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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	COMMISSION STAFF WORKING DOCUMENT Review of greening after one year

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Delegations will find attached document SWD(2016) 218 final PART 1/6.

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PART 1/6

**COMMISSION STAFF WORKING DOCUMENT**

**Review of greening after one year**

## 1. INTRODUCTION

The reformed common agricultural policy (CAP), implementation of which began in 2015, introduced a new policy instrument under its first pillar — the green direct payment scheme.<sup>1</sup> The aim is to enhance the sustainability of agriculture in the European Union. When the reform was adopted, the Commission committed itself in a declaration<sup>2</sup> 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 implementation. The declaration addressed three aspects: any administrative burden arising from this new instrument; the impact on the level playing field for farmers of implementation by Member States of green direct payments; and the impact on production potential. The current review aims at assessing how the system was applied in the first year and adjusting where necessary regulatory arrangements governing green direct payments in secondary legislation.

This review also provides the chance to explore the possibilities to make the new CAP simpler. Simplification and efficiency of EU policies have indeed been among the key priorities of the new Commission since it took office in autumn 2014. The Commission undertook an early and wide consultation of all interested parties, in particular Member States and the European Parliament, on their priorities for simplification. This consultation revealed a high level of expectation regarding the new green direct payment scheme. Against this background, the Commission decided — under the Regulatory Fitness and Performance (REFIT) section of its 2016 work programme — to include a review of the provisions for green direct payments in the relevant delegated and implementing regulations<sup>3</sup>. To this end, the Commission conducted a stakeholder consultation, including an online public survey, in 2015 and early 2016.

This Commission Staff Working Document follows up on the Commission declaration in this broader context of reviewing policy efficiency and administrative simplification. It addresses the three specific issues mentioned in the declaration, but goes further — for the sake of consistency — to cover all aspects of green direct payments.

This document does not provide an in-depth assessment of impacts on the environmental performance of EU agriculture brought about by the green direct payment scheme, in particular

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<sup>1</sup> Regulation (EU) No 1307/2013, OJ L 347, 20.12.2013, p. 608.

<sup>2</sup> ‘The Commission undertakes to thoroughly evaluate the experience with the implementation of the obligations on Ecological Focus Areas (EFA) as part of the ‘greening’ obligations, after the first year of application. In particular, the Commission will ensure that the administrative burden for Member State authorities and producers arising from the application of EFA is kept to an absolute minimum and that procedures are simplified, including those on ditches. The situation in terms of a level playing field due to the implementation of EFA in different Member States will also be examined and addressed if necessary. Should the requirement to meet the EFA obligations result in a noticeable reduction of the production potential of the EU, the Commission will revise the relevant delegated act.’ (2 April 2014; [http://ec.europa.eu/agriculture/newsroom/161\\_en.htm](http://ec.europa.eu/agriculture/newsroom/161_en.htm))

<sup>3</sup> Commission Delegated Regulation (EU) No 639/2014, OJ L 181, 20.6.2014, p. 1.

Commission Implementing Regulation (EU) No 641/2014, OJ L 181, 20.6.2014, p. 74.

as environmental benefits generally take more than one year to become apparent. It rather provides some preliminary conclusions, based on available information. A more informed and thorough assessment of the environmental achievements of this scheme<sup>4</sup> will be made in the forthcoming evaluation scheduled for completion in 2017<sup>5</sup> and in the context of the first report on the performance of the CAP planned for the end of 2018.<sup>6</sup>

This document also summarises the outcome of various consultations with the European Parliament and the Council, farmers' organisations, environmental and nature protection civil society organisations as well as farmers, citizens and other stakeholders. These analyses and consultations indicated certain shortcomings of the green direct payment scheme. This document identifies possible ways forward to remedy them. These will aim at simplifying the scheme's operation so as to improve its efficiency and effectiveness while maintaining its environmental ambition. In this way, its fitness for purpose will be secured. More fundamental changes to the structure of green direct payments, as set out in the basic act<sup>7</sup>, would entail a longer decision-making process and so are not considered in this exercise.

## **2. NATURE AND OBJECTIVES OF GREEN DIRECT PAYMENTS**

The objective of the green direct payment is to enhance the environmental performance of the CAP through payments for practices beneficial for the environment and climate change.<sup>8</sup> Such practices are:

- ecological focus area (EFA) covering 5 % of arable area, in particular with a view to safeguarding and improving biodiversity on farms;<sup>9</sup>
- crop diversification, most notably with accompanying benefits for soil quality; and
- maintenance of permanent grassland with its associated environmental benefits, in particular carbon sequestration, and protection of environmentally sensitive grassland.

These practices are meant to be simple, generalised, non-contractual and annual. They should also go beyond the statutory rules linked to environmental rules under cross-compliance (statutory management requirements and standards for good agricultural and environmental condition of land).

This new scheme is complementary to other CAP policy instruments that aim at ensuring the sustainable management of natural resources. The combination of these instruments — new or

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<sup>4</sup> A number of studies are already available aiming at a preliminary assessment of the environmental impact of green direct payments, e.g. 'Landscape infrastructure and sustainable agriculture (LISA) — Report on the investigation in 2014'. Project managed by the Institute for Agroecology and Biodiversity (IFAB), Mannheim <http://www.eeb.org/index.cfm?LinkServID=0E2EEC07-5056-B741-DBA777455AA46334>.

<sup>5</sup> In accordance with legal obligation under Article 46(1) of Regulation (EU) No 1307/2013

<sup>6</sup> Under Article 110(5) of Regulation (EU) No 1306/2013

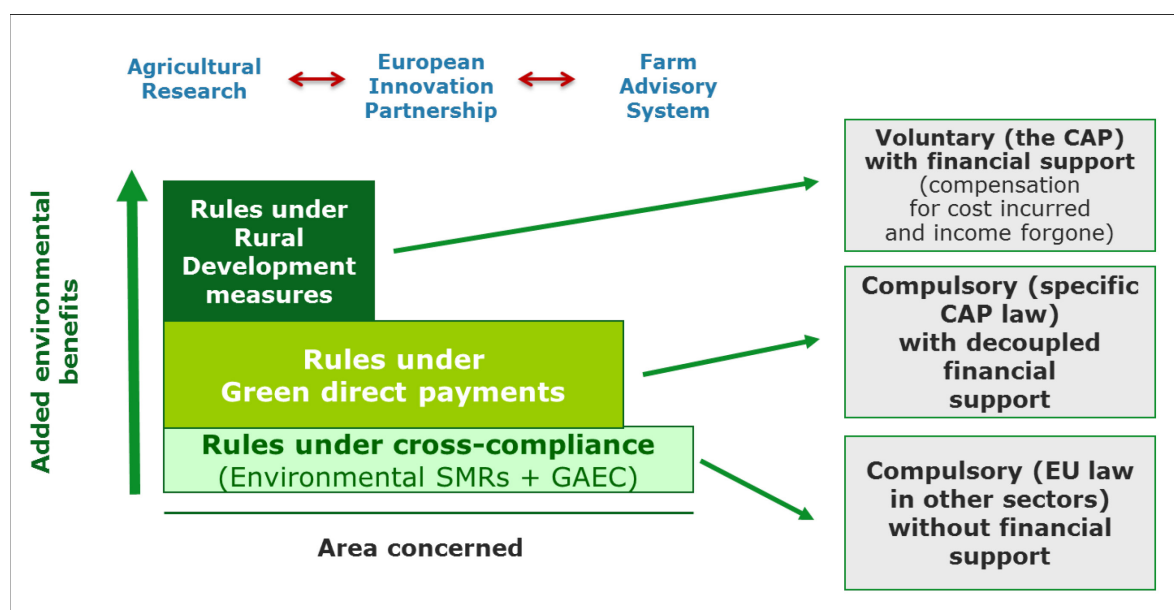
<sup>7</sup> Regulation (EU) No 1307/2013

<sup>8</sup> Recital (37) of Regulation (EU) No 1307/2013

<sup>9</sup> This fits in particular with the objective 3A of the EU biodiversity strategy to 2020 (COM/2011/0244).

reinforced during the CAP reform — should support the greening of the CAP as a whole. The way the various instruments work together is illustrated by Figure 1.

**Figure 1: Environmental instruments of the CAP**



Source: DG AGRI

**Annex 1** provides a detailed description of this greening architecture and more particularly of the green direct payment scheme.

The green direct payment scheme is meant to achieve:

- A greater effectiveness of the CAP in delivering on its environmental and climate objectives (notably for soil, water, biodiversity and climate) by:
  - explicitly acknowledging and supporting farmers for their joint provision of private and public goods;
  - introducing a basic layer of environmental and climate measures on a very large scale, additional to existing rules under cross-compliance; and
  - raising the level of ambition for environmental and climate measures in rural development and/or making funds available for these more targeted measures;
- A more balanced economic and environmental performance of EU agriculture in order to ensure its long-term sustainability;
- The maintenance of the long-term production potential of EU agriculture by safeguarding the natural resources on which agriculture depends.

The purpose of introducing a green direct payment scheme into the first pillar of the CAP is to ensure that all EU farmers in receipt of support go beyond the requirements under cross-compliance and deliver environmental and climate benefits as part of their agricultural activity. In this context, it should be stressed that the introduction of greening practices does not

necessarily entail changing all practices in all farms. Where these sustainable agricultural practices are already implemented, the application of the green direct payment scheme guarantees the preservation of these practices. In all cases, the scheme ensures that the required practices are applied on all concerned farms.

### **3. INITIAL RESULTS OF THE IMPLEMENTATION OF GREEN DIRECT PAYMENTS BY FARMERS**

If 2015 was the first year when farmers implemented the green direct payment scheme, national authorities had already had to set their national regulatory framework based on the EU legislative framework. In this respect, the implementation choices made by Member States were known, in particular by farmers, already in 2014. A summary of these choices was made public by the Commission in May 2015<sup>10</sup> to provide a preliminary insight on the potential outcome of this scheme. During 2015, farmers made in turn their own choices for fulfilling the obligations under this scheme based on the options chosen at national level. These choices, which have now been notified to the Commission, show a wide variety throughout the EU.

**Annex 2** summarises the status of implementation of the green direct payment scheme by farmers in 2015, as far as possible presented with maps at regional level (NUTS 3) to reflect its geographical dimension. All figures are based on farmers' declarations.<sup>11</sup> This analysis enables certain preliminary conclusions to be drawn at this stage.

#### ***Obligations under the green direct payment scheme cover most of the agricultural area in the EU***

Agricultural land subject to at least one green direct payment obligation amounts to 72 % of the total EU agricultural area. This wide coverage demonstrates the potential of green direct payments in delivering environmental and climate benefits on a large share of EU farmland, including areas that are not covered by agri-environmental and climate measures under rural development programmes. The proportion of farmers under at least one greening obligation stands at around 36 % of direct payment beneficiaries.

The areas not covered by the green direct payment obligations correspond to:

- agricultural areas that are not under the system of direct payments (which amount to approximately 11 % of the total agricultural area in the EU); or
- areas exempted from greening obligations, i.e. from farmers benefiting from the small farmers scheme, from organic farms or from farms with less than 10 ha of arable land (these exemptions can overlap between small farmers scheme, organic farms and farms with less than 10 ha of arable land, thereby not enabling the overall percentage to be assessed); or

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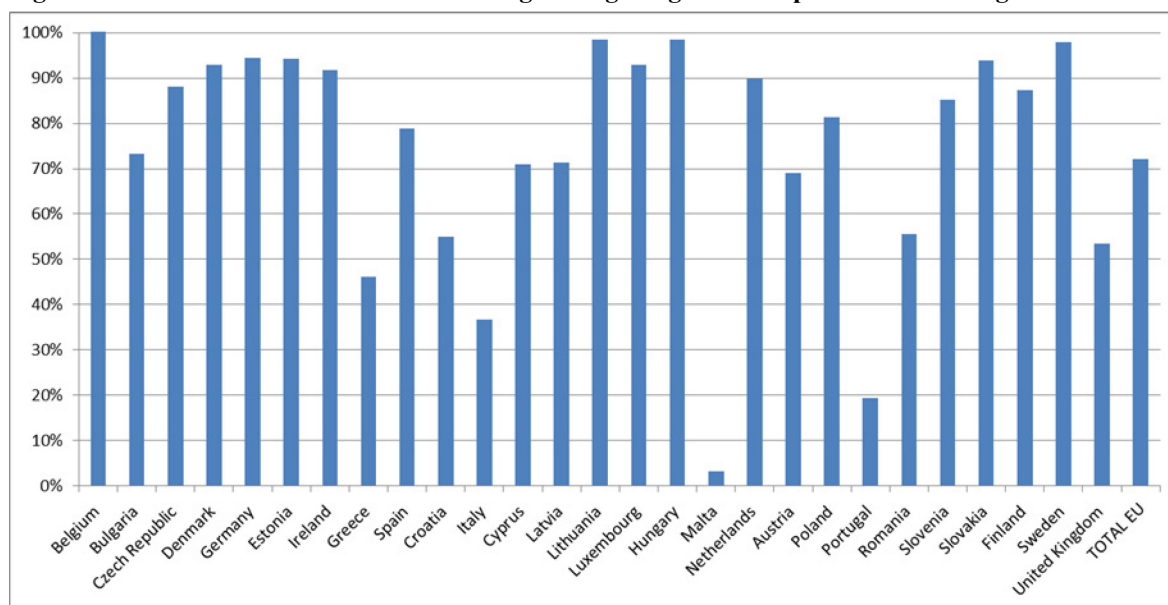
<sup>10</sup> [http://ec.europa.eu/agriculture/direct-support/direct-payments/docs/implementation-decisions-ms\\_en.pdf](http://ec.europa.eu/agriculture/direct-support/direct-payments/docs/implementation-decisions-ms_en.pdf).

<sup>11</sup> At the time of drafting this report, data were missing for France, the United Kingdom (Scotland) and Italy (permanent grassland).

- areas under permanent crops, which amount to 6 % of the total EU agricultural area. Such areas receive green direct payments, although no greening obligations are applicable to these types of crop. Presented data on implementation of greening excludes areas of farms that have only permanent crops.

The situation is uneven across Member States reflecting the relative importance of exempted farms at national level. Figure 2 shows the variations among Member States, where the highest percentages are found in mostly northern countries and the lowest in southern countries with small farm structures.

**Figure 2: Rate of hectares under at least one greening obligation compared with total agricultural area**



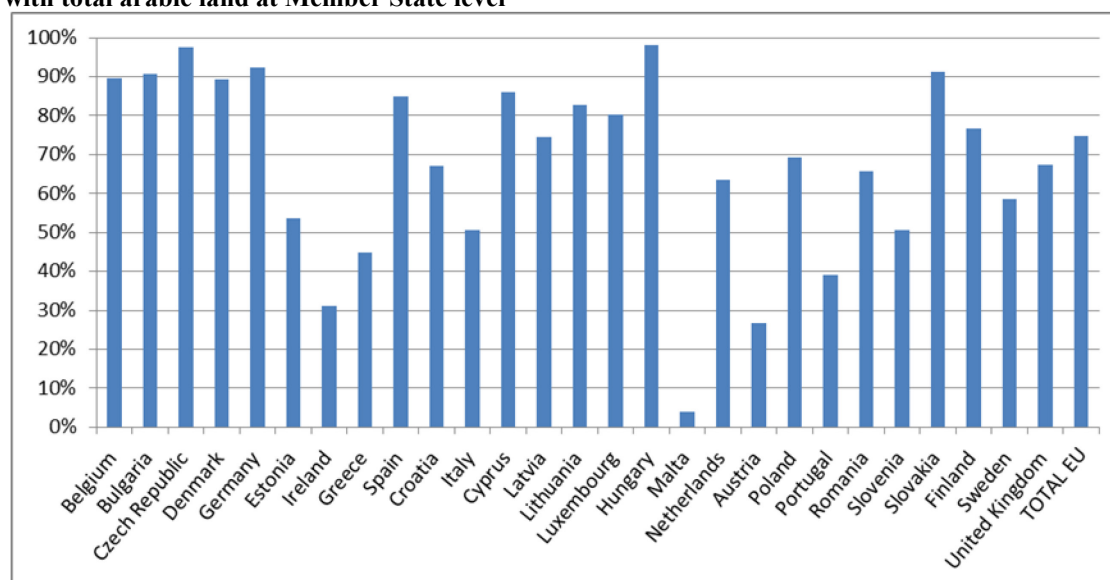
Source: Member States' implementation data 2015, Eurostat farm structure survey 2013

Arable land under the crop diversification obligation amounts to 75 % of the total EU arable land. However, there are significant variations across Member States, ranging from less than 10 % to more than 90 % of arable land (see Figure 3). Approximately 25 % of total EU arable land is not subject to crop diversification, 13 % is subject to the two-crop requirement and 62 % to the three-crop requirement. Rates again vary across Member States.

A quantitative analysis (see **Annex 4** and Section 5) estimates that for 8 % of total arable land in Europe, representing approximately 10 % of total arable land under crop diversification, farmers have had to adjust a part of their crop production pattern in order to respect the thresholds for crop diversification (e.g. the main crop should not represent more than 75 % of the farm's total arable land). In fact, the amount of land on which farmers have to change crops to be compliant with such thresholds is estimated to be around 1% (which corresponds usually to only a few hectares compared with the total arable land of the farm). With soil quality being a major

problem for EU agriculture,<sup>12</sup> this greening requirement contributes to avoiding a further deterioration of the current situation.

**Figure 3: Percentage of areas of arable land in farms subject to crop diversification obligations compared with total arable land at Member State level**



Source: Member States' implementation data 2015, Eurostat farm structure survey 2013

The 5% ecological focus area obligation is applicable to around 68 % of EU arable land. At national level, this value stands at around 90 % in Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Hungary and Slovakia, while other Member States exhibit intermediate values between 40 % and 80 %.

### ***Environmental performance depends on choices made by Member States and farmers***

The requirements for crop diversification and maintenance of permanent grassland are only to a limited extent dependant on choices by Member States and farmers. This is because rules are fixed at EU level. However, Member States and farmers do enjoy a large margin of decision in fulfilling the EFA requirement. This largely determines the environmental impact of the EFA obligation.

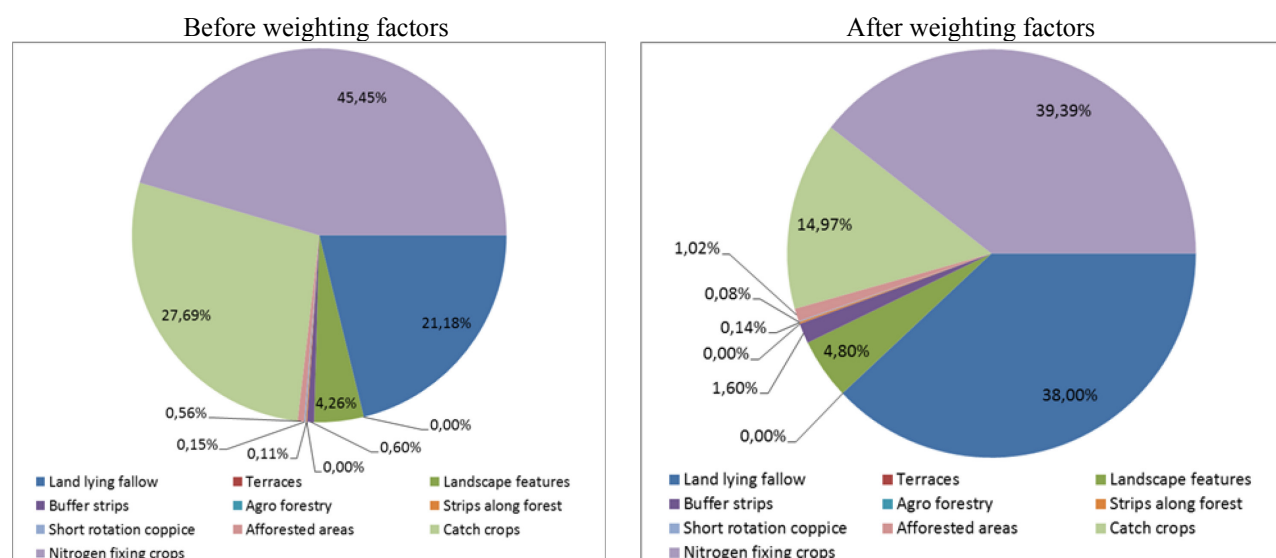
The main EFA types declared by farmers are shown in Figure 4: nitrogen-fixing crops (45.4 % of the physical area on the ground), catch crops (27.7 %), land lying fallow (21.2 %), landscape features (4.3 %) and buffer strips (less than 1 %). Ecological focus areas linked to a productive activity — nitrogen-fixing crops and catch crops — amount to 73.1 % of the total declared EFA area.

<sup>12</sup> For example, around 13% of arable land in the EU is estimated to be affected by moderate to high erosion by water which equates to an area of 140 373 km<sup>2</sup> (Source: 'Agri-environmental indicator – soil erosion', EUROSTAT, 29 April 2016 <http://ec.europa.eu/eurostat/statistics-explained>).



The various EFA areas are subject to weighting factors according to their expected environmental value.<sup>13</sup> When corrected by their weighting factors, the share and order of each declared EFA type appear different: nitrogen-fixing crops (39.4 % of the weighted area), land lying fallow (38 %), catch crops (15 %), landscape features (4.8 %) and buffer strips (less than 2 %). While after correction nitrogen-fixing crops remain the most common declared EFA type in the EU, the share of fallow land appears more important and ranks second.

**Figure 4: EFA areas before and after weighting factor — breakdown by main EFA type at EU level**



Source: Member States' implementation data, 2015

Overall, the area covered by declared ecological focus areas amounts to 14 % of arable land before application of the weighting factors and to 9 % after this application, which is above the regulatory requirement of 5 %.

The impact on biodiversity of the EFA requirement is difficult to assess precisely at this stage. Among EFA types, the most stable features — such as hedges, trees, ponds, ditches, terraces, stone walls and other landscape features — are deemed to provide the best biodiversity benefits. This is due to their role as habitat and the fact that, since they remain in place over many years, they constitute valuable green infrastructures. As such, they enhance the natural and semi-natural elements that are important for the protection of biodiversity, including pollinators. Other types like fallow land and buffer strips also bring significant biodiversity benefits.

By contrast, the EFA types with the lowest coefficient for biodiversity are productive areas, in particular nitrogen-fixing crops — which can give rise to negative environmental effects linked to some intensive methods of production — and catch crops, which open up the possibility of a main crop on the area in the same year. In this respect, the figures for 2015 indicate that only 26.9 % of the physical area of ecological focus areas was devoted to the most beneficial elements for the environment. Moreover, on the productive area, which represents most of the EFA area,

<sup>13</sup> Weighting factors differ across EFA types: some weighting factors have a value below 1 (see Annex 1)

ten Member States have set valuable management conditions such as restrictions on the use of pesticides or fertilisers (four Member States for catch crops, one for nitrogen-fixing crops).

Nevertheless, experience over the first year does show positive developments, most notably as regards the significant share of fallow land in 2015. This demonstrates that this environmentally beneficial EFA type is perceived by farmers as manageable under ecological focus areas.

Ecological focus areas, as implemented in 2015, could also turn out to bring some noticeable contribution to other environmental needs. Nitrogen-fixing crops indeed serve to protect soils from erosion and to improve soil organic matter. Catch crops serve mainly to protect water quality. However, catch crops will mainly bring additional environmental benefits in areas where they were not already obligatory for the implementation of the environmental legislation<sup>14</sup> and Good Agricultural Environmental Conditions.

***More than a third of EU farmland is permanent grassland subject to protection aimed in particular at carbon sequestration; a fifth of this grassland is classified as environmentally sensitive with a view to protecting biodiversity and carbon storage.***

The ratio of permanent grassland stands at 29 % of the total agricultural area in the EU. Ireland and the United Kingdom (Northern Ireland, Scotland and Wales) have the highest value with approximately 90 %, while the lowest ratio is found in Cyprus, Finland, Denmark and Malta. Luxembourg and Slovenia have a share between 50 % and 60 % and other Member States range between 40 % and 50 %.

Environmentally sensitive permanent grassland covers 16 % of total permanent grassland, albeit with a high variability across the EU (see Annex 2). The areas declared by farmers amount to 40 % of total permanent grassland in Natura 2000 areas. On these areas a strict ban of ploughing up is applied in order to avoid carbon release. As regards biodiversity, at this stage, it is not possible to analyse in detail the consistency of these designations with the requirements for the conservation of species and habitats of Community interest.

***Only a small proportion of the agricultural area is excluded from greening obligations on the basis of exemptions***

Farmers exempted from greening obligations under the small farmers scheme<sup>15</sup> represent 41 % of the total number of farmers but only 5 % of the total agricultural area benefiting from direct payments. However, variations between Member States can be seen. In Malta, the small farmers scheme covers more than 75 % of farmers, while in Italy, Greece, Romania, Portugal and Poland it covers more than 40 % of farmers and 6-16 % of the area. Finally, in other Member States applying the small farmers scheme, it represents less than 30 % of farmers but a smaller area (8 % in Austria, 4 % in Spain, and less than 3 % in other Member States). This exemption

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<sup>14</sup> Notably Action Plans applying in Nitrates vulnerable areas according to the Nitrates Directive (Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p.1))

<sup>15</sup> The small farmers scheme is implemented by 15 Member States: Bulgaria, Germany, Estonia, Greece, Croatia, Spain, Italy, Latvia, Hungary, Malta, Austria, Poland, Portugal, Romania and Slovenia.

concerns the same farmers as the ones exempted because of the size of arable area (see Section 4).

Organic farms are considered ‘green by definition’ as they already apply strict rules on admissible practices which are highly beneficial for the environment; such farms are therefore not required to implement greening practices. Organic farms not required to implement greening practices amount to only 1 % in terms of number of beneficiaries and 4 % of total agricultural area, while they manage 7 % of the EU permanent grassland. In five Member States, the share of total agricultural area exempted because it is organic is above 15 % (Czech Republic, Estonia and Latvia), and in Italy and Austria it is even above 20 %.

***The fulfilment of the greening obligations under the equivalence mechanism only concerns a small proportion of the agricultural area***

Equivalent measures<sup>16</sup> were implemented in five Member States<sup>17</sup>, mostly with agri-environmental and climate measures, and cover 6 % of the arable land, but 2 % of farmers. In Austria, equivalent practices under agri-environment climate measures account for 19 % of farmers and 53 % of arable land. Equivalent agri-environmental and climate measures are deemed to yield at least the same environmental benefit as standard obligations under the scheme and their use should therefore have a positive impact in this respect.

Taking all these aspects together, these figures make it possible to draw a first picture of the reality of the green direct payment scheme on the ground and of its potential environmental achievement. It is applicable to most of the agricultural area. It has, therefore, the potential to have a considerable impact on a wide geographical area. However, the actual environmental improvement will depend on the environmental ambition of the measures.

The EFA requirement is applicable to most of the arable land and farmers have declared 9 % of the weighted area as ecological focus area. Yet, in terms of environmental ambition, it seems that farmers have optimised their EFA choices on economic grounds. In fact, they have mostly chosen cultivated areas instead of EFA types such as landscape features when it is the latter that have a higher potential benefit for biodiversity.

The assessment shows that diversification is already applied on most arable land, contributing to the prevention of soil quality deterioration.

As expected, the ratio of permanent grassland varies across Member States and the environmental and climate impact will depend on the maintenance of soil carbon stock by avoiding the conversion of permanent grassland to arable land. The protection of environmentally sensitive permanent grassland amounts to one fifth of the permanent grassland area, equating to one third of Natura 2000 permanent grassland areas.

<sup>16</sup> Measures alternative to the ‘standard’ greening practices, defined in Annex IX to Regulation (EU) No 1307/2013, see also Annex 1

<sup>17</sup> Austria, France, Ireland, the Netherlands, Poland

Finally, in 2015, equivalent measures only covered a small share of the agricultural area and are not deemed to have led to a noticeable environmental impact at EU level.

#### **4. ASSESSMENT OF THE IMPACT ON THE LEVEL PLAYING FIELD ARISING FROM THE IMPLEMENTATION BY MEMBER STATES**

In view of the wide diversity of situation and production conditions across the EU, a high degree of flexibility (up to 50 different options) was introduced in the methods to implement the green direct payments in order to improve the performance of the greening practices. It follows that — depending on their country of activity — farmers might have to meet different conditions under this scheme. This gave rise to some concerns regarding the level playing field between farmers across Member States or regions. The level playing field is defined as the possibility to manage the farm on an equal footing with other farmers in a similar context i.e. structure and geographical situation.<sup>18</sup> However, after the first year of implementation, these concerns seem to have vanished among stakeholders as indicated by the limited number of remarks, ad hoc contributions and debates on greening. The online survey addressed the issue but also confirms that this aspect now raises fewer concerns.

**Annex 3** provides an assessment of the potential of Member States' choices to affect the level playing field among farmers. It shows that the major implementing decisions of Member States have, in general, not significantly affected the level playing field.

#### ***Opting for the small farmers scheme did not provide a substantial advantage with regards to the greening obligations***

Evidence shows that the average size of farms under the small farmers scheme (2.6 ha in the EU) is largely under the area thresholds for triggering crop diversification and EFA obligations (10 ha and 15 ha, respectively). Furthermore, the maintenance obligations for permanent grassland are expected to have little impact given the small share of permanent grassland (4.5 % of all permanent grassland) on these farms. Consequently, the decision taken by 15 Member States to implement the small farmer scheme did not really affect the situation of farmers in terms of the level playing field.

#### ***The use of practices equivalent to greening did not play a significant role at EU level***

With the exception of Austria, the number of farmers fulfilling their greening obligations under the equivalence mechanism is very low in the four other countries concerned (Ireland, France, Netherlands and Poland). In these countries, it represents slightly less than 0.75 % of the total number of farmers subject to at least one greening obligation. This rate is higher in Austria at 18.5 % (equivalent practice covered by an agri-environment-climate measure). However, despite

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<sup>18</sup> In this respect, the exemptions described in Section 2 (except the small farmers scheme and equivalent practices) do not relate to the level playing field since all farmers under the same conditions are covered by the exemptions independently of Member States' choices.

this significant proportion of farmers concerned, the principle of no double funding in setting the amount of support to be granted for the equivalent agri-environment-climate payment should ensure that no specific economic advantage can be drawn by farmers entering into the equivalence mechanism. As a consequence, it appears that offering additional flexibility to farmers to fulfil their greening obligations through equivalent practices has not noticeably affected the level playing field.

***Member States' choices of EFA types did not substantially affect the level playing field.***

Where farmers were able to select from all possible types of ecological focus area (Germany and Hungary), the most frequently used EFA types correspond to nitrogen-fixing crops, catch crops and land lying fallow, which are included in the lists of the vast majority of Member States. It follows that, by not having offered to farmers the possibility to fulfil the EFA requirement with the 16 other EFA types — in particular landscape features — Member States have perhaps not substantially influenced the level playing field. Conversely, not offering to farmers the possibility to fulfil the EFA requirement with the three most declared EFA types in the EU may have had a disadvantageous effect: this is the case in one country for nitrogen-fixing crops, in two Member States for land lying fallow and in 11 Member States for catch crops or green cover. However, Member States have made their choice in the light of their particular circumstances and conditions to ensure the effectiveness of the scheme and to take into consideration both the biodiversity objective of ecological focus areas and their environmental needs. Moreover, it could be that the most popular choice in some countries (e.g. Germany and Hungary) does not correspond exactly to the situation of farmers in other countries.

By contrast, other policy options may have had an impact on the level playing field<sup>19</sup> although to a limited extent:

***The decision to qualify landscape features protected under cross-compliance rules as ecological focus areas may influence the permitted EFA dimension limits, thus creating different rules between Member States.***

However, including these features under cross-compliance in the list of potential ecological focus areas allows Member States to use a definition of these landscape features that better takes into consideration local conditions. Moreover, it also entails some obligations for farmers as these landscape features have to be protected.

***Adding management conditions to EFA catch crops/green cover or nitrogen-fixing crops, such as the restriction of inputs or minimum periods of presence, might have an impact, though limited, on the level playing field.***

Restrictions of pesticides or fertilisers on EFA catch crops and nitrogen-fixing crops are consistent with the environmental objective of ecological focus areas. However, only few

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<sup>19</sup> It should be noted that the calculation method for granting the greening payment in the Member States where the basic payment scheme is implemented (as a flat-rate or a percentage of the basic payment scheme) is not expected to have an impact on the level playing field as regards the level of requirements.

Member States decided to implement such restrictions: four for catch crops and one for nitrogen-fixing crops. Farmers located in other Member States where such restrictions are not applied might benefit from a certain economic advantage by having the possibility to use such inputs on these productive areas. The impact of such an advantage remains limited, however, since it only applies on a small part of the arable land.

***The period for the presence of the crop under the crop diversification requirement may affect the level playing field when the period varies significantly between Member States.***

The period for crop diversification control set by Member States does not form part of the information to be communicated to the Commission. Therefore, the way Member States set this period is not known to Commission services. Nevertheless, since this control period also dictates the period during which the crop diversification requirement has to be fulfilled (e.g. having three crops each day of this period), its length and timing during the claim year may determine how constrained farmers are by this requirement and hence may affect the level playing field if the periods vary significantly between Member States. However, the guidelines provided by the Commission services<sup>20</sup> to set a 3-month period for the purpose of verifications could have helped to harmonise the situation among Member States.

Based on the results in this assessment, there is no significant impact from Member States' choices in the implementation of green direct payments on the level playing field in EU. Nevertheless, sometimes farmers operating in similar contexts have to respect different rules affecting directly or indirectly their practices. These situations arise from the choices of certain Member States, in particular as regards the permitted EFA dimension limits, the restrictions of inputs on EFA catch crops/green cover and nitrogen-fixing crops, and the period of presence of crops under the crop diversification obligation.

## **5. ASSESSMENT OF THE IMPACT ON THE EU PRODUCTION POTENTIAL**

The mandatory implementation of the agricultural practices associated with green direct payments may entail changes in land allocation and land use for the farmers concerned. Concerns were raised in this respect about the impact of these practices on the EU production potential, in particular on the spatial limitation on production and on the reduction of inputs linked to the introduction of the ecological focus area (e.g. with the promotion of areas without production, such as land lying fallow).

The notion of production potential relates to the possibility in the long term to produce a certain quantity of agricultural goods with reference to the areas available for production and the productivity of each hectare. Whereas greening practices may bring new requirements or entail a change in producer behaviour in their short to medium-term production decisions, they aim in

<sup>20</sup> Guidance document on aid applications and payment claims referred to in article 72 of Regulation (EU) No 1306/20131 – DSCG/2014/39 Final – rev 1

particular at improving the production potential in the long run thanks to healthier soils and ecosystems, including wild pollinators.

The issue of the impact on production potential received a lot of attention during the various consultations and was the focus of specific questions in the online survey. Based on the latter, many respondents perceived some negative impact, with smaller groups of farmers and their organisations indicating it as ‘very negative’. They considered that the scheme would decrease productive areas and/or constrain the choice of the most productive crops, in particular because of crop diversification. Environmental organisations most commonly perceived the impact as neutral. Across stakeholders, there were also opinions highlighting the positive effects on productivity coming from better soil quality and the resulting lower need for — and hence spending on — chemical inputs. Stakeholders also tend to see potential positive effects in the longer term more often than in the short term.

The analysis of the possible impact of new green direct payments on the EU production potential is described in **Annex 4**. It is based on an assessment of statistical data for the main crops over a short-term perspective. Additionally, two agro-economic models (IFM-CAP and CAPRI) were used to compare the anticipated situation — with and without green direct payments — in policy scenarios for the medium-term horizon (year 2025). This analysis provides insights into the effect of greening policies on current trends in EU agriculture.

***Green direct payments have been implemented without any significant short-term effect on production levels***

The production trend over the period considered (2010-2015) has indeed been stable. The analysis shows that it is difficult to isolate the effect of greening obligations from other factors such as prices, market developments, trade or weather conditions. Nevertheless, available information indicates that, in market-driven sectors such as those of cereals and oilseeds, the long-term trends were not affected by the introduction of these greening practices. In contrast, in sectors benefiting from specific support, such as protein crops, the granting of coupled support seemingly played a greater role than green direct payments.

***The crop diversification obligation would not entail a substantial change over the medium term in land allocation and production potential***

The impact of the crop diversification measure on the production potential, based on structural information and on quantitative models (IFM-CAP), provides very similar results. Overall, farmers would have to change crops on less than 1 % of the total arable land in the EU in order to comply with the requirement. Since the vast majority of arable land in the EU is subject to the crop diversification obligation, this limited impact appears to reflect current practices by farmers who already are compliant with this requirement. In the face of the long term trends towards specialisation in the agricultural sector, the green direct payment scheme ensures the preservation of these practices.

The crop diversification measure successfully targets those farms that only cultivate one crop. The analysis shows that the area reallocation would predominantly take place in wheat, barley

and maize over the medium term. More details can be found in **Annex 3** on the farm typology and the geographical distribution of area changes due to crop diversification.

***The effect of green direct payments on land use and agricultural production is generally projected to remain very low over the medium term, with the noticeable exception of a slight increase in the share of permanent grassland, fallow land and protein grain production compared with a situation without green direct payments.***

The CAPRI model shows that the introduction of greening obligations will not lead to changes across the EU of more than  $\pm 1.5$  % in agricultural production over the medium-term compared with a situation without green direct payments. Protein crops are the only crops expected to grow by more than 5 %. At Member State level, the changes are also relatively small for most crops, varying between  $\pm 3$  % compared with the baseline, except for protein crops.

The share of permanent grassland on the total agricultural area based on implementation data<sup>21</sup> shows a stable trend between 2006 and 2015. This should be confirmed when annual statistics for 2015 become available later in 2016. The medium-term assessment based on the CAPRI model shows that the full set of greening obligations is likely to slow down the decline in the area of permanent grassland. This will result in 3.2 % more permanent grassland in 2025 than what is anticipated in the absence of green direct payments.

The impact of the EFA obligation on production potential, as measured in agro-economic models, confirm what was observed in 2015: the share of fallow land and of protein crops are likely to increase by 8.9 % and 4.4 % respectively against their long-term trend. This means, for example, that the decline in the area of fallow land that has taken place since 2010 is expected to slow down in the wake of the implementation of greening practices.

The introduction of agricultural practices beneficial for environment and climate appears to have had limited effects on production levels and market developments in the short term. The quantitative projections also show that the effects on production levels should not be significant over the medium term. Conversely, certain types of land use (e.g. permanent grassland, protein crops and fallow land) are expected to expand relative to their long-term trends. Finally, it is not possible at this stage to assess the beneficial long-term impact on farming productivity of the improved agricultural practices.

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<sup>21</sup> Data referred to notifications from Member States on the ratio of permanent pasture for the period 2006-2014 and the ratio of permanent grassland for 2015.



## **6. ASSESSMENT OF THE MANAGEMENT OF GREEN DIRECT PAYMENTS, THE ADMINISTRATIVE BURDEN AND POSSIBLE WAY FORWARD**

### **6.1. CONTRIBUTIONS RECEIVED**

At the time of the adoption of the CAP reform, concerns had been raised about the additional administrative burden — for both farmers and national administrations — generated by the introduction of green direct payments. It is therefore not surprising that this aspect continued to draw a lot of attention from all parties involved during the initial phase.

In this context, the Commission invited all stakeholders to make proposals on how to simplify and improve the scheme and organised an online public consultation. **Annex 5** provides details and results of all the various contributions and proposals received by the Commission in 2015 and early 2016.<sup>22</sup>

Most stakeholders do not challenge the greening concept as such and recognise its relevance. However, consultations also show that the implementation of the aid scheme has been a challenge for those directly concerned by the policy. For Member States, there was a need to set up new rules and to adapt existing management tools (e.g. mapping EFA types). For farmers, the main new challenges related to adaptations and declarations. They advocated for certain adjustments of the scheme so as to bring it more in line with their agronomic conditions. Other stakeholders, most notably environmental organisations, challenged the effectiveness of the policy in terms of providing an enhancement of the CAP's environmental performance and called for a major overhaul of the policy on the basis of a comprehensive evaluation. More specifically, a number of stakeholders across different categories requested regulatory changes, in particular with regards to definitions, obligations, calculation methods and to the overall scope of the scheme.

### **6.2. ASSESSMENT AND WAY FORWARD**

The Commission undertook a number of initiatives to immediately address certain initial difficulties during the first year.<sup>23</sup> This Section lists the outstanding issues in so far as they can

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<sup>22</sup> The main contributors were:

- The European Parliament and the Council through hearings, working groups, conclusions, resolutions and more specifically as replies to a questionnaire sent by Commissioner Hogan in 2015.
- National administrations through expert groups and committees, correspondence, meetings and missions, conferences and workshops on technical aspects.
- Farmers and civil society representatives through Civil Dialogue Groups and an open internet public consultation in early 2016. More than 3300 contributions were received, mostly from farmers but also from very diverse parts of civil society representing the variety of the EU and of European agriculture.

<sup>23</sup> The main initiatives were: to adapt the regulatory provisions to address very early problems such as difficulties with declarations and payments claims; to publish an extensive set of management guidelines addressed to national authorities; to amend the regulatory provisions to address certain aspects of management, controls and sanctions; and to provide clarifications on the management of green direct payments through high levels of correspondence with, in particular, national authorities.

be addressed in the near future under the regulatory provisions of secondary legislation. Some other issues have been raised, but these can only be dealt with by more fundamental changes of the basic legislation, which is beyond the scope of this exercise.

The issues identified below and the potential way forward are all aimed at facilitating the implementation of green direct payments by farmers and national administrations in view of increasing their acceptability and securing their effectiveness in enhancing the environmental performance of agriculture.

1) Better specification and/or clarification of what is required from farmers and national administrations, especially as regards landscape features

Too detailed EFA sub-categories / sub-types to characterise landscape features have led to some confusion and farmers face uncertainties when they need to declare ecological focus areas. Moreover, too many conditions associated to each EFA feature also represent a source of administrative burden for the responsible public authorities when verifying farmers' compliance.

Merging certain EFA types such as strips (e.g. buffer strips and field margins) and streamlining certain conditions associated to these EFA types could be a way forward. For farmers, these simplifications would reduce the risk of errors in the declaration. For national administrations, the need for definitions, clarifications and specific checks would be reduced. It should therefore facilitate the uptake of some landscape features as ecological focus areas and therefore increase their environmental benefits.

2) Eliminating some burdensome technical requirements without lowering environmental benefits

Certain conditions (e.g. management requirements) attached to EFA types have created an extra burden without providing a clear positive impact on the environment.

Revisions of certain aspects (e.g. species to be used, allowing more mixtures) could be considered in order to make some EFA types more attractive and increase the environmental improvement. Introducing some flexibility as regards certain geographical criteria and deadlines could also be considered with a view to preventing undue constraints upon farmers arising from their inadequacies with respect to the plant cycle and the climatic conditions, especially for green cover or catch crops.

3) Providing more flexibility or alternative where this increases the environmental and climate benefit of the greening

Certain eligibility rules for landscape features are fully relevant for the definition of agricultural land, but have been shown to be too restrictive for ecological focus areas, in particular as regards their size and their location in the parcel of land. In such situations, farmers can be reluctant to declare these landscape features because of the risk of possible non-compliance with the fulfilment of the mandatory 5 %. This reduces the potential biodiversity delivery of ecological focus areas. Certain modifications could be useful to promote other potential landscape features.

#### 4) Additional harmonisation of some requirements and conditions

This first year experience has shown that certain definitions are missing or would benefit from a better specification to better achieve their environmental objective, in particular for EFA types such as land lying fallow, catch crops or green cover. In addition, the potential biodiversity value added of EFA types has to be properly considered in view of favouring the use of the most valuable EFA types by farmers. As regards the method of calculation of EFA areas, the definition of weighting factors could better reflect the potential to enhance biodiversity of the various features of ecological focus areas. The modification of these weighting factors could therefore be considered in this respect. The harmonisation of some management requirements may also be needed. In this perspective, a limitation of the use of inputs on productive EFA areas could be considered.

### **6.3. QUANTIFICATION OF POTENTIAL BENEFITS AND SAVINGS**

The REFIT Programme provides for the review of Commission Delegated Regulation (EU) No 639/2014 and Commission Implementing Regulation (EU) No 641/2014 in order to simplify the implementation of greening by farmers and public administrations. The Commission committed to accompany each REFIT proposal with estimates of the potential benefits and cost savings. The administrative burden specifically associated with the green direct payment scheme and to some extent in relation to rural development rules (no double funding aspects) is, however, difficult to assess at this stage and more work will be needed in the future on this aspect.

Following the adoption of the modified Commission Delegated and Implementing Regulations, the Commission will work with Member States and stakeholders to estimate the benefits and cost savings of the changes to the greening measures decided, and examine later whether this potential is delivering a real impact on the ground. The Commission will analyse these aspects in future studies on the administrative burden and the costs of management of the CAP to be launched in 2017. The findings of these studies are to be published before the end of 2018. The efficiency of the greening measures will also be assessed as part of the forthcoming evaluation on greening<sup>24</sup>, which will be carried out in accordance with the Commission's Better Regulation Guidelines<sup>25</sup> and should contain quantified evidence, indicating any limitations of the value or soundness of the results obtained.

The following constraints have been met when estimating potential benefits and cost savings in the framework of this review:

- After only one year of implementation, sufficient hard data on the costs and burdens associated with the new greening measures is still not available.

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<sup>24</sup> See DG AGRI's evaluation and studies plan published on: [http://ec.europa.eu/agriculture/evaluation/plan\\_en.pdf](http://ec.europa.eu/agriculture/evaluation/plan_en.pdf)

<sup>25</sup> [http://ec.europa.eu/smart-regulation/guidelines/docs/swd\\_br\\_guidelines\\_en.pdf](http://ec.europa.eu/smart-regulation/guidelines/docs/swd_br_guidelines_en.pdf)

- The evidence gathered as part of this assessment was mostly of a qualitative nature. Credible cost information related to current practices under the greening measures is currently missing.
- While in certain cases farmers had to adapt their practices to the new rules, most of the administrative efforts at their level relate to the time spent on filling in and ensuring correctness of the greening part of aid declarations, which are to a large part common to other CAP instruments. The same message also comes from the online survey.
- As for public administrations, the additional burden essentially lies with the development of new management tools such as the EFA layer of the Land Parcel Identification System. However, as in the previous point, this should require a much lower administrative effort in future years.
- Some of the identified possible ways forward for modification of the delegated or implementing act are not subject to quantification — it is difficult to quantify the benefits of introducing clearer requirements and removing some of the ambiguity in definitions.
- Costs vary significantly depending on farmers' knowledge, national implementation and other factors. Any aggregation therefore at EU level is very difficult.

## 7. CONCLUSIONS

Supporting farmers in the transition towards more sustainable agricultural production models has been at the core of policy debate for more than a decade. The recent introduction of a new policy instrument in the first pillar — the green direct payment scheme — represents a major policy shift in this long-term process.

After a first year of implementation, the preliminary assessment of green direct payments shows a significant reinforcement in the environmental ambition of the CAP. This concerns most notably the wide area coverage of this new instrument, which represents — in addition to the rules under cross-compliance — a basic layer of environmental practices across most agricultural land in the EU. This wide coverage means the green direct payment scheme has the potential to have a significant positive environmental impact.

However, the actual impact on environmental outcomes depends — for certain aspects — on the choices made by Member States and farmers. This is the case in particular for ecological focus areas where nitrogen-fixing and catch crops are the predominant declared EFA types. Few Member States made use of the possibilities to limit the use of pesticides and fertilisers in these areas. Landscape features which are particularly important for the protection of biodiversity were not among the most declared EFA types. Thus, the current pattern of EFA types tends to limit the intended contribution of this instrument as regards the improvement of biodiversity on farms. In contrast, the expansion of land lying fallow represents a positive development in this context.

The assessment shows that the practice of crop diversification was already applied on most arable land. Therefore, the greening requirement contributes to at least preventing the degradation of soil quality. Controlling the evolution of the ratio of permanent grassland in relation to the total agricultural areas contributes to the sequestration of carbon as this instrument

provides a safety net under which no conversion can occur. Finally, the protection of environmentally sensitive grassland must be monitored in the future in relation to the species and habitats conservation needs in Natura 2000 areas.

The Commission will make a more in-depth assessment of the environmental achievements of green direct payments once new information on the state of natural resources becomes available.

As shown in this document, the implementation of the green direct payment scheme was achieved not only with very limited impact on production levels and markets, but also with no significant impact on the level playing field for farmers across Member States.

However, some specific weaknesses have been identified by various parties during this initial phase. These prevent full exploitation of the potential of the scheme. Improvement should be sought particularly to simplify it, and to improve the overall consistency and synergy across the whole range of CAP environmental instruments and with environmental policies. This would provide further flexibility at farm level, raise the environmental performance, and in a longer term perspective expand further the area coverage (most notably for permanent crops).

Many of these issues can be addressed by regulatory changes in secondary legislation. They relate mainly to those aimed at facilitating the implementation of green direct payments by farmers and national administration with a view to increasing their acceptability and ensuring their effectiveness and efficiency with regard to their environmental objectives:

- better specification or clarification of what is required from farmers and national administrations, especially as regards landscape features;
- eliminating some burdensome technical requirements without lowering environmental benefits;
- providing more flexibility or alternative options where this increases the environmental and climate benefits of greening; and
- additional harmonisation of some requirements and conditions.

**ANNEX 1:** Description of the green direct payment scheme

**ANNEX 2:** Initial results of the implementation of green direct payments by farmers

**ANNEX 3:** Impact on the level playing-field arising from Member States' implementation choices

**ANNEX 4:** Impact on EU production potential

**ANNEX 5:** Synopsis report on stakeholder consultation