of the CAP, the exercise took a broader view of other elements of greening. The results of the review were published in a Commission Staff Working Document SWD(2016)218 of 22 June 2016 (CSWD). The document assessed how the system was applied in the first year, identified certain weaknesses that prevent full exploitation of its potential, and considered possible ways forward to remedy them.

As a follow-up, the Commission put forward several changes to Delegated Regulation (EU) No 639/2014 (DR) focusing mostly on EFAs. These aimed to streamline and clarify the relevant rules while increasing their environmental effect. They should become applicable at the latest in 2018 (as of March 2017 the changes are not yet in force).

The initiative came as a fourth wave/package in the ongoing CAP simplification.

Fulfilling a legal obligation set in Article 46(1) of Regulation 1307/2013 (basic act), on 29 March 2017 the Commission also adopted a report on the implementation of the EFA obligation (COM (2017) 152). The Commission's assessment of the implementation of EFAs was linked to the obligation for the Commission to determine whether the minimum threshold for the land reserved at farm level for EFAs should be increased from 5% to 7%. In light of the collected evidence, the Commission decided not to propose increasing the threshold limit.

**Platform Opinion**

Adopted on 19 April 2017
## Rural Development Support

### Submission I.11.a Submission by the Board of Swedish Industry and Commerce (NNR) (ADOPTED)

**Legislation:** Regulation (EU) no 1303/2013 (Common Provisions Regulation)

**Burden on business**

The different ESI funds have different logics and administrative systems. Through harmonization and standardization, simplification will be achieved at all levels, from the administrative level to the end users.

**Simplification proposal**

The Partnership Agreement is the first step towards harmonization.

### Submission I.11.b Submission by the Board of Swedish Industry and Commerce (NNR) (ADOPTED)

**Legislation:** Agricultural legislation (EU)

**Burden on business**

There are a lot of administrative burdens related to control of receipts, costs and proof of payment. The use of lump sums etc. will reduce the error rates, reduce costs related to control and simplify the application process for farmers or other beneficiaries.

**Simplification proposal**

As a general principle it should be possible to apply average or standard costs or lump sums to a larger extent than today.

**Effects of the simplification proposal**

Time-saving, Reduced costs, Increased investments, Reduced uncertainty

### Submission I.11.c Submission by the Board of Swedish Industry and Commerce (NNR) (ADOPTED)

**Legislation:** Regulation (EU) 1305/2013

**Burden on business**

Committing to long term contracts is challenging. One-year contracts lead to simplification for farmers as well as authorities. We also estimate more farmers to join the programme with shorter contracts.

**Simplification proposal**

One-year contracts for agri-environmental commitments.
Submission I.11.d Submission by the Board of Swedish Industry and Commerce (NNR) (ADOPTED)

REGULATION (EU) No 1305/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

Article 33

(Measure fiche Animal welfare Measure 14 Article 33 of Regulation (EU) No 1305/2013)

The regulation of article 33 has a negative impact on the competitiveness between businesses in different countries. Normally it is not possible for businesses to charge for additional values when there is a legal framework behind, even though these measures have a positive influence on animal welfare. First and foremost the costs of production increase for the individual farmers.

At present an animal welfare payment can only be based on measures going beyond national legislation. In order to stimulate Member States to take steps beyond EU-regulation and develop animal welfare we suggest this should be changed.

A change in direction of the article 33 towards equal conditions, in this case of commitments that goes beyond EU mandatory standards and requirements of animal regulation and cross compliance, would have a positive impact on the competitiveness between businesses, strengthen the common market and also support development on a regional basis without lowering animal welfare.

Simplification proposal
Introduce a common baseline according to EU regulation.

Submission I.11.e Submission by the Board of Swedish Industry and Commerce (NNR) (ADOPTED)

Article 28 REGULATION (EU) No 1305/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

National mandatory standards are often set in order to reduce a negative environmental impact. These national standards affects businesses by increasing costs of production and hence the competitiveness on the common market.

The global challenge of increased food consumption and climate effects is important to meet. Food production has to grow and become more effective environmentally.

In order to increase for example pasture lands and stimulate biodiversity it would be desirable to combine agri-environmental-climate payments with animal welfare payments.

Simplification proposal
Introduce an equal baseline for environmental payments and open up for a combination of animal welfare payments and agri-environment-climate payments.
Policy Context

**Harmonization of the ESI funds regarding i.e. organization and reporting**

Regulation (EU) No 1303/2013 of 17 December 2013 (the "Common Provision Regulation" – CPR) defines common principles, rules and standards for the implementation of the five European Structural and Investment Funds: the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund, the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF). The regulatory framework covers the programming period 2014-2020.

The CPR aims at harmonising, as far as possible, implementation rules for the Funds. It defines a common set of thematic objectives and lays down common procedures in a number of areas, such as programming, programme adoption and amendment, monitoring and control. It also harmonises and reinforces the partnership principle and strengthens the result-orientation of the Funds through ex-ante conditionality and the requirement to establish a performance framework. As regards common delivery systems for implementation, it broadens the possibilities for the use of innovative financial instruments.

The EAFRD aligns with the common provisions as defined in the CPR within the above-mentioned remits. Nevertheless, rural development policy is established to accompany and complement direct payments and market measures of the CAP. Therefore, the activities of the EAFRD and the operations to which it contributes should be consistent and compatible with support from other instruments of the CAP. Because of this special situation of being part of the CAP, the Rural Development Regulation (EU) No 1305/2013 only complements the provisions of Part II of the CPR.

The rules for the RD programmes intervention logic are therefore defined in the Fund specific regulation (EU) No 1305/2013 and aligned with the common CAP objectives. In particular, RD programmes should contribute to the achievements of the CAP objectives through six EAFRD Union priorities, using a predefined set of measures. To ensure consistent implementation with the CAP 1st pillar, common provisions for financial management and controls, in particular for the area and animal related measures have been laid down in the CAP Horizontal Regulation (EU) No 1306/2013.

**How to prove costs related to eligibility**

The Common Provisions Regulation (CPR — Regulation 1303/2013) includes options for the ESI Funds to calculate eligible expenditure of grants and repayable assistance on the basis of real costs, but also on the basis of flat rate financing, standard scales of unit costs and lump sums. The CPR builds on and extends the systems currently used for the ESF and the ERDF. Given the differences between the ESI Funds, some additional options are provided for in the Fund-specific regulations.

**One-year contracts for agri-environmental commitments**

Agri-environment-climate commitments are multi-annual commitments which according to Article 28(3) of Regulation 1305/2013 are to be carried out in the initial period for a period of five to seven years. Where it is necessary to achieve or maintain the environmental benefits, longer periods can be established. Annual extension of such contracts is possible. Moreover, new commitments directly signed after the initial periods (of five to seven years) terminate may be signed for a period shorter than five to seven years.
The rule on the multi-annual character of agri-environment-climate commitments is a genuine feature of this measure since the beginning of its implementation. The main reason for maintaining the multi-annual process of those commitments is that environmental benefits and outcomes resulting from the commitments' implementation materialise only after a period of time.

This issue was also raised during the negotiations on the rural development legal framework 2014-2020 when the Commission decided not to propose a shorter period of commitments in the initial period. However, the Commission introduced the possibility of annual extensions and a shorter period of commitments when those follow on directly to the commitments of the initial period.

**Agri-environment climate payments, animal welfare (and other area and animal related measures)**

The current legal framework for rural development provides for a common framework as far as the baseline for relevant area and animal-related measures is concerned. For agri-environment-climate measure such frame is provided in Article 28(3) of R.1305/2013 and includes mandatory standards of cross-compliance, minimum agricultural activities, minimum requirements for fertilisers and plant protection and other relevant national standards. For animal welfare the baseline is provided in Article 33(2) of that Regulation and comprises mandatory standards of cross-compliance and other relevant mandatory standards.

Such a frame establishes already a certain degree of level playing field for beneficiaries of the respective measures in the EU. However, as many of the requirements included in the baseline framework derive from Directives (e.g. Habitats and Birds Directive, Nitrates Directive etc.) or from CAP instruments which allow MS to reflect their specific conditions when defining requirements (see Good Agricultural and Environmental Conditions), thus, it is unavoidable that certain level of differences between Member States in defining the baseline exists. Nevertheless the scope of such differences is limited by the above-mentioned framework of the baselines.

With regard to the possibility to combine agri-environment-climate measure and animal welfare measure, such a combination is already possible under the provisions of Article 11 of R.808/2014 while respecting all the conditions associated with such a combination including exclusion of double funding.

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**Platform Opinion**

Adopted on 7 June 2017
FARM SUBSIDIES REFORM

Submission I.12.a by Finnish Government Stakeholder Survey on EU legislation (ADOPTED)

FI authorities have conducted a survey on how EU legislation is perceived amongst public administration, business and stakeholders. Based on the feedback (over 50 organizations), a summary of forty examples of EU legislation rising certain concerns was compiled.

The new requirements introduced in the connection with the farm subsidies reform (e.g. greening payment and active farmers, Commission delegated regulation 639 and regulation 1307/2013) have complicated the agricultural support system and resulted in additional costs incurred by both farmers and administrators due to new inspection, registration and recording obligations. Some of the requirements interfere with the conduct of regular farming business.

Policy Context

To enhance the environmental performance of the new CAP a mandatory "greening" payment has been established to support practices beneficial for the climate and environment. Such practices take the form of crop diversification, the maintenance of permanent grassland, and dedicating 5% of arable land to ecologically beneficial elements (Ecological Focus Areas, EFA).

In order to resolve a number of legal gaps which have enabled a limited number of companies to claim Direct Payments, even though their primary business activity is not agricultural, the CAP reform tightened the rule on active farmers. A new negative list of professional business activities which should be excluded from receiving Direct Payments (covering airports, railway services, water works, real estate services and permanent sports & recreation grounds) is mandatory for Member States, unless the individual businesses concerned can show that they have genuine farming activity. Member States are able to extend the negative list to include further business activities.

Depending on the national/regional decisions taken pursuant to Article 9 of the CAP Basic Act, the implementation of the active farmer provision throughout the European Union can vary a lot from one Member State to another. Article 9(6) of the basic act offers to Member States the possibility to review any of those decisions, at any moment, provided that EU general principles, such as legitimate expectations and non-discrimination, are respected. Therefore, the administrative burden generated by the implementation of the active farmer provisions for both the national administrations and the farmers also depends on the Member States’ implementation choices.

State of Play

The Commission has already taken actions to assess the performance of the greening and active farmer provisions.

1) The review of the greening measures after the first year of their implementation has been included in the Commission Work Programme for 2016 (Annex II REFIT Initiatives).
In its Declaration of 2 April 2014 (made at the occasion of the adoption of the Delegated Regulation (EU) No 639/2014) the Commission undertook the commitment to evaluate the experience with the implementation of Ecological Focus Areas (EFA) obligation after the first year of application, and looking in particular at administrative burden, simplification of procedures, level playing field and production potential. In addition, responding to the mission letter by President Junker to Commissioner Hogan to review within the first 12 months the potential for further simplification of the CAP, the exercise will take a broader view of other elements of greening. The initiative comes as a fourth wave/package in the ongoing CAP simplification.

The Commission is in this context preparing a modification of Delegated Regulation (EU) No 639/2014 (DR) and possibly Implementing Regulation (EU) No 641/2014 (IR). The rationale of these regulatory modifications will be explained in a Staff Working Document (SWD) which will also follow up on the other commitments included in the declaration. The initiative is scheduled for the 2nd quarter of 2016.

The objective of the review is to identify and adjust certain technical elements set in DR and IR which are burdensome for farmers and/or national administrations and/or where they are overlapping or inconsistent, without affecting the environmental objectives of the greening. It will be done in keeping with the principles for simplifying the CAP set by Commissioner Hogan: that the basic choices of the 2013 CAP reform should not be touched, that it focuses on farmers and that the sound financial management is not affected. The Commission is now gathering evidence and experience from Member States and stakeholders and finalises its own analysis.

The Commission will also carry-out a full-fledged evaluation of the Ecological Focus Areas (EFA) linked to a legal obligation to present an evaluation report by 31 March 2017 assessing the need to increase the EFA requirements from 5% to 7% in the relevant Basic Act. This evaluation report needs to be accompanied by a possible proposal for amendments to the Basic Act.

2) As regards active farmers, a preliminary assessment of the performance of the active farmer provisions has been done. This assessment is based on the facts and figures stemming from the Member States' notifications in respect of the active farmer provisions (due by 01.08.2014) and from almost 2 years of exchanges with the Member States regarding their decisions.

Besides, a workshop on the implementation of the clause was held on 27 October 2015 in the framework of the expert group on direct payments. Member States were invited to share their experience at this occasion through their participation to round tables. In this framework, the Commission has gathered first results in respect of the first year of implementation on the basis of a questionnaire. Although sometimes partial, those preliminary feedbacks by Member States provided an interesting overview of the result of the active farmer provisions at EU level.

All this information enables to have a clearer view of the strengths and weaknesses of the existing provisions and to analyse possible options for the future.

**Platform Opinion**

Adopted on 7 June 2017
# Report of Cattle (Bovine Animals) Movements and Definition of Holding

Submission I.13.a by the Board of Swedish Industry and Commerce (NNR)


Grazing and cattle movements in Sweden

The legislation of registration of movements of bovine animals when put out to seasonal grazing is a huge administrative burden.

Farms in Sweden often have farming lands and pastures in several different places on a distance from the main holding. These pastures are therefore regarded as separate holdings. To maintain good animal welfare and management of pasture lands, animals are frequently moved, which results in several updates each season. Each movement outside the main holding needs to be reported.

When there is an epidemic outbreak

In case of an outbreak of an epidemic disease, even with the existing regulation, there is a need of a fresh up date of all cattle’s locations before any action can take place. To reduce ongoing infectivity, all cattle owned by the same person or business, should still need to be regarded as one epidemiological unit. Furthermore in case of an outbreak, neighbouring animal holders will still need to be contacted. Existing regulations are therefore creating a false security.

Negative influence of the legislation

Cattle holders with many different pastures have an increased risk of sanctions compared to cattle holders with only one holding. The negative impact i.e. the administrative burdens and higher risk of sanctions results in less grazed areas. There is a demand of grazing animals but due to complex administration many landowners and cattle holders hesitates to increase the grazing areas.

An increased area of grazing and also the possibility to on an annual basis swap grazing areas with farmers with e.g. sheep is good for biodiversity due to the fact that different animals has different grazing strategies. But also to reduce parasite infection, since those seldom infests different kind of animals.

Aim of the legislation

The legislation must of course secure traceability and control of epidemic diseases. That is in everybody’s interest. But it is also important that the legislation is relevant, without giving a false security as it does today. Risk classification in relationship to administrative burden is needed.

It is important that legislation supports active farming and extra work to further improve a high animal welfare, instead of increasing the administrative burdens on farming businesses with a complex production.

There will be no reduced traceability if the farmers only report annually in advance...
which grazing areas that will be in use during the forthcoming grazing season as long as there is one main holding and no change in ownership. The system will still contain up to date information on all animal holders with contact information and holdings in use. And in case of an outbreak of an epidemic disease, there will be no extra administration for authorities, since every outbreak demands a fresh up date of each cattle.

The Commission should leave an explanation to why and when, not all cattle with the same cattle holder could be treated as one epidemic unit. The existing regulation indicates that location of each holding is more important than ownership. If animal holders’ all cattle is regarded as one unit, there is no need to demand reports of each movement between pastures.

The work with the delegated act according to article 22b concerning the member states which has special rules regarding grazing is extremely important. The administrative burdens on dairy farms are enormous and it is important to decrease the burden. With complex farming in combination with hard work and unstable finances the amount of farms with animals are decreasing fast. On a long term scale this will have a negative effect both on the world production of food but also on the development of rural areas.

Simplification proposal

A new definition of holdings connected to stable areas.

A sub definition of holdings for pastures which are connected to holdings at the stable areas.

A less complex regulation for animals which are moved to pastures without change of ownership. A reasonable level of administration would be that the cattle holder each year report which grazing areas that will be used during the forthcoming season. There should also be a possibility to add areas during grazing season.

Policy Context


The amendments concern the obligation to identify animals and traceability; identification of animals from third countries, identification of animals moved from one Member State to another; removal, modification or replacement of means of identification; compulsory labelling of beef and beef products.

Regulation (EU) No 653/2014 removed the requirement for cattle passports for domestic use. According to Article 23 of the regulation, the Commission shall submit to the European Parliament and the Council the corresponding reports dealing with the implementation and impact of this Regulation including, in the first case, the possibility of reviewing the voluntary labelling provisions by July 2019, and, in the second case, the technical and economic feasibility of introducing mandatory electronic identification throughout the Union by July 2023.
USE OF LEGAL TERMS

Submission I.14.a by the Board of Swedish Industry and Commerce (NNR) (Closed)

<table>
<thead>
<tr>
<th>Legislation: Agricultural legislation (EU)</th>
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<tbody>
<tr>
<td>Burden on business</td>
</tr>
<tr>
<td>Sometimes the legal texts are unclear and difficult to understand due to the use of technical legal terms. Clear legal texts will reduce the risk for misunderstandings.</td>
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<tr>
<td>Simplification proposal</td>
</tr>
<tr>
<td>The use of technical legal terms should be avoided, for example the terms “Ipso facto” and “pro-rata” should be avoided.</td>
</tr>
<tr>
<td>Effects of the simplification proposal</td>
</tr>
<tr>
<td>Time-saving, Reduced costs, Increased investments, Reduced uncertainty</td>
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</table>

Policy Context

The concern with improving the quality of legislation is reflected in the text of the Interinstitutional Agreement on better law-making between the Commission, the European Parliament and the Council that was signed and entered into force on 13 April 2016.
COMMISSION IMPLEMENTING REGULATION

Submission I.15.a by the Finnish Survey for Better Regulation

FI authorities have conducted a survey on how EU legislation is perceived amongst public administration, business and stakeholders. Based on the feedback (over 50 organisations), a summary of forty examples of EU legislation rising certain concerns was compiled.

The administrative burden and requirements imposed on the farmers by the rules concerning the integrated administration and control system for farm subsidies (Commission Implementing regulation 809/2014) are in many respects unreasonable. Compliance monitoring should be developed more on a risk basis. It should also be possible to use national funding for advanced support payments.

Policy Context

According to the principle of shared management, Member States must take the necessary measures to ensure that transactions financed by the European Agricultural Guarantee Fund (EAGF) are not only actually carried out but are also implemented correctly. Furthermore, Member States must prevent irregularities and take the appropriate action if they do occur. For this purpose, the national authorities are required to operate an Integrated Administration and Control System (IACS) in order to ensure that payments are made correctly, irregularities are prevented, revealed by controls, followed up and amounts unduly paid are recovered.

IACS is the most important system for the management and control of payments to farmers made by the Member States in application of the Common Agricultural Policy. It provides for a uniform basis for controls and, among other requirements, it covers the administrative and on-the-spot controls of applications and the IT system which supports the national administration in carrying out their functions.

IACS is operated in the Member States by accredited paying agencies. It covers all direct payment support schemes as well as certain rural development measures. Furthermore, it is also used to manage the controls put in place to ensure that the requirements and standards under the cross-compliance provisions are respected.

Under the new CAP the legal requirements concerning IACS are laid down in REGULATION (EU) No 1306/2013 on the financing, management and monitoring of the common agricultural policy (so-called "Horizontal" Regulation) and in Commission Implementing regulation 809/2014 laying down the implementing rules.

Based on this legal framework, to assure effective controls, whilst the administrative controls are carried out on all aid applications, the control sample in respect of the on-the-spot checks (OTSC) is done on the basis of sampling methodology which should comprise a random part, in order to obtain a representative error rate, and, for some schemes, a risk part, which shall target the areas where the risk of errors is the highest.

The random sample allows an estimate of the background level of anomalies in the system as well as an assessment of the effectiveness of the criteria being applied for risk
Paying advances for direct support on national funds is a practice that has started to emerge in 2015 in certain Member States. Being a question of national funding, this issue is outside the scope of the CAP's IACS.
LANDSCAPE AND BIOTOPE PRESERVATION

Submission I.16.a by a citizen (LTL 425)

Nature conservation; main focus: landscape and biotope preservation
As part of our forestry business (around 100 hectares), we manage a 38 hectare nature reserve. The entire wooded area is a Natura 2000 FFH SPA landscape protection area. The funding guidelines are no longer clear and user-friendly, and one needs a detailed knowledge of administrative law to understand them. Since the guidelines are no longer clear, I am unable to make any suggestions on how to change them! No funding approval decisions have been issued yet in Saxony for 2015. I put in time and effort, but now all I am left with is my application and the costs I incurred. I have not yet given up hope, but it is dying fast. Despite the fact that we are very keen to do our bit for nature conservation/landscape preservation, we cannot receive funding under the guidelines. We do not receive any funding at all for forestry activities. The rules in Saxony are tailored to the owners of large forests. It would make sense to label the funding guidelines as 'SUITABLE ONLY FOR OWNERS OF LARGE FORESTS'. This would at least save the owners of small forests from wasting their time trying to understand the unclear guidelines. Land consolidation in agriculture has already reached alarming proportions. If the owners of small forests are eradicated, which is the direct and indirect objective of Saxon forestry policy, then the local population's connection with the land will be lost. Following the 2008 forestry reform, I no longer have any professional contact with one of the two forestry authorities. Up until 2008 our professional cooperation was excellent. This is NOT due to the forestry authorities' employees, but rather to the unwieldy administrative structure that has been in place since 2008.

Annex (please right click to open)

Policy context

Rural development funds can support the implementation of sustainable forest management by the Member States. Co-financing of forestry measures under the Rural Development Regulation represents the main means of EU-level funding for forests.

There are 118 different rural development programmes (RDP) in the 28 Member States for the 2014-2020 period, with 20 single national programmes and 8 Member States opting to have two or more (regional) programmes.

Under the basic rules for the financial management of the Common Agricultural Policy, the Commission is responsible for the management of the rural development funds. However, the Commission itself normally does not select projects for financing nor does it make payments to beneficiaries. According to the principle of shared management, this task is delegated to the Member States, who themselves work through national or regional paying agencies. The expenditure made by the paying agencies is then reimbursed by the Commission to the Member States.

Complements and clarifications of the information on burden on business and of the effects of some of the agricultural proposals presented in the NNR compilation of its members (in particular the Federation of Swedish Farmers) proposals for improvements of EU-legislation, “Proposals for improvements of EU legislation”, October 2015.

1. Definition of an active farmer

Legislation
Article 9 (EU) No 1307/2013

Burden on business
The current definition of an active farmer increases the administrative costs for both farmers and authorities. The cost-effectiveness of the definition is questioned. It is very important that support from the CAP is targeted to active farmers. However, a negative list might not be the most appropriate way of targeting the support. First of all, the negative list might affect farmers that have diverse activities at the farm, for example an active farmer that also has some kind of sport activity at the farm.

Secondly, we already have rules on how to exclude ineligible land from support, such as golf courses or racing courses. The ongoing milk crisis reveals how important it is for farmers to have more than one source of income.

The rule forbids farmers from investments expanding their business into, for example, the sports- and recreational sector as well as the sector of real estate. Non-compliance also disqualifies the person from the most important farm subsidies, without which an average farm cannot be managed with profit. This is and should be a great cause of concern for the farmers and other stakeholders.

Simplification proposal
There is a need to thoroughly evaluate the cost-effectiveness of the definition. It should be considered if the negative list could be deleted or made voluntary for Member States to apply.

Effects of the simplification proposal
Time-saving
Reduced costs
Increased investments
Reduced uncertainty

2. Greening – simplify the crop cultivation period

Legislation
Article 40 (EU) No 639/204 and the proposal on control regime for greening in Article 24 and 26.4 in (EU) No 809/2014.

Burden on business
The requirement of proving and controlling the share of different crops within the most relevant cultivation period leads to reduced flexibility for farmers and a barrier for an effective control regime for authorities. The costs and worries that are expected due to the requirement are not proportionate to the rather limited positive effects of the crop
diversification rule (effects according to COM’s impact assessment). The cultivation period also differs widely between crops. The requirement does not make it possible to control all eligibility criteria at the same time which is why the on-the-spot-checks have to be made at several visits. This is burdensome for both farmers and administration.

**Simplification proposal**

It should be possible to control crop diversification on the basis of the farmers’ aid application and there must be some flexibility in what kind of evidence that is acceptable to prove the fulfilment of the requirement. Preferably the reference in Article 40 to a specific cultivation period should be deleted.

**Effects of the simplification proposal**

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Time-saving:</td>
<td>With less dates/periods the farmer has more flexibility to adjust to the current situation and can achieve a more effective and profitable production. Less “downtime” in the production, awaiting for certain dates to come or pass.</td>
</tr>
<tr>
<td>Reduced costs:</td>
<td>In effect less income forgone. Increased possibilities for the farmer to optimize the production or even to include an extra crop/harvest, after the main crop or between two crops.</td>
</tr>
<tr>
<td>Increased investments:</td>
<td>Increased profit would enable investment in maintenance and investments in more competitive technology for better profitability in the future.</td>
</tr>
<tr>
<td>Reduced uncertainty:</td>
<td>Greening and other payments to farmers consists of a lot of separate conditions. Mistakes resulting in non-compliance with one of these conditions may invoke considerable reductions of the payment, even if there were no profit in or harm caused by the non-compliance. Every decrease in conditions will bring a much welcomed reduction of the risk (income forgone) and uncertainty for the farmer.</td>
</tr>
</tbody>
</table>

3. **Greening – reduce the number of weighting factors**

**Legislation**

Annex X (EU) No 1307/2013

**Burden on business**

The many different weighting factors make a complex system for calculating the value and size of ecological focus areas. The difference in weighting between some EFAs is not possible to explain. Salix and catch crops/green cover have widely recognized positive impacts on the environment. By giving them the same weighting factor as nitrogen fixing crops the number of factors can be reduced and the unjustified difference between EFAs eliminated.

The complexity in calculating the weighting factors demands for the larger farms to consult expertise, which increases the costs. The system with different weighting factors increases the amount of regulation and complicates the application since most farmers tries to eliminate spatial errors.

**Simplification proposal**

Reduce the number of weighting factors by increasing the factor for short rotation coppice and catch crops/green cover to 0.7.
Effects of the simplification proposal

Time-saving: Aligned weighting factors would increase the possibility for the farmer to directly estimate the impacts of different choices and changes, without consulting expert- or technical assistance.

Reduced costs: Less time consulting experts or using technical assistance for the management of the farm, should be considered as a reduced cost in this context.

Increased investments: More efficient farming enables better profitability which in many cases will result in investments in the farm.

Reduced uncertainty: Less complicated calculations reduces the risk for errors and makes the impact of a non-compliance more obvious, which decreases the farmers’ worries and uncertainty.

4. Simplify the regulation on maintenance of permanent grassland

Legislation
Article 45 (EU) No 1307/2013

Burden on business
It’s questionable if there actually was a general tendency that permanent grassland was plowed (resulting in sequested carbon released), except in a few cases/regions. Sweden has experienced an opposite trend. There is a risk that the requirement to keep the share of permanent grasslands on national level actually leads to contra-productive behavior. Since the requirement were published, there has been reports of unnecessary plowing in order to avoid that land is classified as permanent grassland, in order to preserve the possibility to include the land in crop rotation and its market value as arable land. A leaseholder might also be liable for damages, if the land goes from being arable to permanent grassland, due to decreased market value of the land. Such effects mean that the rule is unpredictable and in worst case contra productive, and might lead to undue costs and worries for farmers. The protection should be focused on environmentally sensitive permanent grasslands, removing the general requirement to maintain the ratio of permanent grassland on individual farm/holding level.

Simplification proposal
An assessment needs to be made whether the measure of keeping the share of trivial permanent grassland at a national level is needed and efficient. Consider abolishing the requirement on trivial permanent grassland, on the basis that environmentally sensitive permanent grassland is protected by the current regulation and other directives (birds/habitat).

Effects of the simplification proposal

Time-saving: Abolishment, especially of contra productive requirements, will save time for farmers by increased possibilities for a rational use of the land at their disposal. No time will be needed for preventive plowing.

Reduced costs: Less preventive plowing, more rational use of the land at their disposal and less risk for liabilities for leaseholders will reduce the costs for farmers.
Increased investments: Better availability of land for other crops than grass, will stimulate investments, when there is a profitable market for products from arable land.

Reduced uncertainty: The present requirement to preserve trivial permanent grassland is applicable retroactively, demanding that farmers restore arable land to grassland when the share drops below a certain limit. This creates uncertainty for the farmers.

5. Administrative penalties area-related support

Legislation
Article 19 and 28 (EU) No 640/2014

Burden on business
The current rules lacks a reasonable tolerance for negligible non-compliances (area related), for farms large enough to be competitive on the market. For example a farm of 400 hectares only has a tolerance of totally 0,5 % (2 hectares). A few minor mistakes on a farm of that size will soon add up to a total above the tolerance. Administrative sanctions often delay the payment of the aid, even if the non-compliance is small, generating cash flow problems for the farmer.

Smaller farms (< 67 hectares) have a 3 % tolerance, which is more reasonable. Having two different thresholds for applying administrative penalties favors small farms and is unfavorable for farms of a competitive size, which is bad for the whole sector. To only apply the 3 %-threshold gives equality and is preferable.

Simplification proposal
Delete the 2 ha-threshold and keep the 3 %-threshold.

Effects of the simplification proposal
Time-saving: A reasonable tolerance makes it unnecessary for the farmer to spend an unreasonable amount of time to avoid negligible non-compliances.

Reduced costs: Time saved with a reasonable tolerance should be regarded as reduced costs in this context. Better cash flow should reduce the farmers’ costs for interest.

Increased investments: Better cash flow, decreased costs and more efficient time-management should allow for more investments.

Reduced uncertainty: Less risk for delayed payments and administrative sanctions for negligible mistakes reduces the uncertainty for the farmer.

6. Calculation, reductions and penalties of greening payment

Legislation
Article 24-28 (EU) 640/2014

Burden on business
The current rules on calculation and reduction of the greening payment are disproportionate and difficult to understand for farmers. The actual reduction or sanction is very hard to relate to the actual non-compliance. Small errors may also lead to unreasonably large reductions. Furthermore, there are no rules on how to apply reductions when farmers are close to fulfilling the exemptions, e.g. the exemption for
farmers with more than 75% grassland. The greening payment is a new system and it will be difficult for farmers to implement it exactly correct in the beginning. Therefore, appropriate tolerances for when to apply reductions should be introduced. For example, it is not reasonable that a farmer that has 74% grassland, hence being very close to being exempted from a greening requirement shall be punished as if he/she was required to do greening as a whole.

**Simplification proposal**
A more proportionate and transparent model is needed. There should be a separate set of rules for administrative penalties related to fulfilling the derogations. Introduction of suitable tolerances for when to apply reductions. Introduce a 3 year period, within which several non-compliances must have occurred in order to be regarded as repeated.

**Effects of the simplification proposal**
Time-saving: A support system with many conditions and an obvious risk for considerable reductions/sanctions, even for small non-compliances, forces the farmers to invest unreasonable much time, effort and energy in ensuring compliance with minor details instead of using it for effective production. Also, in case of non-compliance, much effort goes into legal complaints when the reduction/sanction is considered to be out of proportion compared to the non-compliance.

Reduced costs: Income forgone by the reduction/sanction should be regarded as a cost in this context. A more proportionate system for reductions/sanctions will reduce income forgone.

Increased investments: More focus on issues that are important for efficient farming, and less costs, enables investments in maintenance and new technology for better profitability in the future.

Reduced uncertainty: There is a lack of transparency and predictability due to complicated calculations, which makes the farmers uncertain and worried, taking their focus off efficient farming.

7. **One-year contracts for agri-environmental commitments**

**Legislation**
Regulation (EU) 1305/2013

**Burden on business**
Committing to long term contracts is challenging. One-year contracts lead to simplification for farmers as well as authorities. It is quite possible that more farmers will commit for a longer time in the end by repeated annual commitments, than from multiannual commitments, satisfied by the possibility to make changes the next year. We also estimate more farmers to join the scheme with shorter contracts.

Annual commitments seem especially suitable for schemes combining different objectives, for example pasture lands and stimulation of biodiversity. For a scheme like that it would be desirable to combine agri-environmental-climate payments with animal welfare payments on an annual basis.
Simplification proposal
One-year contracts for agri-environmental commitments.

Effects of the simplification proposal
Reduced costs: Better possibilities for the farmers to adjust the costs of commitments to the economic trends, realities and opportunities.
Increased investments: Increased investments should be an effect from better possibilities for the farmers to adjust the costs/profitability of commitments to the economic trends, realities and opportunities.