Draft Commission Delegated Regulation (EU) …/... of XXX amending Delegated Regulation (EU) No 639/2014 as regards certain provisions on the green direct payment, the payment for young farmers in control of a legal person, the calculation of the per unit amount in the framework of voluntary coupled support, the fractions of payment entitlements, certain notification requirements relating to the single area payment scheme and the voluntary coupled support, the control measures regarding the cultivation of hemp, and amending Annex X to Regulation (EU) No 1307/2013 of the European Parliament and of the Council

DISCLAIMER

This working document has been prepared by DG AGRI staff in order to facilitate the discussion in the joint Expert Group for Direct Payments. It has not yet been subject of an inter-service consultation nor revised by the Legal Service.

COMMENTS:

- All: revised title, preamble (references to legal base) and explanatory memorandum (new element) not in tch

- Greening part: comparison (tch) with the version submitted to Expert group on 25/08 (doc. DS/EGDP/2016/04 rev 1); formatting changes in annex not shown as tch

- Elements relating to young farmers scheme, voluntary coupled support, notification requirements for SAPS and VCS: comparison (tch) with the version submitted to the Expert group on 25/08 (doc. DS/EGDP/2016/03-Rev1)

- Hemp related changes: comparison (tch) with the version submitted to the Expert group on 28/09 (doc. DS/EGDP/2016/06)
COMMISSION DELEGATED REGULATION (EU) …/…

of XXX

amending Delegated Regulation (EU) No 639/2014 as regards certain provisions on the green direct payment, the payment for young farmers in control of a legal person, the calculation of the per unit amount in the framework of voluntary coupled support, the fractions of payment entitlements, certain notification requirements relating to the single area payment scheme and the voluntary coupled support, the control measures regarding the cultivation of hemp, and amending Annex X to Regulation (EU) No 1307/2013 of the European Parliament and of the Council
EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 1307/2013 ('basic regulation' hereafter) establishes rules for direct payments to farmers under support schemes within the framework of the common agricultural policy (CAP). The regulation empowers the Commission to adopt delegated acts amending and/or supplementing a number of non-essential elements of the regulation. This was done in Commission Delegated Regulation (EU) No 639/2014 ('delegated regulation' hereafter).

The present act covers several distinct amendments (Young Farmer Payment, Voluntary Coupled Support, Single Area Payment Scheme, Basic Payment Scheme, Payment for agricultural practices beneficial for the climate and the environment also referred to as 'Greening', eligibility of areas under hemp) of the respective provisions of the delegated regulation. The amendments to the greening elements of the delegated regulation follow a targeted review of the implementation of the greening after the first year of application. The remaining amendments are rather technical, aiming at simplifying and/or clarifying existing rules.

1.1. Greening

Green direct payments account for 30 per cent of EU Member States’ annual ceilings for direct payments. They take the form of an annual payment per eligible hectare conditional on farmers respecting three simple, generalised, non-contractual and annual actions that are beneficial for the environment and climate change. These 'standard greening practices' are: ecological focus area (EFA) covering 5 % of arable area; crop diversification; maintenance of permanent grassland including a protection of environmentally sensitive permanent grassland. In certain cases, farmers may apply equivalent practices, also defined in the basic regulation, as alternatives to the standard practices. The delegated regulation specifies and supplements certain technical parameters, definitions and methods concerning greening practices.

When the delegated regulation was adopted, the Commission committed itself to review one feature of the green direct payment scheme — ecological focus areas (EFA) — in the light of the experience gained after the first year of its application and looking into administrative burden arising from the new rules; the impact on the level playing field for farmers of implementation by Member States; and the impact on production potential.\(^1\) The review, conducted in the framework of simplifying CAP, took a broader view of other elements of greening with a double objective of facilitating the implementation of greening by farmers and public administrations and increasing its acceptance while improving the scheme's environmental performance. Commission Staff Working Document of 22 June 2016\(^2\) (CSWD) 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. These included: better specification and/or clarification of what is required from farmers, eliminating certain technical requirements which proved burdensome without providing environmental value added, providing more flexibility for farmers.

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\(^1\) Commission declaration of 2 April 2014; [http://ec.europa.eu/agriculture/newsroom/161_en.htm](http://ec.europa.eu/agriculture/newsroom/161_en.htm)

\(^2\) SWD(2016) 218 final
and/or alternative solutions where this would increase the environmental and climate benefit or greening and certain harmonisation of requirements and conditions.

1.2. Young Farmer Payment
The aim is to ensure clarity as to the fact that legal and natural persons applying for the young farmer payment should be treated equally.

1.3. Single Area Payment Scheme
The aim is to simplify the notification requirements of Member States.

1.4. Voluntary Coupled Support
The aim of the amendment is twofold: on one hand to simplify the notification requirements of Member States, on the other hand to clarify the rules applicable to the calculation of the 'per unit amount' of support.

1.5. Fraction of payment entitlements
The aim is to clarify that for the purpose of Article 31(1)(b) of Regulation (EU) No 1307/2013 a whole payment entitlement and a fraction of payment entitlement are treated equally as regards their activation on an area of a lower size than the corresponding payment entitlement or fraction of payment entitlement.

1.6. Hemp
The aim is to transfer the content of Article 45 and the Annex of Commission Implementing Regulation (EU) No 809/2014 to Commission Delegated Regulation (EU) No 639/2014 since it rather falls under the empowerment in Article 35(3) of Regulation (EU) No 1307/2013. The aim is also to adapt those provisions to take into account the special characteristics of the hemp cultivated as catch crop.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT
The stakeholder consultation for the targeted review of the greening legislation began in early 2015 and continued to mid-April 2016. The consultation approach involved using available information from the CAP simplification exercise and existing discussion fora with relevant stakeholders on the one hand and activities specifically designed to fit the purpose of the targeted review of greening secondary legislation on the other. An important source of information was a set of contributions prepared by other EU institutions and Member State administrations in the context of discussions on CAP simplification. Annex 5 to the above mentioned CSWD details these consultation activities and summarises the input received from a broad spectrum of stakeholders. The overview of the results of a dedicated online survey that the Commission run from 15 December 2015 to 8 March 2016 is also available on Europa website.³

Consultation involving Member States' greening experts continued in expert group format on the basis of a draft delegated regulation (containing 'greening' elements) presented by Commission services. Three meetings have taken place: on 6 and 18 July and on 25 August 2016. Commission services clarified a number of issues and

replied to questions posed by experts. The draft was then refined in light of experts' observations made in the meetings or submitted in writing.

In parallel, as regards the issues other than greening elements, the draft was presented to the Member States in the framework of the expert group for direct payments meetings held on 29 June 2016 and on 25 August 2016. The draft was welcomed by Member States, who either raised no further substantial comments or raised comments which could be addressed in the final version.

For the amendments related to the cultivation of hemp, the expert group for direct payments was consulted on 28 September 2016. The draft was welcomed by Member States, who raised no further substantial comments.

The combined version of all the amendments was presented to the expert group for direct payments on 21 October 2016.

When convening the Expert Group meetings the draft versions of the present act (separately the greening and the non-greening related parts) were also transmitted to the European Parliament and to the Council.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

3.1 Greening

3.1.1 Crop diversification

Article 40 of Delegated Regulation (EU) No 639/2014 specifies how to calculate shares of different crops for the purpose of meeting the crop diversification requirement and how to consider crops composed of different species (mixes). The requirement has to be met by farmers in the so-called 'crop diversification period' established by Member States. It is proposed to add an option for Member States to differentiate this crop diversification period at (sub-) regional level to take into account diverse climatic conditions within their territory. In addition, to simplify the declaration of crops for farmers, there should be a possibility for farmers to declare crops grown on small area as a mixed (single) crop.

3.1.2 Ecological Focus Area

Article 45(2) of Delegated Regulation (EU) No 639/2014 specifies that there shall be no agricultural production on land lying fallow for the purpose of counting it as EFA. It is proposed to state explicitly the duration of this restriction while taking into account the need to allow farmers resuming main crops before the end of year. This amendment reflects the interpretation that had already been provided to Member States.

In Article 45(4), (5) and (7) of Delegated Regulation (EU) No 639/2014 which stipulate rules for several EFA types, changes are proposed to merge their definitions and/or align the associated conditions. Within the limits of the list set in Regulation (EU) No 1307/2013, it is proposed to group various strips of land on the one hand and elements containing trees on the other. It will also be clarified how to calculate elements that exceed the maximum dimensions set in the same Article. Such changes should reduce the complexity that farmers encounter in distinguishing these EFA types and will also allow them to count as EFAs environmentally valuable features so far excluded due to their exceeding dimensions.
A new paragraph (5a) in Article 45 is proposed to clarify and specify the concept of 'adjacency' of EFA landscape features and to allow counting as EFAs further environmentally valuable elements connected to farmer's areas.

In Article 45(8) concerning areas with short rotation coppice, it is proposed to clarify that Member States shall establish requirements for the use of input (fertilisers or plant protection products) where any one of these inputs is not banned.

Further to the proposed changes to Article 45(9), the 1 October 'at the latest' deadline for sowing catch crops or green cover will be replaced by a mandatory minimum duration of these crops/green cover. It will be for Member States to establish concrete timeline applicable at national or sub-national level. The reasons are twofold: better environmental effectiveness and greater flexibility for Member States to consider seasonal weather conditions.

Changes to Article 45(10) will allow for the purpose of this EFA sowing mixtures of nitrogen-fixing crops with other crops on condition of predominance of the former. So far, only pure nitrogen-fixing crops are possible but this does not reflect certain traditional cultivation practices of the nitrogen-fixing crops that require their mixing with other crops. In addition, the requirement for Member States to set up rules on where this EFA type may be grown should be removed. The requirement aimed to address the risk of potential nitrogen leaching, however proved to be overlapping with Member States rules implementing EU nitrate and water legislation. Instead, it is proposed to clarify that Member States may continue addressing the issue of potential nitrate leaching by setting relevant production methods.

Other modifications to Article 45(9) and (10) on catch crops/green cover and nitrogen-fixing crops, respectively, aim to align their treatment in the context of equivalent practices in order to ensure equal treatment of farmers applying standard and equivalent practices.

A new paragraph (10a) in Article 45 will clarify the meaning of the 'no-production' requirement applicable to certain EFA types in terms of what is required from farmers and how this restriction relates to rules under other CAP instruments.

By adding a new paragraph (10b) to Article 45 it is proposed to ban completely the use of plant protection products on some EFAs. It is motivated by the need to improve the environmental effectiveness of greening and, in particular, to maximise EFA's biodiversity's effect.

The table in Annex X to Regulation (EU) No 1307/2013 listing EFA types and applicable weighting and conversion factors should be modified to reflect the changes introduced by the present act to provisions concerning EFA types. In addition, a new table is proposed stating explicitly weighting and conversion factors for practices equivalent to EFA. This is to ensure legal certainty and equal treatment of farmers applying standard and equivalent practices.

3.1.3 Notifications relating to greening

Article 65(1)(c) requires Member States to provide the Commission by 15 December each year, for the claim year concerned, with information concerning an uptake by farmers of greening obligations. The experience from the monitoring of implementation of greening indicates that to have a better picture of greening and hence also its environmental effect information concerning farmers exempted from greening under the Small Farmers Scheme, and the area of permanent grassland in Natura 2000 is also necessary. Article 65(c) in points (ii) and (iv) should therefore be
amended accordingly. An addition to sub-paragraph (e) of this provision is also proposed in order to collect information on crop diversification periods set up by Member States.

3.1.4 Entry into force and transitional provisions

In Article 3(1) it is proposed to allow flexibility for the entry into force of the changes to the greening provisions so that to allow Member States make the necessary internal arrangements.

Furthermore, Article 3(2) proposes to collect information on changes made by Member States to their national legislation based on this proposed regulation.

3.2 Young Farmer Payment

Article 49(3)(b) of Regulation (EU) No 639/2014 stipulates that "the first submission of an application to the basic payment scheme or single area payment scheme referred to in Article 50(2)(a)" is to be read as "the first application for the payment for the young farmer Payment". While Article 49(3)(b) of Regulation (EU) No 639/2014 makes no reference to point (b) of Article 50(2) of Regulation (EU) No 1307/2013, the latter provision makes a reference to "the application referred to in point (a)". This may lead to the understanding that the derogation in Article 49(3)(b) applies to the entire Article 50(2) of Regulation (EU) No 1307/2013, namely that the young farmer in a legal person needs to also meet the age criterion in the year he applies for the Young Farmer Payment. Such an interpretation would lead to a differentiated treatment between legal and natural persons, whereby the age criterion needs to be complied within the year of first application to the BPS/SAPS.

It is proposed to add a new sub-paragraph to point (b) of Article 49(3) to clarify that the 'entry' age limit under point (b) of Article 50(2) of Regulation (EU) 1307/2013 should be respected at the time the legal body with a young farmer in control applies for BPS/SAPS for the first time.

As the change only aims at clarifying the existing rules, it is appropriate that the amendment applies from the beginning of claim year 2015.

3.3 Single Area Payment Scheme

Article 64(5) of the delegated act requires Member States applying single area payment scheme to notify the Commission by 1 September each year, for the claim year concerned, the total number of hectares declared by farmers under that scheme.

This information is available to the Commission also via the CATS database and due to later notification deadline CATS data are more reliable, therefore Article 64(5) of the delegated act can be repealed. The repeal should apply for notifications for claim year 2016 and the following years.

3.4 Voluntary Coupled Support

3.4.1 Annual report

Article 67(2) of the delegated act stipulates that, for each coupled support measure, the Member States shall notify the Commission of the total number of beneficiaries, the

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amount of the payments granted as well as the total area or total number or animals for which the support was paid.

Based upon Article 67(1) of Regulation (EU) No 1307/2013 (’basic act’ hereafter), with regard to requested notifications, the Commission shall take into account the data needs as well as synergies between potential data sources.

The data need in accordance with Article 67(2) of the delegated act can be also covered from other data sources:

On one hand, the quantitative elements of the annual report (i.e. the total number of beneficiaries and the total area or total number or animals determined for which the support will be paid) are also collected for audit purposes via Statel/eDamis and available via CATS. On the other hand, though only from claim year 2016, the financial elements of the annual report (i.e. the amount of the payments granted per measure) will also be available from the Member States' financial declarations via AGREX[^5].

Therefore, in view of simplification of the notification requirements, Article 67(2) of the delegated act can be repealed as from claim year 2016 (annual report due by 15 September 2017) with no risk as far as the monitoring of the implementation by Member States is concerned.

3.4.2 Calculation of the 'per unit amount'

In accordance with the 2nd sub-paragraph of Article 53(2) of the delegated act, the per unit amount of support results from the ratio between the financial envelope allocated to a measure and, either the applicable quantitative limit, or the number of hectares/animals eligible for the support in the year in question. These alternatives leave substantial leeway for the Member States for calculating the per unit amount of support. However, it could be further clarified in this provision that, in line with the policy intention and in order to potentially improve the efficiency of the VCS measures, the Member States may also decide to apply a per unit amount included within the range defined by the two values above when the number of eligible hectares/animals is lower than the applicable quantitative limit.

3.5 Fractions of payment entitlements

It is appropriate to specify the rule of Article 24(2) of Regulation (EU) No 639/2014 providing that, for the purpose of Article 31(1)(b) of Regulation (EU) No 1307/2013, either a whole-number payment entitlement or a fraction of payment entitlement activated on an area of a lower size than the corresponding payment entitlement or fraction of payment entitlement are considered as fully activated whilst giving right to a payment calculated pro rata to the size of the area determined as defined in accordance with Article 2(1)(23) of Regulation (EU) No 640/2014.

3.6 Hemp

It is appropriate to transfer the content of Article 45 and Annex of Commission Implementing Regulation (EU) No 809/2014 to Commission Delegated Regulation

(EU) No 639/2014 since it rather falls under the empowerment in Article 35(3) of Regulation (EU) No 1307/2013. At the same time, some adaptations are needed to take into account the characteristics of the hemp cultivated as catch crop.

4. BUDGETARY IMPLICATIONS

4.1 Greening
None

4.2 Young Farmer Payment
None

4.3 Single Area Payment Scheme
None

4.4 Voluntary Coupled Support
None

4.5 Fractions of payment entitlements
None

4.6 Hemp
None
amending Delegated Regulation (EU) No 639/2014 as regards certain provisions on the green direct payment, the payment for young farmers in control of a legal person, the calculation of the per unit amount in the framework of voluntary coupled support, the fractions of payment entitlements, certain notification requirements relating to the single area payment scheme and the voluntary coupled support, the control measures regarding the cultivation of hemp, and amending Annex X to Regulation (EU) No 1307/2013 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/20096, and in particular Articles 35(2) and (3), 44(5)(b), 46(9)(a) and (c), 50(11), 52(9)(a), 67(1) and (2)(a) thereof,

Whereas:

(1) Article 24 of Commission Delegated Regulation (EU) No 639/2014 lays down requirements for the activation of payment entitlements. In order to avoid any diverging interpretation, it is appropriate to clarify that for the purposes of Article 31(1)(b) of Regulation (EU) No 1307/2013, also a fraction of a whole number payment entitlement is considered as fully activated when activated on an area of a lower size than the corresponding fraction of a payment entitlement, or a fraction of payment entitlement.

(2) According to Article 35(3) of Regulation (EU) No 1307/2013, the Commission is empowered to adopt delegated acts making the granting of payments conditional upon the use of certified seeds of certain hemp varieties and laying down the procedure for the determination of hemp varieties and the verification of their tetrahydrocannabinol content (THC content) referred to in Article 32(6) of the same Regulation. At present, the delegated rules included in Article 9 of Commission Delegated Regulation (EU) No 639/2014 only refer to the obligation to use seed of the varieties listed in the ‘Common Catalogue of Varieties of Agricultural Plant Species’ and that the seeds have to be seed certified in accordance with Council Directive 2002/57/EC7. The rules for the determination of hemp varieties and the verification of their THC content rules were previously established currently laid down in former Article 45 and former Annex of Commission Implementing Regulation (EU) No 809/20148. Since they were not covered by the empowerment referred...

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(2)(3) The procedure rules for the determination of hemp varieties and the verification of the THC content are well adapted for based on the assumption that hemp is cultivated as main crop, but they are not fully suitable for hemp cultivated as catch crop whereas As this latter cultivation method is has proved to be appropriate for industrial hemp and compatible with environmental requirements. It is therefore appropriate justified to adapt both provisions to take into account the characteristics of the hemp cultivated as catch crop. In that context, it is also appropriate to provide a definition of hemp cultivated as catch crop.

(4) The rules for the Articles 38 to 48 and Annex II to Delegated Regulation (EU) 639/2014 lay down rules supplementing the provisions on standard greening practices established by Regulation (EU) No 1307/2013. On the basis of the experience gained during the first year in which those practices were applied, it is necessary to amend certain aspects of those rules in order to simplify the implementation of the greening practices for the benefit of farmers and national administrations while maintaining or improving the environment and climate impact.

(3)(5) The calculation of shares of different crops for crop diversification are set out in Article 40 of Commission Delegated Regulation (EU) No 639/2014, whereby the crop diversification period is based on traditional cultivation practices in Member States. It is appropriate to differentiate such a period allow Member States to fix different periods at regional or sub-regional level in order to take into account possible diverse climatic conditions within a territory of a Member State. In some specific situations where there is a significant variety of crops on a small area exists, it should be possible, in order to simplify the declaration of crops grown, a possibility to declare them as one mixed crops should be established crop.

(4)(6) As regards land lying fallow, imposing setting a minimum duration seems in Article 45(4) of Delegated Regulation (EU) No 639/2014 is fundamental to ensure the environmental effectiveness of such area and to avoid any confusion with other crops areas such as grass. Such grasslands. Member States may set up such period should be set in order to allow farmers resuming main crops before the end of the claim year.

(5)(7) In order to address the substantial complexity encountered in distinguishing between the different ecological focus area types as defined in Article 46(2) of Regulation (EU) No 1307/2013 and specified further elaborated in Article 45(4) and (5) of Delegated Regulation (EU) No 639/2014, which is a source of uncertainty for farmers when declaring ecological focus areas, the requirements applicable to several

ecological focus area types should be streamlined, by merging certain selected elements (e.g. linear features) and aligning the associated requirements by merging certain elements and aligning their associated requirements. In particular, field margins and buffer strips should be grouped as one ecological focus area type with the same conditions including the maximum dimensions countable for ecological focus area purpose and the rules on cutting and grazing. Hedges, wooded strips and trees in line should also be regrouped as one type of ecological focus area while the criteria concerning their dimension limits should be unified.

(6)(8) The maximum acceptable dimensions of landscape features and buffer strips set out in Article 45(4), (5) and (7) of Delegated Regulation (EU) No 639/2014 should be streamlined in order to make their identification easier for farmers and to simplify the management of the scheme for Member States' authorities and facilitate their identification by farmers. As stated in recital 51 of Commission Delegated Regulation (EU) No 639/2014, the dimension limits are needed to ensure that the area is predominantly agricultural, but, however, such limits should not lead to exclusion of features that exceed such dimensions but which are valuable for biodiversity.

(7)(9) Rules allowing considering as ecological focus area landscape features adjacent to arable land as defined in Article 46(2) of Regulation (EU) No 1307/2013 should be better specified and offer more, which allows landscape features and buffer strips adjacent to arable land to be considered as ecological focus area, should be supplemented with rules offering flexibility in order to take into account other various—environmentally valuable elements connected to the farmer's area. Cases where more than one which fulfil the definition of these ecological focus area elements or features are adjacent to each other should be recognised for the purpose of ecological focus area obligation types and which are not adjacent to the arable land of the holding, and could not otherwise be recognised as ecological focus areas in order to maximise their environmental benefit and encourage the protection and maintenance of additional landscape features. Therefore, where such buffer strip and field margin or landscape feature is adjacent to the ecological focus area directly adjacent to the arable land of a holding it should also be recognised as an ecological focus area.

(8)(10) Existing rules setting the deadline for sowing of catch crops and green cover laid down in Article 45(9) of Delegated Regulation (EU) No 639/2014 does not always fit with the agronomic and climatic conditions. That provision should therefore be replaced with a view to better achieve the environmental objectives of this ecological focus area type. For this purpose, a minimum duration period should be introduced given that the permanence of catch crops and green cover on the ground is a key factor in ensuring an effective take up of residual nitrate and coverage of soil during autumn and winter. Such a period should be established while giving Member States and farmers the flexibility to consider seasonal weather conditions. In order to be consistent with the interpretation provided on the classification of definition on grasses or other herbaceous forage laid down in Article 4(1)(i) of Regulation (EU) No 1307/2013, undersowing leguminous crops in the main crop should also be possible.
Even if, as a general rule only nitrogen-fixing crops grown as pure species should be qualified as ecological focus areas, it is appropriate given that in traditional cultivation practices such crops are often mixed with other crops, that mixtures may also be qualified as ecological focus areas if provided that the predominance of the nitrogen-fixing crops in such mixtures is ensured. In addition referring to, based on the experience with the application of the first subparagraph of Article 45(10) of Delegated Regulation (EU) No 639/2013 and in light of Member States' the national rules implementing Council Directive 91/676/EEC and Directive 2000/60/EC of the European Parliament and of the Council, it is superfluous to prescribe specific rules on the location of these nitrogen-fixing crops. Instead, and with a view to strengthening Member States efforts to address the risk of nitrogen leaching in the autumn, Member States should be allowed to establish additional conditions on nitrogen-fixing crops if necessary.

In order to ensure equal treatment of farmers and enhance consistency between equivalent and standard practices covered by commitments and certification schemes referred to in Article 43(3)(a) and (b) of Regulation (EU) No 1307/2013, respectively, rules on using catch crops or green cover and nitrogen-fixing crops should be aligned between certification schemes and commitments referred to in Article 43(3)(a) of Regulation (EU) No 1307/2013.

First experience has proven that certain provisions relating to ecological focus area types would benefit from need to be better specified in particular as regards to the requirement of 'no production' with the view to meeting the objective of biodiversity and to ensure consistency with other instruments of the common agricultural policy. In particular, the 'no production' requirement applied to some the ecological focus area types referred to in Article 45(2), (4)(c) (5) and (7) of Delegated Regulation (EU) No 639/2014 should be better specified as relating to the definition of agricultural activity as defined in Article 4(1)(c)(i) of Regulation (EU) No 1307/2013, and it should be clarified with regard to other rules such as those set out in Articles 4(1)(c)(ii) and (iii) of the same Regulation and to the rules on minimum soil cover under GAEC 4 as referred to in Annex II to Regulation (EU) No 1306/2013 and maintaining an agricultural area in a state which makes it suitable for grazing or cultivation as referred to in Article 4(1)(c)(ii) of Regulation (EU) No 1307/2013. Undertaking voluntary actions by farmers covered by in order to safeguard and improve biodiversity, which are, for instance, covered by an agri-environment-climate commitment in order to improve biodiversity, should be incentivised to maximise the environmental benefits.

Given that the three main types of areas declared by farmers as ecological focus areas in the first year of implementation the three main ecological focus areas declared by farmers were of Article 46 of Regulation (EU) No 1307/2013 are areas which are, or may be, productive, namely land lying fallow, catch crops or green cover and nitrogen-fixing crops. Considering plant production products are likely to be used in ecological focus areas. Therefore, in order to safeguard and improve biodiversity in line with the potential or actual productive nature of these elements, objectives of "greening", it is appropriate to ban the use of plant protection products in.

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**de facto** possible for farmers depending in particular on the crops in question and the intensity of their management, even though in certain cases such a use could be limited by the Member States. In order to achieve an effective improvement of biodiversity and maximise the effect of the ecological focus area obligation it is appropriate to introduce a completely ban on the use of such products. Such a ban has to concern all area with production potential following ecological focus areas which are or may be productive: land lying fallow, strips of eligible hectares along forest edges with production is allowed, catch crops or green cover and nitrogen-fixing crops.

(13) Article 49 of Commission Delegated Regulation (EU) No 639/2014 lays down the rules under which legal persons have access to the payment for young farmers provided for in Article 50(1) of Regulation (EU) No 1307/2013.

(14)(15) On the basis of the experience gained with the application of Article 49(3) of Delegated Regulation (EU) No 639/2014, a further clarification should be provided as to the interpretation of the requirement laid down in point (b) of Article 50(2) of Regulation (EU) No 1307/2013 in respect of the time when a young farmer who exercises effective and long-term control over a legal person has to comply with the age limit. In particular, it is appropriate to clarify that the young farmer has to comply with the age limit of 40 years in the year of the first submission of an application under the basic payment scheme or the single area payment scheme by the legal person with a young farmer in control.

(15)(16) According to the 2nd subparagraph of Article 53(2) of Delegated Regulation (EU) No 639/2014, the per unit amount of voluntary coupled support for a measure should result from the ratio between the amount fixed for the financing of the relevant measure and either the quantitative limit fixed pursuant to the 1st subparagraph of the same Article, or the number of hectares or animals that are eligible for the support in the year in question. It is appropriate to reformulate that provision in such a way that Member States may fix the per unit amount at a value included within the range determined by those two values where the number of eligible units is lower than the quantitative limit. As the change only aims at increasing clarity of the existing rules, it is appropriate that the amendment applies from the beginning of claim year 2015.

(16)(17) Pursuant to Article 64(5) of Delegated Regulation (EU) No 639/2014, Member States applying the single area payment scheme in accordance with Article 36 of Regulation (EU) No 1307/2013 are to notify the Commission by 1 September each year of the total number of hectares declared by farmers under that scheme. However, that information is notified to the Commission annually in more detail pursuant to Article 9(1) of Commission Implementing Regulation (EU) No 809/2014. Article 64(5) of Delegated Regulation (EU) No 639/2014 can therefore be deleted.

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Based on the Commission’s experience with the management of the notifications relating to greening pursuant to Article 65 to Delegated Regulation (EU) No 639/2014, some adjustments should be made as regards their content, including a follow-up of the green provisions included in this Regulation.

In accordance with Article 67(2) of Delegated Regulation (EU) No 639/2014, Member States are to notify the Commission of the total number of beneficiaries, the amount of the payments which have been granted as well as the total area and the total number of animals for which the support has actually been paid for each coupled support measure and each of the specific types of farming or specific agricultural sectors concerned.

As from claim year 2015, the total number of beneficiaries and the total area or total number of animals claimed and determined for each voluntary coupled support measure are notified by Member States in accordance with Article 9(1) and (3) of Implementing Regulation (EU) No 809/2014. Furthermore, as from claim year 2016, the amount of the payments which have been granted for each coupled support measure will be included in the communications of information by the Member States in accordance with Article 10 of Commission Implementing Regulation (EU) No 908/2014. Therefore, Article 67(2) of Delegated Regulation (EU) No 639/2014 should be deleted.

In order to avoid discriminations it is appropriate to state that for Delegated Regulation (EU) No 639/2014 should therefore be amended accordingly.

As a consequence of the purpose of Article 31(1)(b) amendment of Regulation (EU) No 1307/2013, either a whole number payment entitlement or a fraction certain provisions of payment entitlement are considered as fully activated when activated on an area of a lower size than the corresponding payment entitlement or fraction of payment entitlement. Nevertheless the corresponding payment is calculated pro rata to the size of the area determined as defined in accordance with Article 2(1)(23) of Regulation (EU) No 640/2014.

Consequential to changes Delegated Regulation (EU) No 639/2014 concerning the ecological focus area types, modification changes to Annex II of X to Regulation (EU) No 639/2014 are necessary 1307/2013 need to be made, in particular by adapting the list of ecological focus area types and the corresponding factors when where necessary. Recital 45 of Regulation (EU) No 1307/2013 emphasises the importance of ecological focus area to be established in a coherent way. Therefore, conversion and weighting factors applicable to equivalent practices have to be consistent with the factors applicable to similar and/or identical standard practices. To ensure in the interest of legal certainty and equal treatment between farmers such factors, Annex X to Regulation 1307/2013 should be explicitly established amended accordingly.

Based on the management of notifications in the first two years of implementation, some adjustments should be done to their content, including a follow-up of the provisions included in this Regulation.

Delegated Regulation (EU) No 639/2014 should therefore be amended accordingly.

---

This Regulation should enter into force on the third day after its publication. However, as the clarification of Article 49(3) of Delegated Regulation (EU) No 639/2014 and the reformulation of the second subparagraph of Article 53(2) of that Regulation reflect an interpretation given to those provisions since the application of that Regulation, it is appropriate that those amendments apply retroactively. Considering the time necessary for the national authorities to update their existing administrative tools and to inform farmers sufficiently in advance of the amendments of the greening provisions made by this Regulation, those amendments should only apply with respect to aid applications relating to calendar years starting as from the 1 January 2018. However, Member States should be given the possibility to apply them with respect to aid applications relating to calendar year 2017. A notification obligation as regards consequential changes to previous notifications relating to that calendar year should be provided for.

HAS ADOPTED THIS REGULATION:

**Article 1**

Amendment of Delegated Regulation (EU) No 639/2014

Delegated Regulation (EU) No 639/2014 is amended as follows:

(1) In Article 9, is replaced by the following paragraphs are added:

2. "Article 9

Hemp

1. For the purposes of Article 32(6) of Regulation (EU) No 1307/2013, the eligibility of areas used for the production of hemp shall be subject to the use of seed of the varieties listed in the ‘Common Catalogue of Varieties of Agricultural Plant Species’ on 15 March of the year in respect of which the payment is granted and published in accordance with Article 17 of Council Directive 2002/53/EC*. The seed shall be certified in accordance with Council Directive 2002/57/EC**.

1.2 Member States shall establish the system in order to determine the \( \Delta ^9 \)-tetrahydrocannabinol content (hereinafter referred to as ‘THC’) of the crops grown as THC content) in hemp varieties, which allows them to apply the method set out in Annex III to this Regulation.

2.3.3 The competent authority of the Member State shall keep the records related to findings on the THC content. Such records shall comprise for each variety at least the results in terms of THC content from each sample expressed in percentage to two decimal places, the procedure used, the number of tests carried out, an indication of the point at which the sample was taken and measures taken at national level.

3.4.4 If an average of all the samples of a given variety exceeds the THC content as laid down in Article 32(6) of Regulation (EU) No 1307/2013, Member States shall use procedure B of as described in Annex III to this Regulation for the variety concerned in the course of the following claim year. This procedure shall be used in the course of the next claim years unless all the analytical results for the given variety are below the THC content as laid down in Article 32(6) of Regulation (EU) No 1307/2013.

4.5.5 If for the second year the average of all the samples of a given variety exceeds the THC content as laid down in Article 32(6) of Regulation (EU) No 1307/2013, the
Member State shall notify the Commission of the request for authorisation to prohibit the marketing of such variety in accordance with Article 18 of Council Directive 2002/53/EC. Such notification shall be sent in accordance with Commission Regulation (EC) No 792/2009 by 15 January of the following claim year at the latest. From the following year, the variety subject of this request shall not be eligible for direct payments in the Member State concerned.

6. Hemp

For the purposes of this Regulation, ‘hemp cultivated as main catch crop’ means crop of hemp sown after 1 July of a given year.

5. Crops of hemp shall continue to be cultivated under normal growing conditions in accordance with local practice for at least 10 days from the date of the end of flowering so that the checks provided for in paragraphs 1, 2 and 3 can be made necessary for the application of this Article can be made. Hemp cultivated as catch crop, in the absence of female inflorescences, shall continue to be cultivated under normal growing conditions in accordance with local practice at least until the end of the vegetation period.

7. However, Member States may authorise hemp to be harvested after flowering has begun but before the end of the 10-day period after the end of flowering, provided that the inspectors indicate which representative parts of each plot concerned must continue to be cultivated for at least 10 days following the end of flowering for inspection purposes, in accordance with the method laid down in Annex III.

8. Hemp cultivated as catch crop shall continue to be cultivated under normal growing conditions in accordance with local practice at least until the end of the vegetation period.

9. The notification referred to in paragraph 5 shall be made in accordance with Commission Regulation (EC) No 792/2009.

(1)


*** Commission Regulation (EC) No 792/2009 of 31 August 2009 laying down detailed rules for the Member States’ notification to the Commission of information and documents in implementation of the common organisation of the markets, the direct payments’ regime, the promotion of agricultural products and the regimes applicable to the outermost regions and the smaller Aegean islands (OJ L 228, 1.9.2009, p. 3)."

(2) In Article 24, paragraph 2 is replaced by the following:

"2. Where a farmer declares a number of payment entitlements exceeding his total eligible area declared pursuant to Article 33(1) of Regulation (EU) No 1307/2013, the fraction or the whole number of payment entitlement or the fraction of a payment entitlement which is partially exceeding his eligible area, declared with the accompanying fraction of eligible hectare, shall be deemed as fully activated for the purposes of Article 31(1)(b) of that Regulation—(EU) No 1307/2013."—. However, the payment shall be calculated on the basis of the corresponding fraction of an eligible hectare."

(3) Article 40 is amended as follows:

(a) in the first subparagraph of paragraph 3 is replaced by 1, the following sentence is added:

"1. For the purpose of the calculation of the shares of different crops as provided for in Article 44(1) of Regulation (EU) No 1307/2013, the period to be taken into account shall be the most relevant part of the cultivation period taking account of the traditional cultivation practices in the national context. The period can may be fixed at national, regional or the appropriate sub-regional level."

(b) in the third paragraph, the following fourth subparagraph is added:

"Areas on which different crops are grown next to each other in small areas, where each single crop covers an area below the maximum limit that is smaller than the minimum size set by Member States referred to in the second subparagraph of Article 72(1) of Regulation (EU) No 1306/2013, may be considered by Member States as covered with one ‘mixed crop’ as referred to in the previous third subparagraph of this paragraph."

(4) Article 45 is amended as follows:

(a) the first subparagraph of paragraph 2 is replaced by the following:

"2. On land laying fallow there shall not be no agricultural production. Member States shall set up fix a period during which the land must be lying fallow for a given calendar year which, That period shall not be shorter than six months."

(b) paragraph 4 is and 5 are replaced by the following:

"4. Landscape features shall be at the disposal of the farmer and may be those that are protected under GAEC 7, SMR 2 or SMR 3 as referred to in Annex II to Regulation (EU) No 1306/2013 and/or any of the following features:

(a) hedges, and/or wooded strips and/or trees in line;
(b) isolated trees;
(c) field copses including trees and/or bushes and/or stones;
(d) ponds. Reservoirs made of concrete or plastic shall not be considered ecological focus area;
(e) ditches, including open watercourses for the purpose of irrigation or drainage. Channels with walls of concrete shall not be considered ecological focus area;
(f) traditional stone walls."
Member States may decide to limit the selection of landscape features to those under GAEC 7, SMR 2 or SMR 3 as referred to in Annex II to Regulation (EU) No 1306/2013 and/or to one or more of those listed in point(s) (a) to (f) of the first subparagraph, where duly justified.

For the hedges, wooded strips or trees in line as well as ditches under point referred to in points (a) and (e) of the corresponding first subparagraph, respectively, the area to be qualified as ecological focus area shall be calculated up to the maximum width of 10 meters.

For the field copses and ponds under point referred to in points (c) and (d) of the corresponding first subparagraph, respectively, the area to be qualified as ecological focus area shall be calculated up to the maximum size of 0.3 hectare.

For the purposes of point (d) of the first subparagraph, Member States may set a minimum size for ponds. Where there is a strip with riparian vegetation along the water the corresponding area shall be included for the purpose of calculating the ecological focus area. Member States may establish criteria to ensure that ponds are of natural value, taking into account the role that natural ponds play for the conservation of habitats and species.

For the purposes of point (f) of the first subparagraph, Member States shall establish minimum criteria based on national or regional specificities, including limits to the dimensions of height and width."

(e) paragraph 5 is replaced by the following:

"5. Buffer strips and/or field margins shall be those buffer strips along water courses required under GAEC 1, SMR 1 or SMR 10 as referred to in Annex II to Regulation (EU) No 1306/2013 and/or field margins protected under GAEC 7, SMR 2 or SMR 3 as referred to in Annex II to Regulation (EU) No 1306/2013 and/or other buffer strips and/or other field margins.

Member States may decide to limit the selection of buffer strips and field margins from the resulting four categories (buffer strips under cross compliance, other buffer strips, field margins under cross compliance and other field margins), but at least one category of buffer strips and one category of field margins shall be selected.

Member States shall establish the minimum width of buffer strips and field margins shall be established by the Member States, but which shall not be below 1 meter for ecological focus area purposes. Along water courses, riparian vegetation shall be included for the purposes of calculating the ecological focus area. There shall be no agricultural production on buffer strips and/or field margins.

For buffer strips and/or field margins other than those required or protected under GAEC 1-, GAEC 7, SMR1, SMR2, SMR 3 or SMR 10 as referred to in Annex II to Regulation (EU) No 1306/2013, the corresponding area to be qualified as ecological focus area shall be calculated up to the maximum width of 20 meters."

(c) paragraph 75a is inserted:

"5a. For the purposes of the second sentence of the second subparagraph of Article 46(2) of Regulation (EU) No 1307/2013, areas referred to in paragraphs 4 and 5 of this Article shall be considered as adjacent areas or features where they are adjacent to an ecological focus area directly adjacent to the arable land of the holding."

(e) paragraphs 7 to 10 are replaced by the following:
"7. As regards strips of eligible hectares along forest edges Member States may decide either to allow agricultural production or to establish a requirement of no agricultural production, or to provide the two options for farmers. Member States shall establish the minimum width of those strips, which shall not be below 1 meter. The corresponding area to be qualified as ecological focus area shall be calculated up to the maximum width of 10 meters where Member States decide to allow agricultural production and 20 meters where Member States decide not to allow agricultural production."

(e) paragraph 8 is replaced by the following:

"8. For areas with short rotation coppice with no use of mineral fertilizer and/or plant protection products, Member States shall establish a list of species that may be used for this purpose, by selecting from the list established pursuant to Article 4(2)(c) of Regulation (EU) No 1307/2013 the species that are most suitable from an ecological perspective, thereby excluding species that are clearly not indigenous. Member States shall also establish the requirements as regards the use of mineral fertilizers or plant protection products in case these are not banned pursuant to Article 46(2)(g) of Regulation (EU) No 1307/2013, keeping in mind the objective of ecological focus areas in particular to safeguard and improve biodiversity."

(f) paragraph 9 is replaced by the following:

"9. Areas under catch crops or green cover shall include such areas established pursuant to the requirements under SMR 1 as referred to in Annex II to Regulation (EU) No 1306/2013 as well as other areas under catch crops or green cover, on the condition that they were established by sowing a mixture of crop species or by under-sowing grass and/or leguminous in the main crop.

Member States shall set up the list of mixtures of crop species to be used and fix the period at national, regional, sub-regional or farm level during which areas under catch crops or green cover have to be in place. Such period shall not be less than eight weeks. Member States may establish additional conditions notably with regard to production methods.

Areas under catch crops or green cover shall not include areas under winter crops which are sown in autumn normally for harvesting or for grazing. They shall also not include the areas covered with equivalent practices mentioned in points I.3 and 4 of Annex IX to Regulation (EU) No 1307/2013."

(g) paragraph 10 is replaced by the following:

"10. On areas with nitrogen-fixing crop, farmers shall grow those nitrogen-fixing crops which are included in a list established by the Member State. That list shall contain the nitrogen-fixing crops that the Member State considers as contributing to the objective of improving biodiversity and may include mixtures of nitrogen-fixing crops with other crops provided that nitrogen-fixing crops species are predominant. Those crops shall be present during the growing season. Member States may establish additional conditions notably with regard to production methods, in particular with a view to taking into account the need to meet the objectives of Directive 91/676/EEC and Directive 2000/60/EC, given the potential of nitrogen-fixing crops to increase the risk of leaching in the autumn."
Areas with nitrogen-fixing crop shall not include the areas covered with equivalent practices mentioned in points I.3 and 4 of Annex IX to Regulation (EU) No 1307/2013.

The following paragraphs [11], [12]a and [13]b are added:

"11—10a. For the purposes of the second sentence of Article 45(2) of Regulation (EU) No 1307/2013, areas under paragraphs (4), 5 and (5) shall be considered as adjacent elements when they are adjacent to a first ecological focus area directly adjacent to the arable land of the holding.

12. No agricultural production in paragraphs (2), (5) and (7) means no agricultural activity as defined in Article 4(1)(c)(i) of Regulation (EU) No 1307/2013, without prejudice to the conditions defined by Member States in accordance with Article under Articles 4(1)(c)(ii) and 4(1)(c)(iii) of the same Regulation (EU) No 1307/2013 and those within the GAEC 4 as referred to in Annex II to Regulation (EU) No 1306/2013. The requirement of having no production doesn't exclude voluntary actions such as sowing mixtures of wild flowers seeds in order to establish a green soil cover for environmental purposes.

For the purposes of paragraphs (5) and (7), by derogation from the no production requirement, Member States may allow cutting or grazing on buffer strips and/or field margins as well as on strips of eligible hectares along forest edges without production, provided the strip remains distinguishable from adjacent agricultural land.

13. There shall be a ban on using plant protection products for productive purposes as well as on areas with agricultural production referred to in paragraph 7."

(5) In Article 49(3), the following subparagraph is added:

"A young farmer who exercises effective and long-term control over the legal person within the meaning of point (b) of the first subparagraph of paragraph 1 of this Article shall, for the purposes of Article 50(2)(b) of Regulation (EU) No 1307/2013, be no more than 40 years of age in the year of the first submission of an application under the basic payment scheme or the single area payment scheme by that legal person with a young farmer in control."

(6) The second subparagraph of Article 53(2), the second subparagraph is replaced by the following:

"The annual payment shall be expressed as the per unit amount of support. It may be either one of the following amounts, or, when the area or the number of animals eligible for the support does not exceed the area or the number of animals fixed as referred to in the first subparagraph of this paragraph, an amount between them:

(a) the ratio between the amount fixed for the financing of the measure as notified according to point (3)(i) of Annex I to this Regulation and the area or the number of animals eligible for the support in the year in question;

(b) the ratio between the amount fixed for the financing of the measure as notified according to point (3)(i) of Annex I to this
Regulation and the area or the number of animals fixed as referred to in the first subparagraph of this paragraph.”

(7) In Article 64, paragraph 5 is deleted.

(8) The first paragraph of Article 65(1) is amended as follows:

(a) point (c) is amended as follows:

(i) point (ii) of letter (e) is replaced by the following:

“"(ii) the total number of farmers exempted from one or more greening practices and the number of hectares declared by such farmers, the number of farmers exempted from all practices because they comply with the requirements of Regulation (EC) No 834/2007, the number of farmers participating in the small farmer scheme, the number of farmers exempted from the crop diversification obligation, and the number of farmers exempted from the ecological focus area obligation, and the respective number of hectares declared by such farmers;""

(b) point (ii) of letter (eiv) is replaced by the following:

“"(iv) the total number of farmers declaring environmentally sensitive permanent grassland, the total number of hectares covered by environmentally sensitive permanent grassland declared by such farmers, the total number of hectares of designated environmentally sensitive permanent grasslands and the total number of hectares of permanent grassland in Natura 2000 areas;""

(c) after paragraph (d), the following subparagraph is added:

"(e) by 1 August of each year, the period to be taken into account for the calculation of the shares of different crops in accordance with Article 40(1) of this Regulation, as well as the geographical level at which the period is defined.""

(d) after paragraph 4, the following paragraph is added:

"5. Member States shall notify the Commission of their decisions related to changes to the legislation undertaken with the present Regulation by 1 February 2017.”

(9) In Article 67, paragraph 2 is deleted.

(10) Annex III is replaced by the text of which is set out in Annex I to this Regulation.

A new Annex is added as follows:
Article 2

Amendment of Regulation (EU) No 1307/2013

Annex X to Regulation (EU) No 1307/2013 is replaced by the text set out in Annex II to this Regulation.

Article 3

Transitional measures

(1) By way of derogation from the second paragraph of Article 4, Member States may decide to apply some or all of the amendments made by points (3), (4) and (8) of Article 1 and, as a consequence, the amendment made by Article 2 in relation to standard ecological focus area features, with respect to aid applications relating to calendar year 2017 subject to the respect of the general principles of EU law.

(2) Member States shall notify the Commission and shall inform farmers of the decision referred to in paragraph 1 and of the consequential changes to the notifications made pursuant to Article 65(1) to (4) of Delegated Regulation (EU) No 639/2014 no later than one month after the entry into force of this Regulation.

Article 4

Entry into force and application

(1) This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union. [the Imp Reg amending Imp Reg 809/2014 and this DA must be published in the same OJ and enter into force on the same day]

(2) Points (3), (4), and (8) of Article 1 and Article 2 shall apply with respect to aid applications relating to calendar years starting as from 1 January 2018.

(3) Points (5) and (6) of Article 1 shall apply with respect to aid applications relating to calendar years subsequent to calendar year 2014.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission

The President

[...]
Annex III

Community Annex III

Union method for the quantitative determination of the Δ9-tetrahydrocannabinol content in hemp varieties

1. Scope and area of application

This method set out in this Annex seeks to determine the Δ9-tetrahydrocannabinol (hereinafter referred to as THC) content of varieties of hemp (Cannabis sativa L.). As appropriate, the method involves applying procedure A or B hereinafter described in this Annex.

The method is based on the quantitative determination of Δ9-THC by gas chromatography (GC) after extraction with a suitable solvent.

1.1. Procedure A

Procedure A shall be used for checks on the production of hemp as provided for referred to in Article 32(6) of Regulation (EU) No 1307/2013 and Article 30(g) of Commission Implementing Regulation (EU) No 809/2014.*

1.2. Procedure B

Procedure B shall be used in cases as referred to in Article 32(6) of Regulation (EU) No 1307/2013 and Article 36(6) of Implementing Regulation (EU) No 809/2014.

2. Sampling

2.1. Samples

The samples shall be taken during the day following a systematic pattern to ensure that the sample is representative of the field, but excluding the edges of the crop.

(a) 2.1.1. Procedure A

(1) (aa) hemp cultivated as main crop

In a standing crop of a given variety of hemp, a 30 cm part containing at least one female inflorescence of each plant selected shall be taken. Sampling shall be carried out during the period running from 20 days after the start of flowering to 10 days after the end of flowering, during the day, following a systematic pattern to ensure that the sample is representative of the field but excluding the edges of the crop.

Member States may authorise sampling to be carried out during the period from the start of flowering to 20 days after the start of flowering provided that, for each variety grown, other representative samples are taken in accordance with the first subparagraph of point 2.1.1 during the period from 20 days after the start of flowering to 10 days after the end of flowering.

(2) (ab) For hemp cultivated as catch crop

In a standing crop, in the absence of a given variety of hemp, a 30 cm part containing at least one female inflorescence of each plant selected shall be taken, or female inflorescences, the top 30 cm of the plant stem if there are no female inflorescences. Sampling shall be taken. In that case sampling shall be carried out just before the end of the vegetation period, once the leaves begin presenting the first signs of yellowing, however no later than the onset of a forecast period of frost, during the day, following a systematic pattern to ensure that the sample is representative of the field but excluding the edges of the crop.
2.1.2. Procedure B: in a standing crop of a given variety of hemp, the upper third of each plant selected shall be taken. Sampling shall be carried out during the 10 days following the end of flowering or, for hemp cultivated as catch crop, in the absence of female inflorescences, just before the end of the vegetation period, once the leaves begin presenting the first sign of yellowing, but no later than the onset of a forecast period of frost, during the day, following a systematic pattern to ensure that the sample is representative of the field but excluding the edges of the crop. In the case of dioecious varieties, only female plants shall be taken.

2.2. Sample size

Procedure A: the sample shall comprise parts of 50 plants per field.

Procedure B: the sample shall comprise parts of 200 plants per field.

Each sample shall be placed in a fabric or paper bag, without crushing it, and be sent to the laboratory for analysis.

The Member State may provide for a second sample to be collected for counteranalysis, if required, to be kept either by the producer or by the body responsible for the analysis.

2.3. Drying and storage of the sample

Drying of the samples shall begin as soon as possible and, in any case, within 48 hours using any method below 70 °C.

Samples shall be dried to a constant weight and to a moisture content of between 8 % and 13 %.

After drying, the samples shall be stored without crushing them at below 25 °C in a dark place.

3. Determination of THC content

3.1. Preparation of the test sample

Stems and seeds over 2 mm in size shall be removed from the dried samples.

The dried samples shall be grinded to obtain a semi-fine powder (passing through a 1 mm mesh sieve).

3.2. The powder may be stored for 10 weeks at below 25 °C in a dark, dry place.

Reagents and extraction solution.

Reagents
– Δ9-tetrahydrocannabinol, pure for chromatographic purposes,
– Squalane, pure for chromatographic purposes, as an internal standard.

Extraction solution
– 35 mg of squalane per 100 ml hexane.

3.3. Extraction of Δ9-THC

100 mg of the powdered test sample shall be weighed, be placed in a centrifuge tube and 5 ml of extraction solution shall be added containing the internal standard.

The sample shall be placed in an ultrasound bath and be left for 20 minutes. It shall be centrifuged for five minutes at 3 000 r.p.m. and then the supernatant THC solution shall be removed. The solution shall be injected into the chromatograph and a quantitative analysis
shall be carried out.

3.4. **Gas chromatography**

(i) **Apparatus**

- gas chromatograph with a flame ionisation detector and a split/splitless injector,
- column allowing good separation of cannabinoids, for example a glass capillary column 25 m long and 0.22 mm in diameter impregnated with a 5 % non-polar phenyl-methyl-siloxane phase.

(i) **Calibration ranges**

At least three points for procedure A and five points for procedure B, including points 0.04 and 0.50 mg/ml Δ⁹-THC in extraction solution.

(i) **Experimental conditions**

The following conditions are given as an example for the column referred to in (a):

- oven temperature 260 °C
- injector temperature 300 °C
- detector temperature 300 °C

(i) Volume injected: 1 μl

4. **Results**

The findings shall be expressed to two decimal places in grams of Δ⁹-THC per 100 grams of analytical sample dried to constant weight. A tolerance of 0.03 g per 100 g shall apply.

- Procedure A: one determination per test sample.

However, where the result obtained is above the limit laid down in Article 32(6) of Regulation (EU) No 1307/2013, a second determination shall be carried out per analysis sample and the mean value of the two determinations shall be taken as the result.

- Procedure B: the result shall correspond to the mean value of two determinations per test sample.'

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## ANNEX II

"Annex X

Conversion and weighting factors referred to in Article 46(3)

<table>
<thead>
<tr>
<th>Features</th>
<th>Conversion factor (m/tree to m²)</th>
<th>Weighting factor</th>
<th>Ecological focus area (if both factors are applied)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land lying fallow (per 1 m²)</td>
<td>n.a.</td>
<td>1</td>
<td>1 m²</td>
</tr>
<tr>
<td>Terraces (per 1 m)</td>
<td>2</td>
<td>1</td>
<td>2 m²</td>
</tr>
<tr>
<td>Landscape features:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hedges/wooded strips/trees in line (per 1 m)</td>
<td>5</td>
<td>2</td>
<td>10 m²</td>
</tr>
<tr>
<td>Isolated tree (per tree)</td>
<td>20</td>
<td>1,5</td>
<td>30 m²</td>
</tr>
<tr>
<td>Field copses (per 1 m²)</td>
<td>n.a.</td>
<td>1,5</td>
<td>1,5 m²</td>
</tr>
<tr>
<td>Ponds (per 1 m²)</td>
<td>n.a.</td>
<td>1,5</td>
<td>1,5 m²</td>
</tr>
<tr>
<td>Ditches (per 1 m)</td>
<td>5</td>
<td>2</td>
<td>10 m²</td>
</tr>
<tr>
<td>Traditional stone walls (per 1 m)</td>
<td>1</td>
<td>1</td>
<td>1 m²</td>
</tr>
<tr>
<td>Other features not listed above but protected under GAEC7, SMR 2 or SMR 3 (per 1 m²)</td>
<td>n.a.</td>
<td>1</td>
<td>1 m²</td>
</tr>
<tr>
<td>Buffer strips and field margins (per 1 m)</td>
<td>6</td>
<td>1,5</td>
<td>9 m²</td>
</tr>
<tr>
<td>Hectares of agro-forestry (per 1 m²)</td>
<td>n.a.</td>
<td>1</td>
<td>1 m²</td>
</tr>
<tr>
<td>Strips of eligible hectares along forest edges (per 1 m)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Without production</td>
<td>6</td>
<td>1,5</td>
<td>9 m²</td>
</tr>
<tr>
<td>With production</td>
<td>6</td>
<td>0,3</td>
<td>1,8 m²</td>
</tr>
<tr>
<td>Areas with short rotation coppice (per 1 m²)</td>
<td>n.a.</td>
<td>0,3</td>
<td>0,3 m²</td>
</tr>
<tr>
<td>Afforested areas as referred to in Article 32(2)(b)(ii) (per 1 m²)</td>
<td>n.a.</td>
<td>1</td>
<td>1 m²</td>
</tr>
<tr>
<td>Areas with catch crops or green cover (per 1 m²)</td>
<td>n.a.</td>
<td>0,3</td>
<td>0,3 m²</td>
</tr>
<tr>
<td>Areas with nitrogen fixing crops (per 1 m²)</td>
<td>n.a.</td>
<td>0,7</td>
<td>0,7 m²</td>
</tr>
</tbody>
</table>
Conversion and weighting factors referred to in Article 46(3) to be applied to features included in the equivalent practices as listed in Section III of Annex IX to Regulation (EU) N° 1307/2013
<table>
<thead>
<tr>
<th>Equivalent EFA ecological focus area</th>
<th>Similar standard EFA ecological focus area</th>
<th>Conversion factor</th>
<th>Weighting factor</th>
<th>Ecological focus area (if both factors are applied)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Ecological set-aside (per 1 m²)</td>
<td>Land lying Fallow</td>
<td>n.a.</td>
<td>1</td>
<td>1 m²</td>
</tr>
<tr>
<td>(2) Creation of &quot;buffer zones&quot; (per 1 m)</td>
<td>Buffer strips — Field and field margins</td>
<td>6</td>
<td>1.5</td>
<td>9 m²</td>
</tr>
<tr>
<td>(3) Management of uncultivated buffer strips and field margins (per 1 m)</td>
<td>Buffer strips — Field and field margins</td>
<td>6</td>
<td>1.5</td>
<td>9 m²</td>
</tr>
<tr>
<td>(4) Borders, in-field strips and patches:</td>
<td>Buffer strips — Field and field margins</td>
<td>6</td>
<td>1.5</td>
<td>9 m²</td>
</tr>
<tr>
<td>Patches</td>
<td>Field copses (patches)</td>
<td>n.a.</td>
<td>1.5</td>
<td>1.5 m²</td>
</tr>
<tr>
<td>(5) Management of landscape features:</td>
<td>Isolated tree (per tree)</td>
<td>20</td>
<td>1.5</td>
<td>30 m²</td>
</tr>
<tr>
<td>Trees in line (per 1 m)</td>
<td>Hedges/wooded strips/trees in line</td>
<td>5</td>
<td>2</td>
<td>10 m²</td>
</tr>
<tr>
<td>Group of trees/Field copses (per 1 m²)</td>
<td>Field copses</td>
<td>n.a.</td>
<td>1.5</td>
<td>1.5 m²</td>
</tr>
<tr>
<td>Hedgerows (per 1 m)</td>
<td>Hedges/wooded strips/trees in line</td>
<td>5</td>
<td>2</td>
<td>10 m²</td>
</tr>
<tr>
<td>Riparian woody vegetation (per 1 m)</td>
<td>Hedges/wooded strips/trees in line</td>
<td>5</td>
<td>2</td>
<td>10 m²</td>
</tr>
<tr>
<td>Terraces (per 1 m)</td>
<td>Terraces</td>
<td>2</td>
<td>1</td>
<td>2 m²</td>
</tr>
<tr>
<td>Stone walls (per 1 m)</td>
<td>Traditional stone walls</td>
<td>1</td>
<td>1</td>
<td>1 m²</td>
</tr>
<tr>
<td>Ditches (per 1 m)</td>
<td>Ditches</td>
<td>5</td>
<td>2</td>
<td>10 m²</td>
</tr>
<tr>
<td>Ponds (per 1 m)</td>
<td>Ponds</td>
<td>n.a.</td>
<td>1.5</td>
<td></td>
</tr>
<tr>
<td>(6) Keeping arable peaty or wet soils under grass (no use of fertilisers and no use of PPP) (per 1 m²)</td>
<td>Land Lying Fallow</td>
<td>n.a.</td>
<td>1</td>
<td>1 m²</td>
</tr>
<tr>
<td>(7) Production on arable land with no use of fertiliser and/or PPP, and not irrigated, not sown with the same crop two years in a row — (per 1 m²)</td>
<td>SRC Areas with short rotation coppice; Strips along forest edges with production; NFC Areas with nitrogen-fixing crops</td>
<td>n.a.</td>
<td>0.3 0.7 for NFC</td>
<td>0.3 0.7 m²</td>
</tr>
<tr>
<td>(8) Conversion of arable land into permanent grassland (per 1 m²)</td>
<td>Land Lying Fallow</td>
<td>n.a.</td>
<td>1</td>
<td>1 m²</td>
</tr>
</tbody>
</table>