**ANNEX 1.**

Ministry of Agriculture and Forestry, Finland 22.1.2016

**Simplification of the CAP - Finnish proposals based on experiences on the first year of implementation of the new CAP rules**

This paper consists new or changed Finnish proposals on greening, cross compliance, the baseline of rural development and IACS. Finland sent earlier, in February 2015, a large package of proposals concerning the simplification of CAP. Most of these proposals remain valid still.

**DIRECT PAYMENTS REGULATION (EU) No 1307/2013: GREENING**

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| Issue | Proposal and its justification/reasoning | Proposed amendment(includes current provision) | Timing of the solution  |
| Article 44(3) Exemptions to crop diversification | Sub-points a) and b) could be combined for the sake of simplification. The proposal to delete the rule of 30 hectares has also been made earlier in February 2015. It would be easier for farmers to calculate whether they fulfil the criteria for derogation concerning grassland et cetera if only the rule of 75 % would as such be sufficient for being released from the requirement. Abolishing the limit of 30 hectares would not significantly weaken the state of the environment. | 3.   Paragraphs 1 and 2 shall not apply to holdings:

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| ~~(a)~~ | ~~where more than 75 % of the arable land is used for the production of grasses or other herbaceous forage, is land lying fallow, or is subject to a combination of these uses, provided that the arable area not covered by these uses does not exceed 30 hectares;~~ |

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| ~~(b)~~ |  **a)** where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water for a significant part of the year or for a significant part of the crop cycle, **is land lying fallow,** or is subject to a combination of these uses~~, provided that the arable area not covered by these uses does not exceed 30 hectares~~; |

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| ~~(c)~~ | **b)** where more than 50 % of the areas of arable land declared were not declared by the farmer in his aid application of the previous year and, where based on a comparison of the geo-spatial aid applications, all arable land is being cultivated with a different crop compared to that of the previous calendar year; |

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| ~~(d)~~ | **c)** that are situated in areas north of 62nd parallel or certain adjacent areas. Where the arable land of such holdings covers more than 10 hectares, there shall be at least two crops on the arable land, and none of these crops shall cover more than 75 % of the arable land, unless the main crop is grasses or other herbaceous forage, or land lying fallow. |

 | Short term. |
| Article 45(1)Environmentally sensitive permanent grasslands | The ban on ploughing of environmentally sensitive grassland should be deleted and only the ban of converting should be maintained. The ban of ploughing in the rules of greening payment is too restrictive because the Natura 2000 directive does not generally prohibit ploughing in these areas. If the management plans of Natura2000 areas prohibit ploughing, those plans must be complied with. Farmers who have environmentally sensitive permanent grassland feel the ban on ploughing very restrictive. At least in northern conditions like in Finland grass has to be renewed at some point because its productivity weakens considerably after a few years. The ban of ploughing dramatically restricts use of these parcels for normal forage production. Thus, the ban on ploughing prevents normal agricultural practices. | 1.   Member States shall designate permanent grasslands which are environmentally sensitive in areas covered by Directives 92/43/EEC or 2009/147/EC, including in peat and wetlands situated in these areas, and which need strict protection in order to meet the objectives of those Directives.Member States may, in order to ensure the protection of environmentally valuable permanent grasslands, decide to designate further sensitive areas situated outside areas covered by Directives 92/43/EEC or 2009/147/EC, including permanent grasslands on carbon-rich soils.Farmers shall not convert ~~or plough~~ permanent grassland situated in areas designated by Member States under the first subparagraph and, where applicable, the second subparagraph. | Short term. |
| Article 46(4)Exemptions to EFA | Sub-points a) and b) could be combined for the sake of simplification. The proposal to delete the rule of 30 hectares has also been made earlier in February 2015. It would be easier for farmers to calculate whether they fulfil the criteria for derogation concerning grassland, land lying fallow and areas of leguminous crops if only the rule of 75 % would as such be sufficient for being released from the requirement. Abolishing the limit of 30 hectares would not significantly weaken the state of the environment. | 4.   Paragraph 1 shall not apply to holdings:

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| ~~(a)~~ | ~~where more than 75 % of the arable land is used for the production of grasses or other herbaceous forage, is land lying fallow, is used for cultivation of leguminous crops, or is subject to a combination of those uses, provided that the arable area not covered by those uses does not exceed 30 hectares;~~ |

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| ~~(b)~~ |  where more than 75 % of the eligible agricultural area is permanent grassland, is used for the production of grasses or other herbaceous forage or for the cultivation of crops under water either for a significant part of the year or for a significant part of the crop cycle, **is land lying fallow, is used for cultivation of leguminous crops,** or is subject to a combination of those uses, ~~provided that the arable area not covered by these uses does not exceed 30 hectares.~~ |

 | Short term. |

**COMMISSION DELEGATED REGULATION (EU) NO 639/2014: GREENING**

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| Issue | Proposal and its justification/reasoning | Proposed amendment(includes current provision) | Timing of the solution  |
| Article 40(3)Crop diversification  | Areas on which different horticultural crops, such as vegetables and herbs, are grown next to each other should be considered as covered with one ‘mixed crop’. Thiswould reduce administrative burden on farms where several different vegetables and herbs are cultivated. Calculation of very small areas should not be required and more flexibility is needed. The Commission has given a written answer stating that it is not necessary to draw these small single areas, but each of them still has to be declared as a single crop in the aid application and the area of each single crop has to be measured. The Commission’s answer concerning drawing gives some flexibility, but a similar approach would also be needed for declaring and calculating these small areas.  | 3.   On an area where mixed cropping is applied by growing simultaneously two or more crops in distinct rows, each crop shall be counted as distinct crop when it covers at least 25 % of that area. The area covered by the distinct crops shall be calculated by dividing the area where the mixed cropping is applied by the number of crops covering at least 25 % of that area, irrespective of the actual share of a crop on that area.On areas where mixed cropping is applied by growing a main crop which is under-sown with a second crop, the area shall be considered as covered with only the main crop.Areas on which a seed mixture is sown shall, irrespective of the specific crops included in the mix, be considered as covered with one single crop. Without prejudice to Article 44(4)(d) of Regulation (EU) No 1307/2013, such single crop shall be referred to as ‘mixed crop’. Where it can be established that the species included in different seed mixtures differ from each other, Member States may recognise those different seed mixtures as distinct single crops, provided that those different seed mixtures are not used for the crop referred to in Article 44(4)(d) of Regulation (EU) No 1307/2013.**Areas on which different horticultural crops, such as vegetables and herbs, are grown next to each other shall be considered as covered with one ‘mixed crop’ referred to in the previous subparagraph if the area of each single crop is below the maximum limit referred to in the second subparagraph of Article 72(1) of Regulation 1306/2013.**  | Short term. |
| Article 45 (2)Criteria of EFA | If our earlier proposal to delete paragraphs 1-10 of Article 45 could not be accepted, this small change to Article 45(2) should be made: on land laying fallow Member States could decide if agricultural production is allowed or not. It would be better for the environment if vegetation were harvested or grazed, especially in areas located along water bodies where this reduces nutrient leaching. This would also simplify the rules and ease the time pressure on controls in the summer. | 2**. Member State may decide that o**~~O~~n land lying fallow there shall be no agricultural production. By way of derogation from Article 4(1)(h) of Regulation (EU) No 1307/2013, land lying fallow for the purpose of fulfilling the ecological focus area for more than five years shall remain arable land. | Short term. |

**COMMISSION IMPLEMENTING REGULATION (EU) No 641/2014: GREENING**

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| Issue | Proposal and its justification/reasoning | Proposed amendment(includes current provision) | Timing of the solution  |
| New article 11a Limit for the minimum size concerning permanent grassland  | It should not be necessary to establish very small areas of permanent grassland. In practice this amendment would cause no harmful effect on the environment, while administrative burden would be reduced. | * **New article 11a**

**Status of permanent grassland would not be assigned if the area of grassland is below the limit referred to in the second subparagraph of Article 72(1) of Regulation 1306/2013.** | Short term. |

**HORIZONTAL REGULATION (EU) No 1306/2013: CROSS COMPLIANCE**

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| Issue | Proposal and its justification/reasoning | Proposed amendment(includes current provision) | Timing of the solution  |
| Article 92 Beneficiaries concerned (and certain other articles on cross compliance in Regulation 809/2014.) | Cross compliance requirements should be linked only to direct payments under Pillar I. This would lead to fairer amounts of reductions in the aids when non-compliances are found. At the moment farmers and administration feel that the amounts of reductions based on cross compliance are too hard, unfair and disproportionate.  | Article 91 shall apply to beneficiaries receiving direct payments under Regulation (EU) No 1307/2013, **and** payments under Articles 46 and 47 of Regulation (EU) No 1308/2013 ~~and the annual premia under points (a) and (b) of Article 21(1), Articles 28 to 31, 33 and 34 of Regulation (EU) No 1305/2013.~~However, Article 91 shall not apply to beneficiaries participating in the small farmers scheme as referred to in Title V of Regulation (EU) No 1307/2013. ~~The penalty provided for in that Article shall also not apply to the support as referred to in Article 28(9) of Regulation (EU) No 1305/2013.~~ | Long term. |
| Annex IISMRs of cross compliance | The system of cross compliance should be analysed and only the most important, relevant and clear SMRs should be maintained. At the moment there are far too many requirements, which cause a lot of bureaucracy for the farmers and administration. * SMR 4: Regulation (EC) No 178/2002 (general principles of food law): This regulation is very general, which may lead to considerable differences in its implementation between the Member States. It could be deleted from the requirements of cross compliance.
* SMR 6-8: Regulations on identification and registration of animals: It is difficult for the farmers to understand that that late entries to the computerized database for animals mean significant non-compliances with regard to the cross compliance conditions. It should be remembered that non-compliances with the rules of identification and registration of animals also cause reductions in coupled payments. This kind of double sanctions could be avoided by deleting SMR 6-8 from cross compliance.
 | The number of cross compliance requirements should be reduced. At least the following requirements could be deleted: * SMR 4: Regulation (EC) No 178/2002 (general principles of food law).
* SMR 6-8: Regulations on identification and registration of animals.
 | Medium term. |

**RURAL DEVELOPMENT REGULATION (EU) No 1305/2013: BASELINE**

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| Issue | Proposal and its justification/reasoning | Proposed amendment(includes current provision) | Timing of the solution  |
| Article 28 (2)-(4) and (6) | The concept of a separately controlled baseline for the RDP measures should be deleted for simplification since the system of cross compliance has been designed to meet the need to make sure that relevant mandatory standards and requirements are obeyed. At the moment the link between RDP and the certain requirements of cross compliance causes lot of extra on-the-spot controls. The rule of cross compliance says that 1% of the beneficiaries have to be checked via on-the-spot controls. However, because the certain requirements of cross compliance are in the baseline of rural development - where 5% of the farms have to be checked - 5% of these certain requirements of cross compliance are checked in the controls of rural development. This means unnecessary costs for the administration.It should be enough that different kinds of obligatory standards and requirements are excluded from RPD funding, and that the cross compliance obligations are controlled with a 1 % sample, and these sanctions are also applied to RDP measures.  | ~~2. Support shall only be granted for commitments going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013, the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (c)(iii) of Article 4(1) of Regulation (EU) No DP/2013, relevant minimum requirements for fertiliser and plant protection products use as well as other relevant mandatory requirements established by national law. All such requirements shall be identified in the programme.~~~~3. Agri-environment-climate payments cover only those commitments going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013, the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (c)(iii) of Article 4(1) of Regulation (EU) No 1307/2013, and relevant minimum requirements for fertiliser and plant protection products use as well as other relevant mandatory requirements established by national law. All such mandatory requirements shall be identified in the programme.~~4…When calculating the payments referred to in the first sub-paragraph, Member States shall deduct the amount necessary in order to exclude double funding of the practices referred to in Article 43 of Regulation (EU) No 1307/2013.Member States shall exclude funding of mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013, the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (c)(iii) of Article 4(1) of Regulation (EU) No DP/2013, relevant minimum requirements for fertiliser and plant protection products use as well as other relevant mandatory requirements established by national law. All such requirements shall be identified in the programme.6. …When calculating the payments referred to in the first sub-paragraph, Member States shall deduct the amount necessary in order to exclude double funding of the practices referred to in Article 43 of Regulation (EU) No 1306/2013. **Member States shall exclude funding of mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013, the relevant criteria and minimum activities as established pursuant to points (c)(ii) and (c)(iii) of Article 4(1) of Regulation (EU) No 1307/2013, and relevant minimum requirements for fertiliser and plant protection products use as well as other relevant mandatory requirements established by national law. All such mandatory requirements shall be identified in the programme.** | Medium/long term |
| Article 33 (2) | The concept of a separately controlled baseline for the RDP measures should be deleted for simplification since the system of cross compliance has been designed to meet the need to make sure that relevant mandatory standards and requirements are obeyed. At the moment the link between RDP and the certain requirements of cross compliance causes lot of extra on-the-spot controls. The rule of cross compliance says that 1% of the beneficiaries have to be checked via on-the-spot controls. However, because the certain requirements of cross compliance are in the baseline of rural development - where 5% of the farms have to be checked - 5% of these certain requirements of cross compliance are checked in the controls of rural development. This means unnecessary costs for the administration.It should be enough that different kinds of obligatory standards and requirements are excluded from RPD funding, and that the cross compliance obligations are controlled with a 1 % sample, and these sanctions are also applied to RDP measures.  | ~~2. Animal welfare payments cover only those commitments going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013 and other relevant mandatory requirements. These relevant requirements shall be identified in the programme.~~ | Medium/long term |

**COMMISSION IMPLEMENTING REGULATION (EU) No 808/2014: BASELINE**

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| Issue | Proposal and its justification/reasoning | Proposed amendment(includes current provision) | Timing of the solution  |
| Annex 1, part 1 point (8) 9 and 10 | The requirement of IPM was excluded from cross compliance during the preparation of the basic acts. Therefore, it should also not have been introduced into the minimum requirements of the AEC measure.                                             IPM means careful consideration of all available plant protection methods that discourage the development of populations of harmful organisms and keep the use of plant protection products and other forms of intervention to levels that are economically and ecologically justified and minimize risks to health and the environment. IPM implementation is therefore specific and perhaps different for each situation and each year and will depend greatly on the specific situation on each farm, its environment and economy and the changes in local weather conditions. The fundamental functioning of IPM is based on an ongoing search for the best way to manage plant protection in a sustainable way in different situations, for instance through making use of advice and learning from mistakes. The best solution is not always to be foreseen at the moment when a decision is taken. Also, it is next to impossible for an inspector to retrospectively judge what would have been the correct decision in a certain situation. Applying sanctions in situations of failure or giving sanctions for choices that seemed good when the decision had to be made, but not afterwards due to e.g. weather, makes the normal control system of the CAP unsuitable for this requirement.  It should be enough that funding of AECM operations that are part of the IPM is excluded. | 9. Agri-environment-climate (Article 28 of Regulation (EU) No 1305/2013) — Identification and definition of the relevant baseline elements; this shall include the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013 of the European Parliament and of the Council (1), the relevant criteria and minimum activities established pursuant to Article 4(1)(c)(ii) and (iii) of Regulation (EU) No 1307/2013 of the European Parliament and of the Council (2), the relevant minimum requirements for fertilisers and plant protection products use, and other relevant mandatory requirements established by national law; — the minimum requirements for fertilisers must include, inter alia, the Codes of Good Practice introduced by Council Directive 91/676/EEC (3) for farms outside nitrate vulnerable zones, and requirements concerning phosphorous pollution; the minimum requirements for plant protection products use must include, inter alia, ~~general principles for integrated pest management introduced by Directive 2009/128/EC of the European Parliament and of the Council (4),~~ requirements to have a licence to use the products and meet training obligations, requirements on safe storage, the checking of application machinery and rules on pesticide use close to water and other sensitive sites, established by national legislation;  | Short term |

**MORE PROPORTIONATE CONTROL AND PENALTY SYSTEM CONCERNING AREA AND ANIMAL RELATED SUPPORT – REGULATION (EU) No 640/2014 and (EU) No 809/2014 (and Working Documents)**

**REGULATION (EU) No 640/2014 AND GUIDANCE FOR ON-THE-SPOT CHECKS (OTSC) AND AREA MEASUREMENT, CLAIM YEAR 2015 (DSCG/2014/32 FINAL REV1)**

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| Issue | Proposal and its justification/reasoning | Proposed amendment (includes current provision) | Timing of the solution  |
| Article 5(3)Different approaches in the provisions and guidelines concerning the updating of the LPIS based on the on-the-spot measurement and other updating of the LPIS | **As stable as possible maximum eligible area (MEA) of reference parcels in the land parcel identification system (LPIS) by harmonizing the provisions and guidelines concerning the updating of the LPIS based on the on-the-spot measurement and other updating of the LPIS (and approval concerning this in the interpretations of the Commission audit missions)**The main issue that is causing a lot of administrative work and complaints by the farmers is the current practice of constant re-measurement of areas that have been measured earlier. In the area-based payment system this should be avoided as far as possible. In most cases there are only very small differences between measurements depending on the devices or procedures used or even the person doing the measurement. Small mistakes increase the control burden significantly, usually with very small financial impact. This is neither justified nor appropriate or cost effective.The 2% margin rule is important because it recognizes the need to keep the maximum eligible area of reference parcels in the land parcel identification system (LPIS) as stable as possible. However, in Member States like Finland, where the average size of reference parcels is small and they are irregular in size, the 2% margin is too low and therefore it should be raised to 3%.Member States should be able to trust that, if they use the % margin, differences within that margin need not be updated in the LPIS. To avoid problems in the clearance of accounts procedure when discussing whether the difference was clear or not, it should be clear that the need for update in cases where the % margin is not reached concerns only buildings and similar man-made changes.A further concern relates to the different approaches in the provisions and guidelines concerning the control and updating of the land parcel identification system (LPIS), which lead to small changes in the areas. These should match each other better and, thus, making small changes in the LPIS would not be necessary. During on-the-spot checks eligible areas have to be measured and even small ineligible areas above the 0.01 ha tolerance (one ineligible feature or several scattered features together) have to be deducted from the eligible area. **In on-the-spot checks it is not possible to use the 2% margin but the 0.01 ha tolerance can be used,** and the LPIS has to be updated based on the on-the-spot measurement. Concerning the updating of LPIS it is possible to use the 2% margin but not the 0.01 ha tolerance. All clear changes in the eligible area have to be updated to the LPIS. **Member States should be able to trust that, if they use the 2% margin, differences within that margin need not be updated in the LPIS.**This non-harmonized approach may even seem like a trap for farmers and confuse them even more as they may not know which area to use to avoid administrative penalties. This is why there should be a consistent approach to allow the use of the % margin in all cases. Regarding the implementation of the EU legislation, the interpretations of the Commission audit missions show that the auditors do not recognize the possibility for a Member State to use the 2% margin in the updating of the LPIS nor the possibility for a Member State to use a tolerance (0.01 ha) in the on-the-spot measurements.  | Member States shall ensure that the maximum eligible area per reference parcel as referred to in paragraph 2(a) is correctly quantified within a margin of maximum ~~2%~~ **3%**, ~~thereby taking into account the outline and condition of the reference parcel.~~ **if it is not a question of buildings and similar man-made changes.****This margin also concerns the updating of the land parcel identification system based on the results of the on-the-spot checks in spite of the tolerance relating to the measurement equipment or whether one ineligible feature or several scattered features together are above 0.01 ha.** GUIDANCE FOR ON-THE-SPOT CHECKS (OTSC) AND AREA MEASUREMENT, CLAIM YEAR 2015 (DSCG/2014/32 FINAL REV1)*3.2.2. Determination of area through deduction of ineligible features* The workflow below covers both ineligible features that are permanent or temporary as for area measurement their areas should be deducted from the maximum eligible area of the reference parcel / area of the geospatially declared parcel.  When ineligible features of significant size (i.e. >100 m²) are identified in the parcel, the determined area is obtained by deducting the area of these features.  When ineligible features of minor size (i.e. <100 m²) are identified in the parcel, but exceeding 100 m² when added up, the determined area is obtained by deducting the area of these features.  However, deductions only have to be made if inspector considers that the area of the ineligible features (scattered features < 100m², ineligible feature of >100m² or the combined area of all ineligible features together), represents a significant area i.e. an area larger than the single value buffer tolerance **or is above the % margin** **specified in Article 5(3) of Regulation (EU) No 640/2014.**  | Short term. |
| Article 18(6) Basis of calculation | **More proportionality to the reductions and penalties concerning small over-declaration of area**More proportionality is needed to the penalty system. Small over-declaration of area is usually caused by mistake, not because of fraud. The benefit for farmer for such over-declaration is minor, however the penalty and administrative work is huge. To make the penalty system more proportionate the area in Article 18(6) should be at least 0,50 ha. Farm sizes are growing all the time and the old limit is not reflecting the current farm size anymore. | 6.Without prejudice to administrative penalties in accordance with Article 19, in the case of aid applications and/or payment claims under area-related aid schemes or support measures, if the area declared exceeds the area determined for a crop group as referred to in Article 17(1), the aid shall be calculated on the basis of the area determined for that crop group.However, without prejudice to Article 60 of Regulation (EU) No 1306/2013, if the difference between the total area determined and the total area declared for payment under the direct aid schemes established in Titles III, IV and V of Regulation (EU) No 1307/2013 or the total area declared for payment under an area-related support measure is less than or equal to ~~0,1~~ **0,5** hectare, the area determined shall be set equal to the area declared. For this calculation only over-declarations of areas at the level of a crop group as referred to in Article 17(1) shall be taken into account. | Short term. |
| Article 24Reduction of the greening payment in case of non-compliance with crop diversification | Greening reductions and sanctions should be more proportional: The principle for the reductions is very complicated and disproportionate. A farmer risks large reductions in the greening payment even due to minor non-compliance.The reductions and sanctions could be made less severe, for instance, by abolishing the very complicated formula and using the missing area multiplied by 1,1 instead. Article 28 already sets out penalties in cases of larger differences. 4. The rule of increased reduction after non-compliance for three years should be deleted. | 1. Where Article 44 of Regulation (EU) No 1307/2013 requires that the main crop shall not cover more than 75 % of the total area of arable land, but the area that has been determined for the main crop group covers more than 75 %, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by ~~50 % of the total area of arable land determined multiplied by the ratio of difference~~ **the actual area of the main crop group that goes beyond 75 % multiplied by 1,1.**~~The ratio of difference referred to in the first subparagraph shall be the share of the area of the main crop group that goes beyond 75 % of the total arable land determined in the total area required for the other crop groups.~~2. Where Article 44 of Regulation (EU) No 1307/2013 requires that the two main crops shall not cover more than 95 % of the total area of arable land determined, but the area that has been determined for the two main crop groups covers more than 95 %, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by ~~50 % of the total area of arable land determined multiplied by the ratio of difference~~ **the actual area of the two main crop groups that goes beyond 95 % multiplied by 1,1.**~~.~~~~The ratio of difference referred to in the first~~ ~~subparagraph shall be the share of the area of the two main crop groups that goes beyond 95 % of the total area of arable land determined in the total area required for the other crop groups.~~3. Where Article 44 of Regulation (EU) No 1307/2013 requires that the main crop shall not cover more than 75 % of the total area of arable land determined and the two main crops shall not cover more than 95 %, but the area that has been determined for the main crop group covers more than 75 % and the area that has been determined for the two main crop groups covers more than 95 %, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by ~~50 % of the total area of arable land determined multiplied by the ratio of difference~~ **the actual area of the crop group that goes beyond the limit multiplied by 1,1.**~~.~~~~The ratio of difference referred to in the first subparagraph shall be the sum of the ratios of difference calculated under paragraph 1 and 2. However, the value of this ratio shall not exceed 1.~~~~4. Where a beneficiary has been found non-compliant with crop diversification as described in this Article for three years, the area by which the area to be used for the calculation of the greening payment is to be reduced in accordance with paragraphs 1, 2 and 3 for the subsequent years shall be the total area of arable land determined multiplied by the applicable ratio of difference.~~ | Short term. |
| Article 26Reduction of the greening payment in case of non-compliance with the ecological focus area requirements | Greening reductions and sanctions should be more proportionate: The principle for reductions is very complicated and disproportionate. A farmer risks large reductions in the greening payment even due to minor non-compliance. The reductions and sanctions could be made less severe, for instance, by abolishing the very complicated formula and using the missing area multiplied by 1,1 instead. Article 28 already sets out penalties in cases of larger differences. 3. The rule of increased reduction after non-compliance for three years should be deleted. | 1.The ecological focus area required in accordance with Article 46(1) of Regulation (EU) No 1307/2013, hereinafter referred to as ‘the ecological focus area required’, shall be calculated on the basis of the total area of arable land determined and including, if applicable pursuant to Article 46(2) of Regulation (EU) No 1307/2013, the areas determined as referred to in points (c), (d), (g) and (h) of the first subparagraph of Article 46(2) of that Regulation.2. If the ecological focus area required exceeds the ecological focus area determined taking account of the weighting of ecological focus areas provided for in Article 46(3) of Regulation (EU) No 1307/2013, the area to be used for the calculation of the greening payment in accordance with Article 23 of this Regulation shall be reduced by ~~50 % of the total arable land determined and~~ **area**including, if applicable pursuant to Article 46(2) of that Regulation (EU) No 1307/2013, the areas determined as referred to in points (c), (d), (g) and (h) of the first subparagraph of Article 46(2) of that Regulation, multiplied by **1,1 of the actual area missing from ecological focus areas** ~~the ratio of difference~~.~~The ratio of difference referred to in the first subparagraph shall be the share of the difference between the ecological focus area required and the ecological focus area determined in the ecological focus area required.~~~~3. Where a beneficiary has been found non-compliant with the ecological focus area requirements as described in this Article for three years, the area by which the area to be used for the calculation of the greening payment is to be reduced in accordance with paragraph 2 for the subsequent years shall be the total area of arable land determined and including, if applicable pursuant to Article 46(2) of Regulation (EU) No 1307/2013, the areas determined as referred to in points (c), (d), (g) and (h) of the first subparagraph of Article 46(2) of that Regulation, multiplied by the ratio of difference.~~ | Short term. |
| Article 30(4)(c)The computerized database for animals |

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**More proportionality to the penalties concerning entries to the computerised database for animals.**The original rationale of information and entries included in the computerised database (BSE crisis) no longer requires such a strict penalty regime as it once did. There is an urgent need for a more proportionate solution. In the current economic situation these severe penalties imposed on animal farms have disastrous consequences for the farms. We understand that the penalty system has to include deterrent element and be dissuasive, i.e. be a little bit stricter in cases where the farm is controlled based on risk or random sampling, where there is possibility that the farm is not controlled every year. But when it is question about entries to the computerised database for animals no deterrent element is needed, because each and every non-compliance can immediately be seen from the database. Thus, in our view there is no need for the current strict penalty system in cases where the correct information is in the register, but it is only entered late. For example, if the animal born has to be entered to the database on the 7th day, making the entry on the 8th day should be considered to fall under this category and there should be no reason for the current strict penalty system. This point is emphasised by the fact that late entries already cause implications in cross compliance.  | New point (d ) to Article 30(4)**d) where the non-compliances found relate to late entries in the register and/or the computerised database for animals, the animals concerned shall be considered as determined.** | Short term. |
| Article 30(5)The penalty system for ovine and caprine animals | **More proportionality to the penalties concerning ovine and caprine animals.**The penalty system for ovine and caprine animals is even stricter than the penalty system for bovine animals. There seem to be no tolerances for imposing penalties with regard to two ear tags, the register or computerised register. More proportionality is needed in this penalty system as well.   | ~~5. An ovine or caprine animal present on the holding which has lost one ear tag shall be considered as determined provided that the animal can still be identified by a first means of identification in accordance with Article 4(2)(a) of Regulation (EC) No 21/2004 and provided that all other requirements of the system for the identification and registration of ovine and caprine animals are fulfilled.~~**Where cases of non-compliances with regard to the system for the identification and registration for ovine or caprine** **animals are found, the provisions provided in Article 30(4) concerning bovine animals are applied *mutatis mutandis*.**  | Short term. |
| Article 31 Minor non-compliances | **Incorporation of provisions concerning minor non-compliances before reductions and penalties into direct animal support systems (VCS) and animal-related support measures.**Contrary to area payment penalties, where we have a low threshold (0,10 ha and 3 %/2 ha in Articles 18(6) and 19(1) of Regulation (EU) No 640/2014) before reductions and penalties, direct animal support systems (VCS) or animal-related support measures have no threshold in this sense. Today livestock herds are increasing in size and there is an urgent need for this kind of threshold. According to Articles 64(7)(b) and 77(8)(b) of Regulation (EU) No 1306/2013 this kind of threshold could be established by the Commission also for the VCS system. The current penalty system for animals (voluntary coupled support; VCS) is unfair and causes severe penalties in payment schemes where the payment is not based on the number of individual animals but on, for example, the days the animal is on the farm, as is the case in Finland.In the same way as the Commission is proposing a different threshold concerning the degree of administrative penalties for short production cycle species (DS/EGDP/2015/08 Working Document REV1 Article 31(2) last subparagraph), there should be a provision allowing the Member States to determine a different threshold to make the system more proportionate for bovine, ovine and caprine animals. This threshold could be communicated to the Commission and to the other Member States and it should be substantially equivalent to the animal threshold used. According to the current system, animals rejected are treated as whole animals (e.g. four animals, each of which always counts for 365 eligible days, regardless of how long the animal has been on the farm accumulating the eligible days) and the average number of animals, calculated on the basis of eligible days, is used as the number of accepted animals in the sanction model. Example: Four bulls that have accumulated a total of 400 eligible days (= 1.1 animals) are rejected (as four whole animals) in the control procedures. The eligible days accumulated by these bulls are not taken into consideration when calculating the number of accepted animals on the basis of eligible days. There are a total of 12 775 eligible days of accepted animals, which amounts to 35 accepted animals (12 775/365). The difference between animals accepted and rejected in calculating the penalty is 11% (4/35 x 100%). The aid paid on the basis of the number of animals accepted is reduced by 22% (11% x 2). In the so-called support area AB in Finland, i.e. southern Finland, the amount of support lost in 2015 was 3 850 € (17 500 - 3 850 = 13 650 €).If the penalty were calculated based on eligible days, the aid would be reduced by 3% (1.1/35 x 100%). If the penalty were calculated based on livestock units, the aid would be reduced by 3% (1.1 x 0.6/35 x 0.6 x 100%). This gives a more proportionate result than the 22% reduction based on whole animals. In support area AB in Finland the amount of support lost in 2015 would be 525 € (17 500 - 525 = 16 975 €). | 1. Where, in respect of an aid application under an animal aid scheme or in respect of a payment claim under an animal-related support measure, a difference is found between the number of animals **or another calculation unit determined by the Member State** declared and that determined in accordance with Article 30(3), the total amount of aid or support to which the beneficiary is entitled under that aid scheme or support measure for the claim year concerned shall be reduced by the percentage to be established in accordance with paragraph 3 of this Article, if ~~no~~ more than ~~three~~ **five** animals **or an equivalent figure based on another calculation unit determined by the Member State** are found with non-compliances. **If non-compliances concern no more than five animals or an equivalent figure based on another calculation unit determined by the Member State, the aid shall be calculated on the basis of the animals determined.** 2. If more than ~~three~~ **five** animals **or an equivalent figure based on another calculation unit determined by the Member State** are found with non-compliances the total amount of aid or support to which the beneficiary is entitled under the aid scheme or support measure referred to in paragraph 1 for the claim year concerned shall be reduced by:a) the percentage to be established in accordance with paragraph 3, if it is not more than 10 %;b) twice the percentage to be established in accordance with paragraph 3, if it is more than 10 % but not more than 20 %. | Short term. |

**COMMISSION IMPLEMENTING REGULATION (EU) NO 809/2014**

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| Issue | Proposal and its justification/reasoning | Proposed amendment (includes current provision) | Timing of the solution  |
| Article 21(1) (d)The location of animals | **More proportionality to the penalties due to minor non-compliances concerning the location of animals within the holding.**Another reason for the increased numbers of penalties is the change of the penalty system with regard to the location of animals as from 2015. We do not understand the reason behind the change that makes the penalty system stricter than it was in 2014.To avoid the risk of disproportionate penalties in the payments, the rule that animals determined are eligible for payment should be applicable in cases where the information on movements of animals is lacking but where the relevant animals can be immediately identified within the holding of the farmer concerned during the on-the-spot check. | 1. A livestock aid application as defined in point (15) of the second subparagraph of Article 2(1) of Delegated Regulation (EU) No 640/2014 or payment claim under animal-related support measures as defined in point (14) of the second subparagraph of Article 2(1) of that Regulation shall contain all information necessary to establish eligibility for the aid and/or support, and in particular: (a) the identity of the beneficiary; (b) a reference to the single application if it has already been submitted; (c) the number of animals of each type in respect of which a livestock aid application or a payment claim is being submitted and, for bovines, the identification code of the animals; (d) where applicable, an undertaking by the beneficiary to keep the animals referred to in point (c) on his holding during a period, determined by the Member State, and information on the location or locations where the animals will be held including the period concerned;**Where a farmer has failed to inform the competent authorities that animals have been moved to another location during the retention period as required by Article 20(1)(d), the animals concerned shall be regarded as determined if the location of the animals within the holding was immediately established and the animals identified.in the on-the- spot check**  | Short term. |
| New Article Preliminary checks and animal aid schemes | **Incorporation of provisions concerning the possibility of preliminary checks into the direct animal support systems (VCS) and animal-related support measures**.Article 15 of Regulation (EU) No 809/2014 includes the possibility of preliminary checks. This possibility should be extended to animal aid schemes. Concerning VCS in the claimless system there should be a couple of dates during the year for the PA to notify the results of preliminary checks. And there should be deadlines for beneficiaries following these dates to notify modifications due to the results of preliminary checks in the same way as in Article 15 concerning area-based payments.This kind of extension to the animal aid schemes would be important, because more proportionality is needed in the very severe penalty system concerning animals. | New article:**Preliminary checks and modifications following the preliminary checks concerning animal aid applications and payment claims under animal-related support measures****Member States may decide to introduce a system of preliminary cross-checks (hereinafter referred to as “preliminary checks”), which shall include at least the cross-checks referred to in point (e) of the first subparagraph of Article 29(1) of this Regulation. The results shall be notified to the beneficiary within a period/s concerning the claim year defined by the Member State.** **Where a beneficiary has been notified of the results of the preliminary checks, that beneficiary may modify the animal aid application or payment claim in order to include all necessary corrections with respect to individual animals or, if relevant, animal groups in accordance with the results of the cross-checks where they indicated a potential non-compliance.** **Such notifications shall be made in writing no later than on the final date/s for the notification of such amendments set by the Member State.**  | Short term. |

**ANNEX 2.**

**Ministry of Agriculture and Forestry, Finland 22.1.2016**

**The earlier proposals of greening and cross compliance made in February 2015 that are referred in the letter**

**DIRECT PAYMENT REGULATION (EU) NO 1307/2013**

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| Issue | Current provision | Proposed amendment | Justification/Reasoning | Timing of the solution  |
| Article 4(1)(h)Permanent grassland  | (h) "permanent grassland and permanent pasture" (together referred to as "permanent grassland") means land used to grow grasses or other herbaceous forage naturally (self- seeded) or through cultivation (sown) and that has not been included in the crop rotation of the holding for five years or more; it may include other species such as shrubs and/or trees which can be grazed provided that the grasses and other herbaceous forage remain predominant as well as, where Member States so decide, land which can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas; | (h) "permanent grassland and permanent pasture" (together referred to as "permanent grassland") means land used to grow grasses or other herbaceous forage naturally (self- seeded) or through cultivation (sown) and that has not been ~~included in the crop rotation of the holding~~ **tilled** for five years or more; it may include other species such as shrubs and/or trees which can be grazed provided that the grasses and other herbaceous forage remain predominant as well as, where Member States so decide, land which can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant in grazing areas; | The conditions of permanent grassland have led to the risk that farmers are going to plough grassland areas which until now have been seen as temporary grassland. This is not a desirable situation with regard to the environmental objectives. The threat of reconversion obligation constrains the farmers’ right to decide on their own actions. Farmers perceive this as a violation of their legally protected rights. Because of this, in the future it may be difficult for livestock farms to find arable lands they could lease as the lessors may fear that the status of the arable area they have leased may change into permanent grassland. All farmers are afraid that the value of their grassland area may decrease. In Finland it is a normal practice that grassland areas under grass silage, dry hay and seed are tilled every 4th or 5th year on average and new grass is sown after that. This kind of grassland should not be seen as permanent grassland. Therefore Finland proposes that the words “included in the crop rotation of the holding” should be deleted and the word “tilled” should be inserted.  | Short term. |

**COMMISSION DELEGATED REGULATION (EU) NO 639/2014**

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| Issue | Current provision | Proposed amendment | Justification/Reasoning | Timing of the solution  |
| Article 40Time period of crop diversification  | 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.Member States shall inform farmers of that period in due time. Within the total arable land of the holding, each hectare shall be taken into account only once in one claim year for the purpose of the calculation of the shares of different crops. | ~~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.~~~~Member States shall inform farmers of that period in due time.~~ Within the total arable land of the holding, each hectare shall be taken into account only once in one claim year for the purpose of the calculation of the shares of different crops. | The rule on cultivation period for crop diversification is burdensome for both the farmers and the administration and it should be deleted. Instead of the time period mentioned at the moment in Article 40 the numbers of crops would be considered on the basis of the crops declared in the aid application.Crop diversification could be controlled based on 100 % cross-checks. Those areas would be verified with on-the-spot checks which are done at the time when most of the eligibility criteria and commitments can be checked. | Medium term. |
| Article 44(2)Reconversion of permanent grassland  | 2.   Where it is established that the ratio referred to in the first subparagraph of Article 45(2) of Regulation (EU) No 1307/2013 has decreased beyond 5 % compared to the reference ratio referred to in that Article, the Member State concerned shall provide for the obligation to reconvert areas into areas of permanent grassland and for rules to avoid new conversion of areas of permanent grassland.Member States shall determine the range of farmers subject to the reconversion obligation from farmers who:

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| (a) | are subject to the obligations under Chapter 3 of Title III of Regulation (EU) No 1307/2013 with respect to areas of permanent grassland that are not subject to Article 45(1) of that Regulation; and |

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| (b) | based on the applications submitted in accordance with Article 72 of Regulation (EU) No 1306/2013 or Article 19 of Regulation (EC) No 73/2009 during the preceding two calendar years, or in 2015 during the preceding three calendar years, have agricultural areas at their disposal which were converted from areas of permanent grassland or land under permanent pasture into areas for other uses. |

Where the periods referred to in point (b) of the second subparagraph include calendar years before 2015, the reconversion obligation shall also apply to areas that were converted into areas for other uses from land under permanent pasture that were subject to the obligation referred to in Article 6(2) of Regulation (EC) No 73/2009 or Article 93(3) of Regulation (EU) No 1306/2013.When determining which farmers shall reconvert areas into areas of permanent grassland, Member States shall impose the obligation first on farmers who have at their disposal an area that was converted from an area of permanent grassland or land under permanent pasture into an area for other uses in breach of the authorisation requirement, if applicable, referred to in paragraph 1 of this Article or Article 4(1) of Regulation (EC) No 1122/2009. Such farmers shall reconvert the whole converted area. | 2.   Where it is established that the ratio referred to in the first subparagraph of Article 45(2) of Regulation (EU) No 1307/2013 has decreased beyond 5 % compared to the reference ratio referred to in that Article, the Member State concerned shall provide for the obligation to reconvert areas into areas of permanent grassland and for rules to avoid new conversion of areas of permanent grassland.Member States shall determine the range of farmers subject to the reconversion obligation from farmers who:

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| (a) | are subject to the obligations under Chapter 3 of Title III of Regulation (EU) No 1307/2013 with respect to areas of permanent grassland that are not subject to Article 45(1) of that Regulation; and |

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| (b) | based on the applications submitted in accordance with Article 72 of Regulation (EU) No 1306/2013 or Article 19 of Regulation (EC) No 73/2009 during the preceding two calendar years, or in 2015 during the preceding three calendar years, have agricultural areas at their disposal which were converted from areas of permanent grassland or land under permanent pasture into areas for other uses. |

Where the periods referred to in point (b) of the second subparagraph include calendar years before 2015, the reconversion obligation shall also apply to areas that were converted into areas for other uses from land under permanent pasture that were subject to the obligation referred to in Article 6(2) of Regulation (EC) No 73/2009 or Article 93(3) of Regulation (EU) No 1306/2013.**By way of derogation from the first and second subparagraph reconversion obligation does not apply to farmers who within the preceding two years have converted production mainly based on grass production to another type of production on a long-term basis. Reconversion obligation does neither apply for agricultural areas which have been sold or leased on a long-term basis to a farmer who does not have production based on grass.** When determining which farmers shall reconvert areas into areas of permanent grassland, Member States shall impose the obligation first on farmers who have at their disposal an area that was converted from an area of permanent grassland or land under permanent pasture into an area for other uses in breach of the authorisation requirement, if applicable, referred to in paragraph 1 of this Article or Article 4(1) of Regulation (EC) No 1122/2009. Such farmers shall reconvert the whole converted area. | Reconversion obligation should not apply to farms which convert production mainly based on grass production to another type of production and on a long-term basis. Reconversion obligation should neither apply to agricultural areas which have been sold or leased on a long-term basis to the farmer who does not have production based on grass. Such an amendment would be very important because otherwise we could have a situation where e.g. a milk farmer finished milk production and he converts his grass areas to cereals. He might sell his machines for grass production and buy machines for cereal production. Thus, if the provisions of reconversion were applied, the farmer should start again grass production and try to buy or rent machines for grass production. It might be that in the region there is no need for additional grass. So what should the farmer do with his grass? Farmers are afraid of this situation and feel that the threat of reconversion obligation constrains the farmers' right to decide on their own actions. Farmers perceive this as a violation of their legally protected rights. | Short term. Urgent. |

**HORIZONTAL REGULATION (EU) No 1306/2013**

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| Issue | Current provision | Proposed amendment | Justification/Reasoning | Timing of the solution  |
| Article 97(1) Application of cc penalties  | 1. The administrative penalty provided for in Article 91 shall be imposed where the rules on cross-compliance are not complied with at any time in a given calendar year ('the calendar year concerned'), and where the non-compliance in question is directly attributable to the beneficiary who submitted the aid application or the payment claim in the calendar year concerned. The first subparagraph shall apply mutatis mutandis to beneficiaries who are found not to have complied with the rules on cross-compliance, at any time during three years from 1 January of the year following the calendar year in which the first payment was granted under the support programmes for restructuring and conversion or at any time during one year from 1 January of the year following the calendar year in which the payment was granted under the support programmes for green harvesting referred to in Regulation (EU) No 1308/ 2013('the years concerned'). | 1.The administrative penalty provided for in Article 91 shall be imposed where the rules on cross-compliance are not complied with at any time in a given calendar year ('the calendar year concerned'), and where the non-compliance in question is directly attributable to the beneficiary who submitted the aid application or the payment claim in the calendar year concerned. **In those Member States where animal-related voluntary coupled support and animal-related rural development support are applied, an administrative penalty based on non-compliance of animal-related statutory management requirements should apply only to animal-related voluntary coupled support and animal-related rural development support of the beneficiary. Likewise, an administrative penalty based on non-compliance of area-related statutory management requirements and/or good agricultural and environmental standards should apply only to area-related direct payments and area-related rural development support of the beneficiary.** The first subparagraph shall apply mutatis mutandis to beneficiaries who are found not to have complied with the rules on cross-compliance, at any time during three years from 1 January of the year following the calendar year in which the first payment was granted under the support programmes for restructuring and conversion or at any time during one year from 1 January of the year following the calendar year in which the payment was granted under the support programmes for green harvesting referred to in Regulation (EU) No 1308/ 2013('the years concerned'). | It seems that at the moment the penalties relating to cross compliance are not equitable and proportionate, especially for farmers in different production sectors (animal husbandry/crop production). When for example, farms only with a few animals but hundreds of hectares have a non-compliance in animal-related cross compliance requirements and the penalty is applied to all area-based direct payments and rural development payments, the penalty seems to be too big in relation to the animal number. And, vice versa, when there are just a few hectares and lot of animals and an error concerning the area-related cross compliance rules leads to a cutting of the animal related payments.Thus Finland proposes a change to Article 97(1) for Member States where animal-related voluntary coupled support and animal-related rural development support are applied.  | Medium term. |