

Direct Payments (COM (2011) 625)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
1. Active farmer	Article 9	Delete the proposed article 9 and retain article 28(2) of the current Regulation 73/2009 optional for Member States. This article 28(2), combined with the current definitions of agricultural area and agricultural activities in Regulation 73/2009, provides Member States enough legal possibilities to exclude natural or legal persons that cannot be deemed as active farmers. This without prejudice that Member States may choose alternatives to define active farmers.	<p>The Netherlands has used the option provided by article 28(2) of Regulation 73/2009, the legal basis for exclusions. The exclusions made are adequate for the Dutch situation and maintaining this solution is preferred over the proposed draft article 9.</p> <p>It is highly questionable whether the draft article will actually lead to the exclusion of those farmers that should be excluded. The exclusion is mainly based on income obtained from non-agricultural activities. This might discourage farmers to diversify their farm activities and has a counterproductive impact on an effective target of rural development policy: the more farmers diversify, the more they risk being excluded from direct payments.</p> <p>More specific, this draft article creates several major implementation problems:</p> <ol style="list-style-type: none"> <li>1. In The Netherlands, civil fiscal income situations can be definitively fixed until five year after the relevant tax year. Until then, someone's income situation is provisionally fixed. The tax authorities need these five years for the checking the fiscal declarations with respect to the value and reliability of reported transactions. This means that Member States have no checked fiscal data to block direct payments to farmers because of the receipts they hand over in that year.</li> <li>2. Farmers are not legally obliged to specify receipts between agricultural and non-agricultural activities. The re-</li> </ol>

Direct Payments (COM (2011) 625)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
			<p>quired differentiated information between agricultural and non-agricultural activities is not available. It would be a disproportionate administrative burden and implementation costs to force farmers to create such an administration just for the purposes of this article.</p> <p>Even if farmers would be able to differentiate their receipts between agricultural and non-agricultural activities, their declaration would create complex interpretation problems and become almost impossible to control. For example: A farmer has on-farm a day activity centre for people with health problems (e.g. burn out, mental or physical disabled) and for whom he provides health care by offering them appropriate work on the land. Are receipts for the care provided agricultural? Does it matter whether the care activities are subsidised with Second Pillar payments?</p>
2. Capping	Article 11	<p>(1) Applying capping should either be deleted or at least made optional to Member States.</p> <p>(2) If capping has to be applied by all Member states, at least article 11(2) and 11(3) should be deleted.</p>	<p>The Netherlands is not convinced of the necessity of the proposed capping of the Direct Payments. The Netherlands aims at targeted payments, which means payments for the supply of public goods and payments to strengthen the sustainability of farming. Doing so the role of direct payments as income support decreases and it ultimately does not matter how big or small the agricultural business concerned is. The supplied public goods and/or the performance in the field of sustainability are then leading.</p> <p>In addition, the present proposal for capping direct payments will increase the costs of implementation, monitoring and enforcement significantly. If capping of direct payments</p>

Direct Payments (COM (2011) 625)			
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			should nonetheless be proposed, despite all doubts on the necessity of capping, it should not be complicated by the necessity to subtract the cost of labour in order to conclude whether capping should be applied.
3. First allocation of entitlements	<p>Article 21(2)(a)</p> <p>Farmers who, in 2011, activated at least one payment entitlement under the single payment scheme or claimed support under the single area payment scheme, both in accordance with Regulation (EC) No 73/2009, shall receive payment entitlements the first year of application of the basic payment scheme provided they are entitled to be granted direct payments in accordance with Article 9.</p> <p>By way of derogation from the first subparagraph, farmers shall receive payment entitlements the first year of application of the basic payment scheme, provided they are entitled to be granted direct payments in accordance with Article 9 and that in 2011:</p> <p>(a) under the single payment scheme, they did not activate any entitlement but produced exclusively fruits, vegetables and/or cultivate exclusively vineyard;</p> <p>(b) ....;</p>	<p>The Netherlands would like to propose:</p> <ol style="list-style-type: none"> <li>1. Member States having the opportunity to <u>exclude</u> specific defined areas of specialty crops (eg. greenhouses) from allocation of payment entitlements.</li> <li>2. Member States having the opportunity to <u>include</u> specific defined areas (eg. set-aside of whole farms) for allocation of payment entitlements.</li> </ol>	<p><u>Greenhouses</u></p> <ul style="list-style-type: none"> <li>○ the gross (and net) profits per hectare in greenhouses are very high. A direct payment of at maximum a few hundred euros per hectare would hardly give any contribution to the income and/or development of the holding;</li> <li>○ it is complicated to take into account the very specific situation of greenhouses, compared to other farmers. Therefore integrating greenhouses into the system would request a lot of extra national implementation and enforcement costs;</li> <li>○ "translating" the proposed general greening measures for the "greenhouse situation" will again request a lot of extra costs on implementation and enforcement;</li> <li>○ after the national implementation and after having made the extra costs, most of the greenhouse farmers involved won't apply for direct payments because of the very low contribution of these payment to the gross (en net) profits of their farms.</li> </ul> <p><u>Set-aside</u></p> <p>In the Netherlands some farmers have left <b>all</b> their agricultural area set aside according to Regulation 1272/88 or Regulation 1257/1999. These farmers planted trees on this area. A problem arises if for these farmers the set</p>

Direct Payments (COM (2011) 625)			
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			aside obligation ends in the period 2011 -2014 and they recover the area left set aside into agricultural area. According to article 21 they won't have access to the Basic Payment Scheme in 2014, because they didn't activate entitlements in 2011 (they don't have entitlements at all).
4. Value of payment entitlements and convergence	<p>Article 22(3)</p> <p>Member States making use of the possibility provided for in paragraph 2 shall use the part of the ceiling which remains after the application of that paragraph to increase the value of payment entitlements in cases where the total value of payment entitlements held by a farmers under the basic payment scheme calculated according to paragraph 2 is lower than the total value of payment entitlements, including special entitlements, he held on 31 December 2013 under the single payment scheme in accordance with Regulation (EC) No 73/2009. To this end, the national or regional unit value of each of the payment entitlement of the farmer concerned shall be increased by a share of the difference between the total value of the payment entitlements under the basic payment scheme calculated according to paragraph 2 and the total value of payment entitlements, including special entitlements, which the farmer held on 31 December 2013 under the single payment scheme in accordance with Regulation (EC) No 73/2009.</p> <p>For the calculation of the increase, a Member State may also take into account the support granted in calendar year 2013 pursuant to Articles 52, 53(1), and 68(1)(b), of Regulation</p>	<p>Article 22(3)</p> <p>Member States making use of the possibility provided for in paragraph 2 shall use the part of the ceiling which remains after the application of that paragraph to increase the value of payment entitlements in cases where the total value of payment entitlements held by a farmers <b>in 2014</b> under the basic payment scheme calculated according to paragraph 2 is lower than the total value of payment entitlements, including special entitlements, he <del>held on 31 December 2013</del> <b>has activated in 2013</b> under the single payment scheme in accordance with Regulation (EC) No 73/2009. To this end, the national or regional unit value of each of the payment entitlement of the farmer concerned shall be increased by a share of the difference between the total value of the payment entitlements under the basic payment scheme <b>in 2014</b> calculated according to paragraph 2 and the total value of payment entitlements, including special entitlements, which the farmer <del>held on 31 December</del> <b>has activated in 2013</b> under the single payment scheme in accordance with Regulation (EC) No 73/2009.</p> <p>For the calculation of the increase, a Member State may also take into account the support</p>	<p>The Netherlands reads article 23(3) as that the convergence has to be calculated at farm level and not at payment entitlement level. Due to possible transfer of payment entitlements between farmers, the total value of payment entitlements held by a farmers under the basic payment scheme might change every year during the convergence.</p> <p>The Netherlands however prefers calculating the value of the payment entitlements <u>only once in 2014 for the whole period of the convergence</u>. We prefer to communicate the convergence of the value at payment entitlement level to the farmers already in 2014, doing so the farmers will be informed about their future situation (apart from the consequences of financial discipline).</p>

Direct Payments (COM (2011) 625)			
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	<p>(EC) No 73/2009 provided that the Member State has decided not to apply the voluntary coupled support pursuant to Title IV of this Regulation to the relevant sectors.</p> <p>For the purpose of the first subparagraph, a farmer is considered to hold payment entitlements on 31 December 2013 where payment entitlements were allocated or definitively transferred to him by that date.</p>	<p>granted in calendar year 2013 pursuant to Articles 52, 53(1), and 68(1)(b), of Regulation (EC) No 73/2009 provided that the Member State has decided not to apply the voluntary coupled support pursuant to Title IV of this Regulation to the relevant sectors.</p> <p><del>For the purpose of the first subparagraph, a farmer is considered to hold payment entitlements on 31 December 2013 where payment entitlements were allocated or definitively transferred to him by that date.</del></p>	
5. National reserve	<p>Article 23(4)</p> <p>4. Member States shall use the national reserve to allocate payment entitlements, as a matter of priority, to young farmers who commence their agricultural activity.</p>	<p>Change article 23(4) into a new provision under article 23(5): 23(5)(c) and (d):</p> <p>5. Member States may use the national reserve to:</p> <p>(a) allocate payment entitlements to farmers in areas subject to restructuring and/or development programmes relating to a form of public intervention in order to prevent land from being abandoned and/or to compensate farmers for specific disadvantages in those areas;</p> <p>(b) linearly increase the value of payment entitlements under the basic payment scheme at national or regional level if the national reserve exceeds 3 % in any given year, provided that sufficient amounts remain available for allocations under paragraph 4, under point (a) of this paragraph and under paragraph 7-;</p> <p><b>(c) allocate payment entitlements to young farmers who commence their agricultural activity;</b></p> <p><b>(d) allocate payment entitlements to</b></p>	<p>The administrative burden is reduced when the allocation of payment entitlements to young farmers is not mandatory for the Member States. This can also be justified technically as the situations in the Member States differ.</p> <p>Furthermore the system should be flexible as to create or maintain possibilities for Member State to allocate payment entitlements to other farmers who can be disproportionately affected by implementation of the new system (because they did or could not activate payment entitlements in 2011).</p>

Direct Payments (COM (2011) 625)			
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		<p><b>other farmers or groups of farmers, based on objective and non-discriminatory criteria to be established by the Member States.</b></p> <p>For <del>this purpose the purposes of the first subparagraph</del>, 'young farmers who commence their agricultural activity' means farmers fulfilling the conditions laid down in Article 36(2) that did not have any agricultural activity in their own name and at their own risk or did not have the control of a legal person exercising an agricultural activity in the 5 years preceding the start of the new agricultural activity. In case of a legal person, the natural person(s) who has the control of the legal person must not have had any agricultural activity in his own name and at his own risk or must not have had the control of a legal person exercising an agricultural activity in the 5 years preceding the start of the agricultural activity by the legal person.</p>	
6. Greening	Article 29	<p><u>Specific amending remarks and proposals:</u></p> <ul style="list-style-type: none"> <li>Greening measures should be tailored to specific needs of MS; therefore Member States should be allowed to choose measures from a <u>European menu of greening measures</u>;</li> <li>The level of greening payments should <u>balance</u> the costs as calculated in accor-</li> </ul>	The Netherlands welcomes the steps taken by the Commission towards <u>targeted payments</u> and supports the proposal to earmark 30% of the budget for greening measures. However, the Netherlands considers the proposed design for greening ineffective. It does not lead to tangible gains in biodiversity, yet adds to the implementation, control, and administrative burden on farmers.

<sup>1</sup> See under Direct Payments, point 8.

<sup>2</sup> See under Direct Payments, point 7.

Direct Payments (COM (2011) 625)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
		<p>dance with principles laid down in the Impact Assessment;</p> <ul style="list-style-type: none"> <li>In addition to the measures proposed by the Commission, NL would like to include in the menu: <ul style="list-style-type: none"> <li><u>Extension of the ecological focus area on to grassland</u> (e.g. 3 to 4%) and not only on arable land as the Commission proposes, whilst ecological focus area on arable land should not be 7% as the Commission proposes but e.g. 3 to 4% as well <sup>1</sup>;</li> <li><u>Investment support for innovative measures and management techniques</u>, improving sustainability (biodiversity and climate) e.g. sustainable housing system (reduced emissions), precision agriculture (reduced use of fertilizers and crop protection products);</li> <li><u>Applying certified production techniques</u> <sup>2</sup>, e.g. organic farming, (as the Commission proposes) or <u>farmers taking part in regional farmers associations</u> realizing increased biodiversity gains on the basis of the total, integrated ecological focus area in that region.</li> </ul> </li> </ul>	<p>NL supports the Commission in its efforts to introduce real and tangible greening measures, not just green washing. Therefore NL strongly endorses the earmarking of 30% of the direct payments budget for greening, as proposed by the Commission.</p> <p>As a consequence of the additional requirements to be met by farmers, greening can lead overall to a high additional administrative burden, particularly for the administration. In order to ensure that this burden remains within acceptable bounds, additional on-the-spot checks in particular should be avoided. Hence, these measures should as far as possible be designed in such a way that the necessary administrative and on-the-spot checks can be integrated into the existing IACS controls and, in this way, can also be carried out using remote sensing.</p>
7. Greening	<p>Article 29(4)</p> <p>4. Farmers complying with the requirements laid down in Article 29(1) of Regulation (EC) No 834/2007 as regards organic farming shall be entitled <i>ipso facto</i> to the payment referred to in this Chapter.</p>	<p>Article 29(4)</p> <p>4. Farmers complying with the requirements laid down in Article 29(1) of Regulation (EC) No 834/2007 as regards organic farming <b>or with the requirements of a recognized system in the area of sustainability certification for which cri-</b></p>	<p>The extension to holdings with a certification for sustainability takes account of the fact that these holdings manage their production in a sustainable manner which is comparable to holdings with organic farming in the sense of the greening.</p>

Direct Payments (COM (2011) 625)			
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	The first subparagraph shall apply only to the units of a holding that are used for organic production in accordance with Article 11 of Regulation (EC) No 834/2007.	<p><b>teria need to be determined [by the Member State] shall be entitled ipso facto to the payment referred to in this Chapter.</b></p> <p>The first subparagraph shall apply to the units of a holding that are used for organic production in accordance with Article 11 of Regulation (EC) No 834/2007 <b>or which have been certified as sustainably managed according to a recognized system [by the Member State].</b></p>	
6. Crop diversification	<p>Article 30(1)</p> <p>1. Where the arable land of the farmer covers more than 3 hectares and is not entirely used for grass production (sown or natural), entirely left fallow or entirely cultivated with crops under water for a significant part of the year, cultivation on the arable land shall consist of at least three different crops. None of those three crops shall cover less than 5 % of the arable land and the main one shall not exceed 70 % of the arable land.</p> <p>Article 30(2)</p> <p>2. The Commission shall be empowered to adopt delegated acts in accordance with Article 55 laying down the definition of 'crop' and the rules concerning the application of the precise calculation of shares</p>	<p>Article 30(1)</p> <p><b>1.</b> Where the arable land of the farmer covers more than <b>3[15]</b> hectares and is not entirely used for grass production (sown or natural), entirely left fallow or entirely cultivated with crops under water for a significant part of the year, cultivation on the arable land shall consist of at least three different crops. None of those three crops shall cover less than <b>[5]</b> % of the arable land and the main one shall not exceed <b>[70]</b> % of the arable land. <b>This obligation shall not apply to holdings in which the permanent grassland covers more than [50] % of the agricultural area.</b></p> <p>Article 30(2)</p> <p>Rephrase article 30(2) so it contains a clear definition of 'crop' and the application rules concerned.</p>	<p>The minimum requirement of 3 hectares in connection with the requirement for crop diversification should be made more flexible. This provision also seems to be justified, because farms with a high proportion of permanent grassland are to be viewed positively from the environmental angle, and many small holdings, if they do not meet the annual crop ratio, comply with one crop rotation on the individual areas. The minimum requirement should be regulated in accordance with the structure of agriculture holdings in Member States, of annex VI.</p> <p>As this definition is key to the concept of greening and constitute an essential part of the legislation concerned, it should be clearly defined in the basic regulation.</p>



Direct Payments (COM (2011) 625)			
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	of different crops.		
7. Permanent grassland	Article 31	The requirement for maintaining permanent grassland should remain at the level of Member States as it is now.	A heavy administrative burden would be created if areas with permanent grassland should be maintained and controlled at the farm level. The requirement will also create difficulties for farmers if they wish to sell land or if they wish to convert to other productions.
8. Ecological focus area	Article 32(1)  1. Farmers shall ensure that at least 7 % of their eligible hectares as defined in Article 25(2), excluding areas under permanent grassland, is ecological focus area such as land left fallow, terraces, landscape features, buffer strips and afforested areas as referred to in article 25(2)(b)(ii).	Article 32(1)  1. Farmers shall ensure that at least <b>7[3-4]</b> % of their eligible hectares as defined in Article 25(2), <b>exin</b> cluding areas under permanent grassland, is ecological focus area such as <ul style="list-style-type: none"> <li>land left fallow, terraces, <b>landscape features</b>, buffer strips and afforested areas as referred to in article 25(2)(b)(ii);</li> <li><b>any landscape feature belonging to the holding;</b></li> <li><b>eligible hectares which are subject to obligations within the framework of certain agri-environmental measures in accordance with Regulation (EU) No [RD];</b></li> <li><b>hectares which are part of areas underlying regulation 92/43/EEC.</b></li> </ul>	In addition to the measures proposed by the Commission, the Netherlands would like to include in the menu:  <u>Extension of the ecological focus area on to grassland</u> (e.g. 3 to 4%) and not only on arable land as the Commission proposes, whilst ecological focus area on arable land should not be 7% as the Commission proposes but e.g. 3 to 4% as well.  Secondly, the inclusion of landscape features, areas under agri-environmental schemes and under Natura2000 would considerably reduce the administrative burden for farmers and administration and seems to be well justifiable in a decoupled system. At the same time there is no need that these landscape features should have to be seen as eligible area. Whether eligible area should be restricted to only the agricultural area that is actually suited and available for immediate agricultural production or that landscape features can be part of the eligible area can be left to the discretion of the Member State.  The agri-environmental measures are recorded and controlled for the support within the Second Pillar, so that hardly any addi-

Direct Payments (COM (2011) 625)			
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	<p>Article 32(2)</p> <p>2. The Commission shall be empowered to adopt delegated acts in accordance with Article 55 to further define the types of ecological focus areas referred to in paragraph 1 of this Article and to add and define other types of ecological focus areas that can be taken into account for the respect of the percentage referred to in that paragraph.</p>	<p>Article 32(2)</p> <p>Rephrase article 32(2) so it contains a clear definition of 'ecological focus area' and the application rules concerned.</p>	<p>tional administrative burden occurs within the framework of the greening. Moreover, the verification of the location within the Natura 2000 areas can be very easily administered.</p> <p>As this definition is key to the concept of greening and constitute an essential part of the legislation concerned, it should be clearly defined in the basic regulation.</p>
9. Young farmers	Article 36	<p>Article 36(1):</p> <p>Member States <del>shall</del> <b>may</b> grant an annual payment to young farmers who are entitled to a payment under the basic payment scheme referred to in Chapter 1.</p>	<p>Member States that choose not to apply the schema can eliminate the administrative burden.</p> <p>Member States should therefore be authorized to transfer this calculated 2% of the national ceiling to the second pillar, without national co-financing, in order to extend the existing targeted incentives for developing and optimising agricultural operations for young farmers.</p>
10. Small farmers scheme	<p>Article 47(1):</p> <p>Farmers holding payment entitlements allocated in 2014 pursuant to Article 21 and fulfilling the minimum requirements provided for in Article 10(1) may opt for participation in a simplified scheme under the conditions laid down in this Title, hereinafter referred to as 'small farmers scheme'</p>	<p>Article 47(1):</p> <p><b>Member States may decide that F</b>farmers holding payment entitlements allocated in 2014 pursuant to Article 21 and fulfilling the minimum requirements provided for in Article 10(1) may <del>opt for participation</del> <b>participate</b> in a simplified scheme under the conditions laid down in this Title, hereinafter referred to</p>	<p>Setting up a scheme for small farmers should at least be made optional for Member States. For some Member States the number of farmers that could opt for this scheme is very low. Creating such a scheme creates an administrative burden and implementation costs that by far exceeds any potential benefit. Furthermore in many Member States the applied systems for small farmers are already simpli-</p>

Direct Payments (COM (2011) 625)			
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		as 'small farmers scheme'.	fied. Finally, there seems no reason why "small businesses" (more precise: "farmers receiving small amounts") should not have to meet normal cross-compliance standards. It must also be taken into consideration that these "small businesses" can also be companies, sometimes large, that practice intensive production on a limited area of agricultural land.

Rural Development (COM (2011) 627)			
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1. Content of rural development programmes	<p>Article 9</p> <p>Article 9 describes the elements each rural development programme shall include.</p> <ul style="list-style-type: none"> <li>9 (c) (v): appropriate action is envisaged to simplify the implementation of the programme</li> <li>9 (c) (vi): measures have been taken to</li> </ul>	<p>Delete article 9 (c) (v)</p> <p>Delete article 9 (c) (vi)</p>	<p>All the mentioned requirements are not essential for implementing Rural Development Programmes and only create unnecessary administrative burden and implementation costs. They contradict with the view taken towards a more objective based and strategic approach in programming. In accordance to the subsidiarity principle these parts of article 9 can be deleted.</p> <p>It should be the European Commission and not the Member State to set the conditions that simplify the implementation.</p> <p>To have such a system in place is already an</p>

Rural Development (COM (2011) 627)			
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	<p>ensure the availability of sufficient advisory capacity on the regulatory requirements and all aspects linked to sustainable management in agriculture and forestry, as well as climate action</p> <ul style="list-style-type: none"> <li>9 (c) (vii): initiatives are planned for raising awareness and animating innovative actions and establishing operational groups of the EIP for agricultural productivity and sustainability</li> <li>9 (d): the assessment of the <i>ex ante</i> conditionalities and, where required, the actions referred to in Article 17(4) of Regulation (EU) No [CSF/2012] and the milestones established for the purpose of Article 19 of Regulation (EU) No [CSF/2012]</li> <li>9 (f): in relation to local development, a specific description of the coordination mechanisms between the local development strategies, the measure co-operation referred to in Article 36, the measure basic services and village renewal in rural areas referred to in Article 21 and the support for non-agricultural activities in rural areas under the measure farm and business development in rural areas referred to in Article 20;</li> <li>9 (g): a description of the approach towards innovation in view of enhancing productivity and sustainable resource management and the contribution to achieving the objectives of the EIP for agricultural productivity and sustainabil-</li> </ul>	<p>Delete article 9 (c) (vii)</p> <p>Delete article 9 (d)</p> <p>Delete article 9 (f)</p> <p>Delete article 9 (g)</p>	<p>obligation for the Member State (art. 12-15 Horizontal Regulation).</p>

Rural Development (COM (2011) 627)			
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	<p>ity referred to in Article 61;</p> <ul style="list-style-type: none"> <li>9 (h): an analysis of needs relating to monitoring and evaluation requirements and the evaluation plan referred to in Article 49 of Regulation (EU) No [CSF/2012]. The Member States shall provide sufficient resources and capacity building activities to address the identified needs.</li> <li>9 (m): information on the complementarity with measures financed by the other common agricultural policy instruments, through cohesion policy or by the EMFF.</li> </ul>	<p>Delete article 9 (h)</p> <p>Delete article 9 (m)</p>	<p>An analysis of needs is superfluous and the evaluation plan and actions are already covered by the (adapted/simplified )CMEF.</p> <p>This information should not be part of the Rural Development Programme but should be included in the Partnership Contract.</p>
2. Ex ante conditionalities	<p>Article 10</p> <p>In addition to the <i>ex ante</i> conditionalities referred to in Annex IV, the general <i>ex ante</i> conditionalities established in Annex IV of Regulation (EU) No [CSF/2012] shall apply for the EAFRD.</p>	Delete article 10 and Annex IV	Ex ante conditionalities are not suitable for support programmes and should be pursued via the previous pathways of specialist policies. In particular, no subjects outside the EAFRD framework should be included.
3. Amendment of rural development programmes	<p>Article 12</p> <p>Requests for programme amendments by Member States shall be approved in accordance with the following procedures:</p> <p>(a) The Commission shall, by means of implementing acts, decide on requests to amend programmes that concern:</p> <p>(i) a change in the programme strategy through a major reset of quantified targets;</p> <p>(ii) a change in the EAFRD contribution rate of one or more</p>	<p>Article 12 (1) (a) under (iii) and (iv) should be moved to article 12 (1) (b):</p> <p>Article 12</p> <p>(a) The Commission shall, by means of implementing acts, decide on requests to amend programmes that concern:</p> <p>(i) a change in the programme strategy through a major reset of quantified targets;</p> <p><del>(ii) a change in the EAFRD contribution rate of one or more measures;</del></p>	In order to simply the implementation of the future Rural Development Policy a very close look at the necessary procedures is required. The involvement of the Rural Development Committee (RDC) is not needed in all situations as mentioned in article 12(a). It is conceivable that in some circumstances it can be satisfactory just to inform the RDC. Article 12(a) can therefore be restricted to only 12(a)(i).

**Rural Development (COM (2011) 627)**

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	<p>measures;</p> <p>(iii) a change of the entire Union contribution or its annual distribution at programme level;</p> <p>(iv) a transfer of funds between measures implemented under different EAFRD contribution rates.</p> <p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 91.</p> <p>(b) The Commission shall, by means of implementing acts, decide on requests to amend the programme in all other cases. These shall include in particular:</p> <p>(i) introduction or withdrawal of measures or types of operations;</p> <p>(ii) changes in the description of measures, including changes of eligibility conditions.</p> <p>The Commission shall be empowered to adopt delegated acts in accordance with Article 90 concerning the criteria defining a major reset of quantified targets referred to in paragraph 1(a)(i).</p>	<p><del>(iii) a change of the entire Union contribution or its annual distribution at programme level;</del></p> <p><del>(iv) a transfer of funds between measures implemented under different EAFRD contribution rates.</del></p> <p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 91.</p> <p>(b) The Commission shall, by means of implementing acts, decide on requests to amend the programme in all other cases. These shall include in particular:</p> <p>(i) introduction or withdrawal of measures or types of operations;</p> <p>(ii) changes in the description of measures, including changes of eligibility conditions;</p> <p><b>(ii) a change in the EAFRD contribution rate of one or more measures;</b></p> <p><b>(iii) a change of the entire Union contribution or its annual distribution at programme level;</b></p> <p><b>(iv) a transfer of funds between measures implemented under different EAFRD contribution rates.</b></p> <p>The Commission shall be empowered to adopt delegated acts in accordance with Article 90 concerning the criteria defining a major reset of quantified targets referred to</p>	

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		in paragraph 1(a)(i).	
4. Mandatory standards for Agri-environment-climate payments	Article 29(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 HR/2012 and other relevant obligations established under Chapter 2 of Title III of Regulation (EU) No DP/2012, relevant minimum requirements for fertiliser and plant protection products use as well as other relevant mandatory requirements established by national legislation. All such mandatory requirements shall be identified in the programme.	Article 29(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 HR/2012 and other relevant obligations established under Chapter 2 of Title III of Regulation (EU) No DP/2012; <del>relevant minimum requirements for fertiliser and plant protection products use as well as other relevant mandatory requirements established by national legislation. All such mandatory requirements shall be identified in the programme.</del>	Simplification would be served if only one set of mandatory standards based on European legislation would be applicable and adding supplementary requirements (and controls) can be avoided.
5. Mandatory standards for organic farming	Article 30(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 HR/2012, relevant minimum requirements for fertiliser and plant protection products use as well as other relevant mandatory requirements established by national legislation. All such requirements shall be identified in the programme.	Article 30(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 HR/2012; <del>relevant minimum requirements for fertiliser and plant protection products use as well as other relevant mandatory requirements established by national legislation. All such requirements shall be identified in the programme.</del>	Simplification would be served if only one set of mandatory standards based on European legislation would be applicable and adding supplementary requirements (and controls) can be avoided.
6. Risk management	Article 37(1)  (1) Support under this measure shall cover: (a) financial contributions, paid directly to farmers, to premiums for crop, animal and plant insurance against	Article 37(1)  (1) Support under this measure shall cover: (a) financial contributions, paid directly to farmers <b>or by the insurance company</b> , to premiums for crop,	To have an effective and efficient system for risk management the Netherlands suggests that the scope for insurance schemes and for mutual funds is made equal. Secondly we would like to have the possibility that payments to farmers also can be made by

Rural Development (COM (2011) 627)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
	<p>economic losses caused by adverse climatic events and animal or plant diseases or pest infestation;</p> <p>(b) financial contributions to mutual funds to pay financial compensations to farmers, for economic losses caused by the outbreak of an animal or plant disease or an environmental incident;</p> <p>(c) an income stabilisation tool, in the form of financial contributions to mutual funds, providing compensation to farmers who experience a severe drop in their income.</p> <p>Articles 38(1) (insurance), 39 (mutual funds) and 40(1) (income stabilisation tool)</p>	<p>animal and plant insurance against economic losses caused by adverse climatic events and <del>animal or plant diseases or pest infestation</del> <b>the outbreak of an animal or plant disease or an environmental incident</b>;</p> <p>(b) financial contributions to mutual funds to pay financial compensations to farmers, for economic losses caused by <b>adverse climatic events</b> and the outbreak of an animal or plant disease or an environmental incident;</p> <p>(c) an income stabilisation tool, in the form of financial contributions to mutual funds, providing compensation to farmers who experience a severe drop in their income.</p> <p>The support to be granted to farmers according to the mentioned instruments is supposed to be based on an assessment of the losses of the individual farmer. It is suggested to introduce an additional possibility that support can also be based on index based systems to be applied on a voluntary basis.</p>	<p>the insurance company (art 37(1)(a)) that would contribute to simplification.</p> <p>In certain situations the support of index based systems can be applied on a voluntary basis to ensure a more efficient way of implementing risk management tools. This will create less or decrease existing administrative burdens.</p>
7. Investments	<p>Article 46 (1)</p> <p>(1) In order to be eligible for EAFRD support investment operations shall be preceded by an assessment of the expected environmental impact in accordance with legislation specific to that kind of investment where the investment is likely to have negative effects on the envi-</p>	Delete article 46(1)	The proposed assessment is a national competence.



<b>Rural Development (COM (2011) 627)</b>			
<b>Issue</b>	<b>Source and proposed text by the Commission</b>	<b>Proposed amendment</b>	<b>Justification/Reasoning</b>
	ronment.		
8. EIP network	<p>Article 53</p> <p>(1) A EIP network shall be put in place to support the EIP for agricultural productivity and sustainability referred to in Article 61, in accordance with Article 51(1). It shall enable the networking of operational groups, advisory services and researchers.</p> <p>(2) The tasks of the EIP network shall be to:</p> <ul style="list-style-type: none"> <li>(a) provide a help desk function and provide information to key actors concerning the EIP;</li> <li>(b) animate discussions at the level of the programme in view of encouraging the setting up of operational groups;</li> <li>(c) screen and report on research results and knowledge relevant to the EIP;</li> <li>(d) collect, consolidate and disseminate good practice relevant to innovation;</li> <li>(e) organise conferences and workshops and disseminate information in the field of the EIP.</li> </ul> <p>(3) The Commission shall, by means of implementing acts, set out the organisational structure and operation of the EIP network. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 91.</p>	Delete article 53	Drawing together of any necessary activities in the existing European Network for Rural Development (Article 52). Concentration of contents on priority tasks and the use of synergise for the purposes of lean implementation.
9. European evaluation network for rural	<p>Article 54</p> <p>(1) A European evaluation network for rural</p>	Delete article 54	Drawing together of any necessary activities in the existing European Network for Rural Development (Article 52). Concentration of

Rural Development (COM (2011) 627)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
development	<p>development shall be put in place to support the evaluation of rural development programmes in accordance with Article 51(1). It shall enable the networking of those involved in the evaluation of rural development programmes.</p> <p>(2) The aim of the European evaluation network for rural development shall be to facilitate the exchange of expertise and good practices on evaluation methodologies, to develop evaluation methods and tools, to provide support on evaluation processes, and on data collection and management.</p> <p>(3) The Commission shall, by means of implementing acts, set out the organisational structure and operation of the European evaluation network for rural development. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 91.</p>		contents on priority tasks and the use of synergise for the purposes of lean implementation.
10. Prize for innovative, local cooperation in rural areas	Title III, Chapter IV, articles 56 - 60.	<p>Delete Title III, Chapter IV, articles 56 – 60.</p> <p>Article 5 as well as Articles 38 and 40 of the Horizontal regulation shall be amended or deleted, respectively.</p>	The European added value of this prize is not balanced to the implementation costs for Member States ( <i>key principle 1</i> ).
11. EIP "Agricultural Productivity and Sustainability"	<p>Articles 61-63</p> <p>In particular <u>Article 61(1)</u>:</p> <p>(1) The EIP for agricultural productivity and sustainability shall:</p> <p>(a) promote a resource efficient, productive, low emission, climate</p>	<p>Articles 61-63: make implementation optional for Member States</p> <p>In particular <u>Article 61(1)</u>:</p> <p>(1) The EIP for agricultural productivity and sustainability shall:</p> <p>(a) promote a resource efficient, productive, low emission, climate</p>	Optional implementation avoids duplicate structures and limits the administrative burden and implementation costs.

Rural Development (COM (2011) 627)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
	<p>friendly and resilient agricultural sector, working in harmony with the essential natural resources on which farming depends;</p> <p>(b) help deliver a steady supply of food, feed and biomaterials, both existing and new ones;</p> <p>(c) improve processes to preserve the environment, adapt to climate change and mitigate it;</p> <p>(d) build bridges between cutting-edge research knowledge and technology and farmers, businesses and advisory services.</p>	<p>friendly and resilient agricultural sector, working in harmony with the essential natural resources on which farming depends;</p> <p>(b) help deliver a steady supply of food, feed and biomaterials, both existing and new ones;</p> <p>(c) improve processes to preserve the environment, adapt to climate change and mitigate it;</p> <p>(d) build bridges between cutting-edge research knowledge and technology and farmers, businesses and advisory services.</p> <p><b>The Member States shall decide within the framework of their programme strategy whether and to what extent they implement the EIP.</b></p>	
12. Financial provisions	<p>Article 65(4):</p> <p>(4) By way of derogation from paragraph 3, the maximum EAFRD contribution shall be:</p> <p>(a) 80% for the measures referred to in Articles 15, 28 and 36, for the LEADER local development referred to in Article 28 of Regulation (EU) No [CSF/2012] and for operations under Article 20(1)(a)(i). It may be increased to 90% for the programmes of less developed, the outermost regions and the smaller Aegean islands within the meaning of Regulation (EEC) No 2019/93;</p> <p>(b) 100% for operations receiving funding under Article 66</p>	<p>Article 65(4):</p> <p>(4) By way of derogation from paragraph 3, the maximum EAFRD contribution shall be:</p> <p>(a) 80% for the measures referred to in Articles 15, 28 and 36, for the LEADER local development referred to in Article 28 of Regulation (EU) No [CSF/2012] and for operations under Article 20(1)(a)(i) <b>and for measures that stimulate innovation and sustainability of the agricultural sector.</b> It may be increased to 90% for the programmes of less developed, the outermost regions and the smaller Aegean islands within the meaning of Regula-</p>	<p>NL is in favour of flexible co-financing rates at the level of the different measures as long as a fixed co-financing rate at programme level is guaranteed by the MS.</p> <p>NL does not agree with the chosen themes in article 65(4)(a) for which the derogation rates of sub 4 apply. The current derogation for certain measures does not contain any incentive to prioritise towards measures to enhance sustainability and to stimulate innovation (e.g. agri-environment measures for climate). The NL would like to have the possibility to give a higher priority to these type of measures by a higher European co-financing rate. NL therefore proposes to add measures on "sustainability and innovation" in article 65(4)(a).</p>

Rural Development (COM (2011) 627)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
		<p>tion (EEC) No 2019/93;</p> <p>(b) 100% for operations receiving funding <del>under Article 66</del> <b>as a result of all transfer of funds from the first to the second pillar.</b></p>	<p>The Netherlands supports the Commission's proposal to provide Member States the opportunity to transfer up to 10% of the direct payments budget to rural development policy (second pillar). The Netherlands wishes to deploy these funds in the second pillar without the usual national co-financing. In this way, the total CAP budget will not increase. NL therefore proposes to extend article 65(4)(b) to all transfer of funds from the first to the second pillar.</p>
13. Verifiability and controllability of measures	Article 69	Delete article 69	The obligation has no added value to the common practice already in use and the responsibility Member States already have.
14. Common indicators	<p>Article 76(1)</p> <p>A list of common indicators relating to the initial situation as well as to the financial execution, outputs, results and impact of the programme and applicable to each programme shall be specified in the monitoring and evaluation system provided for in Article 74 to allow for aggregation of data at Union level</p>	<p>Article 76(1)</p> <p>A list of common indicators relating to the initial situation as well as to the financial execution, outputs, <del>and results</del> <b>and impact</b> of the programme and applicable to each programme shall be specified in the monitoring and evaluation system provided for in Article 74 to allow for aggregation of data at Union level.</p>	<p>For the EAFRD too, the framework pegged out within the General Regulation and which is exclusively based on pure monitoring indicators, should not be abandoned. The use of impact indicators should exclusively be reserved for the evaluation. They are not suited for the monitoring and target measurement.</p> <p>The Commission is urged to present at very short notice the set of common indicators and the main implementation provisions including the CMEF.</p>
15. Responsibilities of the Monitoring Committee	Article 81	<p>Delete Article 81 (1) under (e):</p> <p>1. ....</p> <p>(a) ..;</p> <p>(b) ..;</p> <p>(c) ..;</p>	The deleted obligation has no added value to the common practice already in use.

Rural Development (COM (2011) 627)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
		(d) ..; <del>(e) shall consider and approve the annual implementation reports before they are sent to the Commission.</del>	
16. Competition provisions – state aid	<p>Title VIII, articles 87 – 89.</p> <p><u>Article 88</u></p> <p><i>State aid</i></p> <p>(1) Save as otherwise provided for in this Title, Articles 107, 108 and 109 of the Treaty shall apply to support for rural development by Member States.</p> <p>(2) Articles 107, 108 and 109 of the Treaty shall not apply to payments made by Member States pursuant to, and in conformity with, this Regulation, or to additional national financing referred to in Article 89, within the scope of Article 42 of the Treaty.</p>	Title VIII, articles 87 – 89, should provide only one approval procedure, including all state aid.	To avoid very complex and time-consuming approval procedures and to speed up the implementation of the RDP, approval of the RDP should include also approval of state aid that could be part of the RDP. This approval should also apply to changes in the underlying programmes, sub-programmes or measures of the RDP.

Single Market Organisation (COM (2011) 626)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
1. Marketing	Article 6(1)	Article 6(1)	Pursuant to Article 2 of regulation

Single Market Organisation (COM (2011) 626)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
year	<p>The following marketing years shall be established:</p> <p>(a) 1 January to 31 December of a given year for the banana sector;</p> <p>(b) .....</p> <p>Article 6(2)</p> <p>Taking into account the specificities of the fruit and vegetables and processed fruit and vegetables sectors, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 to fix the marketing years for those products.</p>	<p>The following marketing years shall be established:</p> <p>(a) 1 January to 31 December of a given year for the <b>fruit and vegetables, processed fruit and vegetables and banana sectors</b>;</p> <p>(b) .....</p> <p>Delete Article 6(2)</p>	<p>543/2011, for the fruit and vegetable and processed product sectors there is only the calendar year as the marketing year, which means that this can also be directly regulated, instead of resorting elsewhere to an empowerment and then a scheme corresponding to letter (a).</p> <p>Pursuant to Article 2 of regulation 543/2011, for the fruit and vegetable and processed product sectors there is only the calendar year as the marketing year, which means that this can also be directly regulated, instead of resorting elsewhere to an empowerment and then a scheme corresponding to letter (a).</p>
2. Use of intervention stocks for the most deprived	<p>Whereas 24, article 15 second paragraph, article 19(e) (partially)</p> <p>Article 15, second paragraph:</p> <p>Products may be disposed of by making them available for the scheme for food distribution to the most deprived in the Union set out in Regulation (EU) No [...] if that scheme so provides. In that case, the accounting value of such products shall be at the level of the relevant fixed public intervention price referred to in Article 14(2).</p> <p>Article 19(e):</p> <p>(e) the conditions for the sale or disposal of products bought-in under public intervention, in particular, regarding selling prices, the conditions for removal from storage, the subsequent use or destination of products released, including pro-</p>	<p>Delete article 15, second paragraph</p> <p>Article 19(e):</p> <p>the conditions for the sale or disposal of products bought-in under public intervention, in particular, regarding selling prices, the conditions for removal from storage, the subsequent use or destination of prod-</p>	<p>The use of intervention products for the most deprived is a highly complicated and expensive option that requires considerable control. It should no longer be envisaged.</p>

Single Market Organisation (COM (2011) 626)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
	cedures relating to products made available for use in the scheme for food distribution to the most deprived in the Union, including transfers between Member States;	ucts released, <del>including procedures relating to products made available for use in the scheme for food distribution to the most deprived in the Union,</del> including transfers between Member States;	
3. Marketing standards	<p>Articles 55 – 57 on the introduction of a general marketing standard.</p> <p>Article 56(3):</p> <p>A product shall be considered as conforming to the general marketing standard where the product intended to be marketed is in conformity with an applicable standard adopted by any of the international organisations listed in Annex V.</p> <p>Article 59</p> <p>On the establishment and content of marketing standards by means of delegated acts of the Commission for all sectors on all marketing levels.</p>	<p>Delete articles 55 – 57.</p> <p>Delete article 56(3).</p> <p>Delete article 59.</p>	<p>These provisions lead to a disproportionate burden, particularly for the Member States because of the control without any additional value for farmers and consumers.</p> <p>This provision leads to a juxtaposition of three different standards, whose relationship to each other is unclear and forces the Member States to stage control procedures for all products in Annex 1 and all UNECE and Codex standards in addition to the general marketing standard introduced by the EU.</p> <p>This comprehensive empowerment prompts fears that comprehensive marketing standards will be laid down for more sectors than in the past. This means major monitoring tasks.</p>
4. Producer organisations	Articles 106-116, Chapter III	Member States should be able to decide whether they will recognize producer organizations, associations of producer organizations or inter-branch organizations.	It will simplify the National administrations if it is made voluntary whether Member States will recognize these organizations.
5. Export refunds	Article 133 – 141, Chapter VI	Delete Chapter VI, all articles 133 – 141	Export refunds should be abolished as a market instrument - at least export refunds for non annex I products should be deleted as this would be an important simplification for National administrations. The amounts paid do rarely match the burden-

Single Market Organisation (COM (2011) 626)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
			some administration. The present stand-by arrangement could be abolished if the possibility for granting export refunds is deleted.
6. Proof of arrival		The requirement for proof of arrival in third countries for export of sugar outside quotas should be abolished.	No refunds are involved in export of sugar outside the quotas, consequently the maintenance of the requirement is unnecessary.

Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
1. Definitions	<p>Article 2(1)</p> <p>The definitions of "farmer", "agricultural activity", "agricultural area", "holding" laid down in Article 4 of Regulation (EU) xxx/xxx[DP] shall apply for the purposes of this Regulation, save as otherwise provided for in this Regulation.</p> <p>The terms "direct payments" referred to in Article 1 of Regulation (EU) xxx/xxx[DP] shall apply for the purposes of this Regulation.</p>	<p>Article 2(1)</p> <p><b>For the purposes of this Regulation, the following definitions shall apply:</b></p> <p><b>(a) "farmer" means a natural or legal person, or a group of natural or legal persons, whatever legal status is granted to the group and its members by national law, whose holding is situated within the Union territory, as defined in Article 52 of the Treaty on European Union in conjunction with Articles</b></p>	In order to harmonise the regulations for the first and second pillar as much as much possible, The Netherlands proposes to put the definitions which are relevant for both pillars into the horizontal regulation.

<sup>3</sup> The definition for 'young farmer' in the proposal for the regulation establishing rules for direct payments differ from the definition for 'young farmer' in the proposal for the regulation on support for rural development. We invite the Commission to examine whether these definitions can be harmonised.



Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
		<p><b>349 and 355 of the Treaty on the Functioning of the European Union, and who exercises an agricultural activity;</b></p> <p><b>(b) "holding" means all the units used for agricultural activities and managed by a farmer situated within the territory of the same Member State;</b></p> <p><b>(c) "agricultural activity" means: rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, maintaining the agricultural area in a state which makes it suitable for grazing or cultivation without any particular preparatory action going beyond traditional agricultural methods and machineries, or carrying out a minimum activity to be established by Member States on agricultural areas naturally kept in a state suitable for grazing or cultivation;</b></p> <p><b>(d) "agricultural products" means the products listed in Annex I to the Treaty, with the exception of fishery products, as well as cotton;</b></p> <p><b>(e) "agricultural area" means any area taken up by arable land, permanent grassland or permanent crops;</b></p> <p><b>(f) "arable land" means land cultivated for crop production or areas available for crop production but laying fallow, including areas set aside in accordance with Articles</b></p>	

Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
		<p><b>22, 23 and 24 of Regulation (EC) No 1257/1999, with Article 39 of Regulation (EC) No 1698/2005 and with Article 29 of Regulation (EU) No [...] [RDR], irrespective of whether or not that land is under greenhouses or under fixed or mobile cover;</b></p> <p><b>(g) "beneficiary": a natural or legal person or other body, whether public or private, responsible for implementing operations or receiving support;</b></p> <p><b>(h) "natural disaster": a naturally occurring event of biotic or abiotic nature that leads to important disturbances of agricultural production systems and forest structures, eventually causing important economic damage to the farming and forest sectors;</b></p> <p><b>(i) "young farmer": <sup>3</sup>.</b></p>	
2. Additional obligations for the Paying Agencies	<p>Article 7(3)(c):</p> <p>By [1 February] of the year following the financial year concerned, the person in charge of the accredited paying agency shall draw up:</p> <p>(a) ....;</p> <p>(b) ....;</p> <p>(c) a summary of the results of all available audits and checks carried out, including an analysis of systematic or recurrent weaknesses as well as corrective actions taken or planned.</p>	<p>Article 7(3)(c):</p> <p>By [1 <b>February March</b>] of the year following the financial year concerned, the person in charge of the accredited paying agency shall draw up:</p> <p>(a) ....;</p> <p>(b) ....;</p> <p><b><del>(c) a summary of the results of all available audits and checks carried out, including an analysis of systematic or recurrent weaknesses as well as corrective actions taken or planned.</del></b></p>	<p>The extension of the deadline by at least 1 month, particularly against the backdrop of the growing number of requirements to be met by paying agencies and certification bodies.</p> <p>Rejection of this additional requirement pursuant to (c) as all information is already available to the Commission and herewith no value is added.</p>

Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
3. Extending tasks of the Certification Bodies	<p>Article 9(1)</p> <p>1. The certification body shall be a public or private audit body designated by the Member State which shall provide an opinion on the management declaration of assurance covering the completeness, accuracy and veracity of the annual accounts of the paying agency, the proper functioning of its internal control system, the legality and regularity of the underlying transactions, as well as the respect of the principle of sound financial management. It shall be operationally independent from both the paying agency concerned and the authority which has accredited that agency.</p>	<p>Article 9(1)</p> <p>1. The certification body shall be a public or private audit body designated by the Member State which shall provide an opinion on the management declaration of assurance covering the completeness, accuracy and veracity of the annual accounts of the paying agency, the proper functioning of its internal control system, the legality and regularity of the underlying transactions, as well as the respect of the principle of sound financial management. <b>Such opinion shall be based on audit evidence and controls that are risk-based, and that takes into account the track record of the Member State, and be based on internationally accepted audit standards.</b> It shall be operationally independent from both the paying agency concerned and the authority which has accredited that agency.</p>	<p>In order to prevent disproportionate audit burden the audit of legality and regularity has to be based as much as possible on the work already done by the Paying Agency.</p> <p>The proposed text is in line with the presidency proposal concerning article 56 of the Financial Regulation.</p>
4. Farm Advisory System	<p>Title III, Articles 12 – 15, and in particular article 15</p> <p>Article 12(2) and 12(3)</p> <p>(2) The farm advisory system shall cover at least:</p> <p>(a) the statutory management requirements and the standards for good agricultural and environmental condition of land as</p>	<p>Article 12(2) and 12(3)</p> <p>(2) The farm advisory system shall cover at least:</p> <p>(a) the statutory management requirements and the standards for good agricultural and environmental condition of land as</p>	<p>Proposals for amending Title III are meant to maintain the status quo.</p> <p>The Netherlands supports effective transference of knowledge to farmers on societal parameters for sustainable practices and the effective use of this information by farmers. However, the Netherlands also respects the responsibility farmers bear for their own operations and would not want to interfere in the well-functioning market</p>

Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
	<p>laid down in Chapter I of Title VI;</p> <p>(b) the agricultural practices beneficial for the climate and the environment as laid down in Chapter 2 of Title III of Regulation (EU) No xxx/xxx [DP] and the maintenance of the agricultural area as referred to in Article 4(1)(c) of Regulation (EU) No xxx/xxx [DP];</p> <p>(c) the requirements or actions related to climate change mitigation and adaptation, biodiversity, protection of water, animal and plant disease notification and innovation at minimum as laid down in Annex I to this Regulation;</p> <p>(d) the sustainable development of the economical activity of the small farms as defined by the Member States and at least of the farms participating in the small farmers scheme referred to in Title V of Regulation (EU) No xxx/xxx[DP].</p> <p>(3) The farm advisory system may also cover in particular:</p> <p>(a) the sustainable development of the economical activity of holdings other than those referred to in paragraph (2)(d);</p> <p>(b) the minimum requirements established by national legislation, as referred to in Article 29(3) and 30(2) of Regulation (EU) No xxx/xxx [RD].</p>	<p>laid down in Chapter I of Title VI;</p> <p>(b) the agricultural practices beneficial for the climate and the environment as laid down in Chapter 2 of Title III of Regulation (EU) No xxx/xxx [DP] and the maintenance of the agricultural area as referred to in Article 4(1)(c) of Regulation (EU) No xxx/xxx [DP];</p> <p><del>(c) the requirements or actions related to climate change mitigation and adaptation, biodiversity, protection of water, animal and plant disease notification and innovation at minimum as laid down in Annex I to this Regulation;</del></p> <p><del>(d) the sustainable development of the economical activity of the small farms as defined by the Member States and at least of the farms participating in the small farmers scheme referred to in Title V of Regulation (EU) No xxx/xxx[DP].</del></p> <p>(3) The farm advisory system may also cover <del>in particular</del>:</p> <p>(a) the sustainable development of the economical activity of holdings other than those referred to in paragraph (2)(d);</p> <p>(b) the minimum requirements established by national legislation, as referred to in Article 29(3) and 30(2) of Regulation (EU) No</p>	<p>for knowledge and advisory services in this area.</p> <p>There only some justification to add green- ing into the mandatory elements of the advisory system in article 12(2)(b).</p>

Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
	<p>Article 13(1)</p> <p>Member States shall ensure that the advisors within the farm advisory system are suitably qualified and regularly trained.</p> <p>Article 14</p> <p>Beneficiaries, whether or not they receive support under the common agricultural policy, including rural development, may use the farm advisory system on a voluntary basis.</p> <p>However Member States may determine, in accordance with objective criteria, the categories of beneficiaries that have priority access to the farm advisory system. Member States shall nevertheless ensure that priority is given to farmers whose</p>	<p>xxx/xxx [RD].</p> <p><b>(c) the requirements or actions related to climate change mitigation and adaptation, biodiversity, protection of water, animal and plant disease notification and innovation at minimum as laid down in Annex I to this Regulation;</b></p> <p><b>(d) the sustainable development of the economical activity of the small farms as defined by the Member States and at least of the farms participating in the small farmers scheme referred to in Title V of Regulation (EU) No xxx/xxx[DP].</b></p> <p>Delete article 13(1)</p> <p>Article 14</p> <p>Beneficiaries, whether or not they receive support under the common agricultural policy, including rural development, may use the farm advisory system on a voluntary basis.</p> <p>However Member States may determine, in accordance with objective criteria, the categories of beneficiaries that have priority access to the farm advisory system.</p> <p><del>Member States shall nevertheless ensure that priority is given to farmers</del></p>	

Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
	<p>access to an advisory service other than the farm advisory system is most limited.</p> <p>The farm advisory system shall ensure that beneficiaries have access to advice reflecting the specific situation of their holding.</p> <p>Article 15</p> <p>(1) In order to guarantee the proper functioning of the farm advisory system, the Commission shall be empowered to adopt delegated acts in accordance with Article 111 concerning provisions aiming at rendering that system fully operational. Those provisions may relate, amongst others, to the accessibility criteria for farmers.</p> <p>(2) The Commission may, by means of implementing acts, adopt rules for the uniform implementation of the farm advisory system. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).</p>	<p><del>whose access to an advisory service other than the farm advisory system is most limited.</del></p> <p><del>The farm advisory system shall ensure that beneficiaries have access to advice reflecting the specific situation of their holding.</del></p> <p>Delete article 15</p>	<p>These provision go beyond the subsidiarity principle.</p>
5. Suspension of payments	<p>Article 44</p> <p>When sectoral agricultural legislation requires Member States to submit, within a specific period of time, information on the numbers of checks carried out and their outcome and the Member States overrun that period, the Commission may suspend the monthly payments referred to in Article 18 or the interim payments referred to in</p>	Delete article 44	<p>The proposal is disproportionate. Furthermore, the late submission of statistics is frequently also due to the fact that the Commission does not send the Member States the required forms with the necessary explanations in a timely manner, prior to commencement of the period for which the information is to be collected. Later amendments and unforeseen interpretations by the Commission also lead to de-</p>

Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
	Article 35 for which the relevant statistical information has not been sent in time.		lays and unnecessary extra work for the Member States.
6. Access to documents	<p>Article 51</p> <p>The accredited paying agencies shall keep supporting documents relating to payments made and documents relating to the performance of the administrative and physical checks required by Union legislation, and shall make the documents and information available to the Commission.</p> <p>Where those documents are kept by an authority acting under delegation from a paying agency and responsible for authorising expenditure, that authority shall send reports to the accredited paying agency on the number of checks made, their content and the measures taken in the light of their results.</p>	<p>Article 51</p> <p>The accredited paying agencies shall keep supporting documents relating to payments made and documents relating to the performance of the administrative and physical checks required by Union legislation, and shall make the documents and information available to the Commission.</p> <p>Where those documents are kept by an authority acting under delegation from a paying agency and responsible for authorising expenditure, that authority shall send reports to the accredited paying agency on the number of checks made, their content and the measures taken in the light of their results.</p> <p><b>The documents shall be kept either in the form of the originals, or certified true copies of the originals, or on commonly accepted data carriers including electronic versions of original documents or documents existing in electronic version only.</b></p>	It is important to mention in the Regulation of the European Parliament and of the Council that electronic data and paper documents have the same legal status.
7. Recovery of undue payments	<p>Article 56(2)</p> <p>If recovery has not taken place within four years of the date of the recovery request, or within eight years where recovery is taken in the national courts, the financial consequences of non-recovery shall be borne by the Member State concerned,</p>	<p>Article 56(2)</p> <p><b><del>If recovery has not taken place within four years of the date of the recovery request, or within eight years where recovery is taken in the national courts, the financial consequences of non-recovery shall be borne by the</del></b></p>	The Netherlands considers it unjust that the bill for undue payments not recovered from beneficiaries is fully payable by the Member State after four years (or eight years in the case of legal proceedings). The current 50/50 rule, in which Member States must pay 50% to the EU after a period of four or eight years, provides suf-

Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
	<p>without prejudice to the requirement that the Member State concerned must pursue recovery procedures in compliance with Article 60.</p> <p>Where, in the context of the recovery procedure, the absence of any irregularity is recorded by an administrative or legal instrument of a definitive nature, the Member State concerned shall declare as expenditure to the EAGF and EAFRD the financial burden borne by it under the first subparagraph.</p>	<p><b><del>Member State concerned. If recovery has not taken place within four years of the primary administrative or judicial finding, or within eight years where recovery action is taken in the national courts, 50 % of the financial consequences of non-recovery shall be borne by the Member State concerned and 50 % by the Community budget,</del></b> without prejudice to the requirement that the Member State concerned must pursue recovery procedures in compliance with Article 60.</p> <p>Where, in the context of the recovery procedure, the absence of any irregularity is recorded by an administrative or legal instrument of a definitive nature, the Member State concerned shall declare as expenditure to the EAGF and EAFRD the financial burden borne by it under the first subparagraph.</p> <p><b>However, if for reasons not attributable to the Member State concerned, recovery could not take place within the time-limits specified in the First subparagraph, and the amount to be recovered exceeds EUR 1 million, the Commission may, at the request of the Member State, extend the time-limits by a maximum of 50 % of the initial time-limits.</b></p>	<p>ficient incentive for speeding up the recovery procedures for undue payments.</p>
8. Risk based approach as one of the general principle of checks	<p>Article 61(1)</p> <p>The system set up by the Member States in accordance with Article 60(2) shall in-</p>	<p>Article 61(1)</p> <p>The system set up by the Member States in accordance with Article 60(2) shall in-</p>	<p>A risk-based approach should be applied to all controls on both administrations and recipients. This means that controls are reduced where the administration has</p>



Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
	clude, except where otherwise provided, systematic administrative checking of all aid applications and shall be supplemented by on-the-spot checks.	clude, except where otherwise provided, systematic administrative checking of <b>all</b> aid applications <b>applying a risk-based approach according to the level of assurance that is required</b> and shall be supplemented by on-the-spot checks.	demonstrated that they have a robust system of controls in place, or the recipient has a good track record. Equally, controls should - as is already the case - be increased where systemic problems have occurred ( <i>key principle 2</i> ).
9. Lowering of control rates / specific procedure for groups of farmers	<p>Article 64(2)(b):</p> <p>The Commission shall, by means of implementing acts, adopt the necessary rules aiming at reaching a uniform application of this Chapter in the Union. Those rules may, in particular, relate to the following:</p> <p>(a) ....;</p> <p>(b) the rules on the minimum level of on-the-spot checks necessary for an effective management of the risks, as well as the conditions under which Member States have to increase such checks, or may reduce them where the management and control systems function properly and the error rates are at an acceptable level;</p>	<p>In article 64(2)(b) or in the resulting implementing act we would like to take up the fo following:</p> <p><b>The on-the-spot (OTS) check for groups of farmers or associations of farmers will cover a maximum of 5% of the area under commitment. If:</b></p> <ul style="list-style-type: none"> <li>○ <b>no non-compliances are determined: the OTS check can be concluded.</b></li> <li>○ <b>non-compliances are determined: the OTS check shall be extended to [x%] of the area concerned.</b></li> </ul> <p><b>If determined non-compliance(s) lead to a reduction of a payment granted, the reduction will be calculated on the level of the group or association and to the expense of the group or association.</b></p>	<p>The Commission's proposal to allow Member States with sound management and control systems and low error rates the opportunity to carry out fewer checks is welcomed. This is in line with <i>key principle 2</i> to use a more risk-based approach.</p> <p>Nevertheless the Commission is invited to specify, <u>prior to approval of this regulation</u>, the intended management within the framework of a statement for the minutes, so that the reduction of administrative burden will be calculable for the administrations.</p> <p><u>In addition to the general principle:</u></p> <p>In the legislative proposals for the new CAP a group of farmers or association of farmers is being acknowledged as a beneficiary for CAP support in the 2<sup>nd</sup> Pillar: groups or associations can apply for one or more agri-environment-climate commitments on agricultural land (art. 29(2)).</p> <p>In the Netherlands these groups or associations of farmers have a number of participants that can vary between 50 and 500. A commitment with the Paying Agency is based on a targeted development plan drawn up by the group or association. Every group or association shall</p>

Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
			<p>have a certification scheme in place. Any participating individual farmer is obliged to follow all certification requirements.</p> <p>These groups or associations face the same chance or risk of being selected for a control as any other individual farmer receiving support. But being a single beneficiary with, sometimes, many members makes it necessary to take a closer look at what the practical rules concerning administrative and on-the-spot checks to be conducted should be. Leaving the responsibilities of the relevant competent control authorities intact.</p> <p>In article 64(2)(b) regarding the on-the-spot checks a specific procedure for these groups or associations of farmers is necessary.</p>
10. Definitions	Articles 68-78 (Integrated Administration and Control System)	Definitions in LPIS for direct aid, rural development support, and the Nitrate directive have to be comparable.	The main definitions concerning agriculture area, agriculture activity, etc. should be comparable in all regulations. Also, definitions for crosscutting issues like crop groups and agriculture parcels should be the same in the two regulations.
11. Cross compliance	<p>Article 92</p> <p>Article 91 shall apply to beneficiaries receiving direct payments under Regulation (EU) No xxx/xxx[DP], payments under Articles 44 and 45 of Regulation (EU) No xxx/xxx[sCMO] and the annual premia under Articles 22(1)(a) and (b), 29 to 32, 34 and 35 of Regulation (EU) No xxx/xxx[RD].</p>	<p>Article 92</p> <p>Article 91 shall apply to beneficiaries receiving direct payments under Regulation (EU) No xxx/xxx[DP], <b>and the</b> payments under Articles 44 and 45 of Regulation (EU) No xxx/xxx[sCMO] <b>and the annual premia under Articles 22(1)(a) and (b), 29 to 32, 34 and 35 of Regulation (EU) No xxx/xxx[RD].</b></p>	<p>As Rural development measures concern targeted payments based on individual requirements which go beyond the standards and requirements included in cross compliance, cross compliance should not be applied for rural development measures.</p> <p>Groups of farmers and cross compliance: In the case of cross compliance checks and</p>

Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
	However, Article 91 shall not apply to beneficiaries participating in the small farmers scheme referred to in Title V of Regulation (EU) No xxx/xxx[DP] and to the beneficiaries receiving aid under Article 29(9) of Regulation (EU) No RD/xxx.	However, Article 91 shall not apply to beneficiaries participating in the small farmers scheme referred to in Title V of Regulation (EU) No xxx/xxx[DP] <del>and to the beneficiaries receiving aid under Article 29(9) of Regulation (EU) No RD/xxx</del> [groups of farmers] receiving annual premia under Articles 22(1)(a) and (b), 29 to 32, 34 and 35 of Regulation (EU) No xxx/xxx[RD].	<p>groups of farmers or associations of farmers some specific new conditions are relevant and have to be taken into account:</p> <ol style="list-style-type: none"> <li>1. Groups or associations can only apply for commitments from the second pillar;</li> <li>2. The beneficiary 'group or association' consists only of farmers who in the new system for direct payments (regional model) receive direct payments on all or part of their land;</li> <li>3. Starting 2014 it is no longer needed to select two different samples (pillar 1 and pillar 2) for cross compliance checks: only one sample of all farmers receiving CAP support will do (according to the letter on simplification of the Commissioner of November 2011).</li> </ol> <p>This means that every individual participant in a group or association is already part of the population for selection for a cross compliance check based on his/hers application for direct payments. There is therefore no need to separately identify groups or associations in the risk analysis for cross compliance. This is without prejudice that where during a cross compliance check a non-compliance is determined that is attributable to the individual farmer who submitted the application for direct support in the calendar year concerned, this farmer will be held liable and should face a reduction to the share of his payment received from the group or association. The potential risk for the European Fund will not change nor negatively be affected.</p>

Horizontal Regulation (COM (2011) 628)			
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			As a simple and practical rule it is suggested that 'groups associations' are exempted from cross compliance any way by amending art. 92 second paragraph, even in case the Commission persists in maintaining applying article 91 to beneficiaries of support under Rural Development.
12. Cross compliance	<p>Article 93</p> <p><u>Water Framework Directive (2006/60/EC) and sustainable use of pesticides (2009/128/EC)</u></p> <p>Article 94</p> <p>GAEC 6</p>	<p>Article 93</p> <p><u>Water Framework Directive (2006/60/EC) and sustainable use of pesticides (2009/128/EC)</u></p> <p>Article 94</p> <p>GAEC 6</p>	<p>The Netherlands considers that agriculture can and must contribute to realising the objectives of the Water Framework Directive. However the Netherlands is convinced that cross compliance is not the best instrument for integrating these objectives into the CAP. Other instruments are both necessary and more suitable, such as the agri-environmental measures and/or compensating payments in designated areas (for example under Article 38 or 39 of Regulation 1698/2005).</p> <p>The Netherlands therefore cannot endorse the Commission's current proposal to use delegated acts, to establish provisions of directives 2000/60/EC and 2009/128/EC as management requirements, as referred to in annex II.</p> <p>Concerning the use of plant protection products, the extent of any necessary management requirements to be established is as yet entirely uncertain, and must therefore be established through the ordinary legislative procedure.</p> <p>As these definitions are essential for valuating and implementing cross compliance, these definitions should be incorporated in</p>

Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
	<p>Maintenance of soil organic matter level including ban on burning arable stubble.</p> <p>GAEC 7 Protection of wetland and carbon rich soils including a ban on ploughing.</p>	<p>There should be an prior unequivocal definition of what is meant by 'soil organic matter'. This definition needs to be incorporated into the basic regulation, along with a more detailed specification of the minimum conditions to be met by the farmer.</p> <p>GAEC 7 There should be a prior unequivocal definition of what is meant by 'wetland' and 'carbon rich soils'. This definition needs to be incorporated into the basic regulation, along with a more detailed specification of the minimum conditions to be met by the farmer.</p>	<p>the basic regulation or otherwise these GAEC standards should be deleted.</p>
	<p><u>Annex II</u>, as part of article 93 (Rules on cross compliance) and article 94 (Obligations of Member States relating to good agricultural and environmental condition)</p>	<p>In the annex to these proposals the amendments to Annex II are presented. Key elements for simplification are:</p> <ol style="list-style-type: none"> <li>1. Delete columns 1 (area) and 2 (main issues) as these have no added value. Furthermore by deleting these columns a more simpler basis is created for the calculations of penalties.</li> <li>2. Based on the criteria used in the Impact Assessment in Annex 02 E –Technical annex on cross compliance the SMR's and GAEC's are analysed more in depth and concentrated only on the key provisions in the relevant existing European legislation.</li> </ol>	<p>Based on the criteria used in the Impact Assessment in Annex 02 E –Technical annex on cross compliance (ST 15640 –AD07 EN 11) further simplification of the SMR's and GAEC's is deemed possible, by concentrating the requirements and standards only on the key provisions in the relevant existing European legislation. The criteria used are:</p> <ol style="list-style-type: none"> <li>1. The provisions must be relevant and with high priority relative to the objectives of cross compliance.</li> <li>2. The provisions must have a direct link with the agricultural activity and/or the agricultural land.</li> <li>3. The provisions must only relate to actions or omissions directly attributable to individual farmers.</li> <li>4. The provisions must be controllable at reasonable costs and quantifiable (or at least allowing to define reduction</li> </ol>

Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
			<p>rates).</p> <p>5. The provisions must not create undue discrepancies between concerned farmers, beyond what is required to take into account local needs. However, in certain cases, the implementation in different ways by Member States of a provision in a Directive does not in itself constitute an 'undue discrepancy' between farmers if it is appropriate and duly justified by the local circumstances.</p>
13. Cross compliance	<p>Article 96(3) and 96(4):</p> <p>3. Member States shall carry out on-the-spot checks to verify whether a beneficiary complies with the obligations laid down in this Title.</p> <p>4. The Commission shall, by means of implementing acts, adopt rules on the carrying out of checks in order to verify compliance with the obligations referred to in this Title.</p> <p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 112(3).</p>	<p>The proposed amendments could be made to article 96(3) or be made part of the implementing acts according to article 96(4):</p> <p>(1) An increase in the number of controls should only take place if there is an increase in the number of errors in the random sample.</p> <p>(2) The control of SMR's where no or very few infringements have been observed should be abolished.</p>	<p>(1) If the risk based sample is utilized for deciding whether or not to increase the number of controls, Member Countries with effective risk analyses will be punished.</p> <p>(2) Alternatively the requirements could be "sleeping" and only triggered for cc controls if infringements are observed in the sector control.</p>
14. Cross compliance	<p>Article 99(3)</p> <p>In the case of intentional non-compliance, the percentage of reduction shall in principle not be less than 20 % and may go as far as total exclusion from one or several aid schemes and apply for one or more calendar years.</p>	<p>Article 99(3)</p> <p>In the case of <b>intentional very serious</b> non-compliance, the percentage of reduction shall in principle not be less than 20 % and may go as far as total exclusion from one or several aid schemes and apply for one or more calendar years.</p>	<p>The Netherlands proposes to delete 'intentionality' as intent is too hard to prove, very liable to complex, time-consuming and costly court cases of which the outcome almost never equals the practical benefit in terms of avoided (unjustified) spending (<i>key principle 1</i>).</p>

Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
15. Monitoring and evaluation	<p>Article 110</p> <p>(1) A common monitoring and evaluation framework shall be established with a view to measuring the performance of the common agricultural policy. It shall include all instruments related to the monitoring and evaluation of common agricultural policy measures and in particular of the direct payments provided for in Regulation (EU) No DP/xxx, the market measures provided for in Regulation (EU) No CMO/xxx, the rural development measures provided for in Regulation (EU) No RD/xxx and of the application of the cross compliance provided for in this Regulation. In order to ensure an effective performance measurement the Commission shall be empowered to adopt delegated acts in accordance with Article 111 regarding the content and construction of that framework.</p> <p>(2) .... The Commission shall define, by means of implementing acts, the set of indicators specific to the objectives referred to in the first subparagraph. ....</p> <p>(3) Member States shall provide the Commission with all the information necessary to permit the monitoring and evaluation of the measures concerned. ....</p> <p>(4) The Commission shall present a report on the implementation of this Article to the European Parliament and the</p>	<p><b>At least clarification</b></p> <ul style="list-style-type: none"> <li>• <b>that evaluations within the framework of the First Pillar are undertaken in principle by the Commission;</b></li> <li>• <b>that no extensive additional data collections or submissions are required of the Member States, and</b></li> <li>• <b>that possible rules are not adopted as delegated legal acts, but as implementing acts.</b></li> </ul>	<p>Above all, experiences within the framework of the Second Pillar show that monitoring and evaluation may entail a major administrative burden.</p> <p>The term "<u>common</u> monitoring and evaluation framework" may not under any circumstances seek to transfer the complicated system from the Second Pillar to the First Pillar. <b>As the measures in the First Pillar are shaped in a relatively uniform manner across the EU, the evaluation should be undertaken by the Commission itself or external institutes instructed by the Commission to do so.</b> In this way, major synergies can be tapped into, as the results in one Member State can normally be transposed in full or almost in full to the other Member States.</p> <p>For monitoring and evaluation, the Commission should mainly draw on data/information available from other sources. <b>If, in individual cases, additional information is indeed required from the beneficiaries, then this should be clearly intimated to the Member States well ahead of the commencement of the new support period,</b> so that the corresponding data collection can be integrated into the single application and other applications/announcements and taken into account in the EDP programming from the outset.</p> <p>All in all, an additional burden resulting</p>

Horizontal Regulation (COM (2011) 628)			
Issue	Source and proposed text by the Commission	Proposed amendment	Justification/Reasoning
	Council every four years. The first report shall be presented not later than 31 December 2017.		from monitoring and evaluation is to be avoided. <b>Monitoring and evaluation in the Second Pillar are to be markedly simplified.</b>



**Annex: proposed simplification of cross compliance****Commission proposal**

Rules on cross compliance pursuant to Article 93

SMR: Statutory management requirement

GAEC: Standards for good agricultural and environmental condition of land

Area	Main issue	Requirements and standards		
Environment, climate change, good agricultural condition of land	Water	SMR 1	Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1)	Articles 4 and 5
		GAEC 1	Establishment of buffer strips along water courses <sup>4</sup>	
		GAEC 2	Where use of water for irrigation is subject to authorisation, compliance with authorisation procedures	

**Simplification proposal**

Rules on cross compliance pursuant to Article 93

SMR: Statutory management requirement

GAEC: Standards for good agricultural and environmental condition of land

Area	Main issue	Requirements and standards		
<del>Environment, climate change, good agricultural condition of land</del>	<del>Water</del>	SMR 1	Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1)	Articles 4 and 5
		GAEC 1	Establishment of buffer strips along water courses <sup>4</sup>	
		GAEC 2	Where use of water for irrigation is subject to authorisation, compliance with authorisation procedures	

<sup>4</sup> The GAEC buffer strips must respect, both within and outside vulnerable zones designated pursuant to Article 3(2) of Directive 91/676/EEC, at least the requirements relating to the conditions for land application of fertiliser near water courses, referred to in point A.4 of Annex II to Directive 91/676/EEC to be applied in accordance with the action programmes of Member States established under Article 5(4) of Directive 91/676/EEC.

Area	Main issue	Requirements and standards		
		GAEC 3	Protection of ground water against pollution: prohibition of direct discharge into groundwater and measures to prevent indirect pollution of groundwater through discharge on the ground and percolation through the soil of dangerous substances, as listed in the Annex to the Directive 80/68/EEC	
	Soil and carbon stock	GAEC 4	Minimum soil cover	
		GAEC 5	Minimum land management reflecting site specific conditions to limit erosion	
		GAEC 6	Maintenance of soil organic matter level including ban on burning arable stubble	
		GAEC 7	Protection of wetland and carbon rich soils including a ban of first ploughing <sup>5</sup>	
	Biodiversity	SMR 2	Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7)	Article 3(1), Article 3(2)(b), Article 4 (1), (2) and (4)

Area	Main issue	Requirements and standards		
		GAEC 3	Protection of ground water against pollution: prohibition of direct discharge into groundwater and measures to prevent indirect pollution of groundwater through discharge on the ground and percolation through the soil of dangerous substances, as listed in the Annex to the Directive 80/68/EEC	
	<b>Soil and carbon stock</b>	GAEC 4	Minimum soil cover	
		GAEC 5	Minimum land management reflecting site specific conditions to limit erosion	
		GAEC 6	Maintenance of soil organic matter level including ban on burning arable stubble	
		GAEC 7	Protection of wetland and carbon rich soils including a ban of first ploughing <sup>5</sup>	
	<b>Biodiversity</b>	SMR 2	Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7)	Article 3(1), Article 3(2)(b), Article 4 (1), (2) and (4)

<sup>5</sup> Ploughing of wetland and carbon rich land which has been defined in 2011 at the latest as arable land in accordance with Article 2 point (a) of Regulation (EC) No 1120/2009 and which complies with the definition of arable land as laid down in Article 4 point (f) of the Regulation (EU) No DP/xxx shall not be considered as first ploughing.

Area	Main issue	Requirements and standards		
		SMR 3	Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna (OJ L 206, 22.7.1992, p. 7)	Article 6 (1) and (2)
	Landscape, minimum level of maintenance,	GAEC 8	Retention of landscape features, including where appropriate, hedges, ponds, ditches, trees in line, in group or isolated, field margins and terraces, and including a ban on cutting hedges and trees during the bird breeding and rearing season and possible measures for avoiding invasive species and pests	
Public health, animal health and plant health	Food safety	SMR 4	Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of	Articles 14 and 15, Article 17(1) <sup>6</sup> and Articles 18, 19 and 20

Area	Main issue	Requirements and standards		
		SMR 3	Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna (OJ L 206, 22.7.1992, p. 7)	Article 6 (1) and (2)
	<del>Landscape, minimum level of maintenance,</del>	GAEC 8	Retention of landscape features, including where appropriate, hedges, ponds, ditches, trees in line, in group or isolated, field margins and terraces, and including a ban on cutting hedges and trees during the bird breeding and rearing season and possible measures for avoiding invasive species and pests	
<del>Public health, animal health and plant health</del>	<del>Food safety</del>	SMR 4	Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of	<del>Articles 14 and 15(1), 15(2), 15(3), 15(4), Article 17(1) <sup>6</sup> and Articles 18(1), 18(2), 19 and 20</del>

<sup>6</sup> As implemented in particular by:

- Regulation (EEC) No 2377/90: Articles 2, 4 and 5,
- Regulation (EC) No 852/2004: Article 4(1) and Annex I part A (II 4 (g, h, j), 5 (f, h), 6; III 8 (a, b, d, e), 9 (a, c)),
- Regulation (EC) No 853/2004: Article 3(1) and Annex III Section IX Chapter 1 (I-1 b, c, d, e; I-2 a (i, ii, iii), b (i, ii), c; I-3; I-4; I-5; II-A 1, 2, 3, 4; II-B 1(a, d), 2, 4 (a, b)), Annex III Section X Chapter 1(1),
- Regulation (EC) No 183/2005: Article 5(1) and Annex I, part A (I-4 e, g; II-2 a, b, e), Article 5(5) and Annex III (1, 2), Article 5(6), and
- Regulation (EC) No 396/2005: Article 18.

Area	Main issue	Requirements and standards		
			food safety (OJ L 31, 1.2.2002, p. 1)	
		SMR 5	Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and beta-agonists (OJ L125, 23.5.1996, p.3)	Article 3(a), (b), (d) and (e) and Articles 4, 5 and 7
	Identification and registration of animals	SMR 6	Council Directive 2008/71/EC of 15 July 2008 on identification and registration of pigs (OJ L 213, 8.8.2005, p. 31)	Articles 3, 4 and 5
		SMR 7	Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products (OJ L 204, 11.8.2000, p. 1)	Articles 4 and 7
		SMR 8	Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals (OJ L 5, 9.1.2004, p. 8)	Articles 3, 4 and 5

Area	Main issue	Requirements and standards		
			food safety (OJ L 31, 1.2.2002, p. 1)	
		SMR 5	Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and beta-agonists (OJ L125, 23.5.1996, p.3)	Article 3(a), (b) <b>first intend and second paragraph</b> <del>-(d) and (e)</del> and Articles 4 <del>7</del> and 5 <del>and 7</del>
	<b>Identification and registration of animals</b>	SMR 6	Council Directive 2008/71/EC of 15 July 2008 on identification and registration of pigs (OJ L 213, 8.8.2005, p. 31)	Articles 3 <del>(1)</del> , 4 <del>(1)</del> and 5 <del>(1)</del> <b>first paragraph</b>
		SMR 7	Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products (OJ L 204, 11.8.2000, p. 1)	Articles 4 <del>(1)</del> , 4 <del>(2)</del> , 4 <del>(3)</del> , 4 <del>(4)</del> , 4 <del>(5)</del> and 7 <del>(1)</del> , 7 <del>(2)</del>
		SMR 8	Council Regulation (EC) No 21/2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals (OJ L 5, 9.1.2004, p. 8)	Articles 3 <del>(1)a</del> , 3 <del>(1)b</del> , 4 <del>(1)</del> , 4 <del>(2)</del> , 4 <del>(3)</del> , 4 <del>(4)</del> , 4 <del>(5)</del> , 4 <del>(6)</del> , 4 <del>(7)</del> and 5 <del>(1)</del>

Area	Main issue	Requirements and standards		
	Animal diseases	SMR 9	Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1)	Articles 7, 11, 12, 13 and 15
	Plant protection products	SMR 10	Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p.1)	Article 55, first and second sentence
Animal welfare	Animal welfare	SMR 11	Council Directive 2008/119/EC of 18 December 2008 laying down minimum standards for the protection of calves (OJ L 10, 15.1.2009, p. 7)	Articles 3 and 4
		SMR 12	Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs (OJ L 47, 18.2.2009, p. 5)	Article 3 and Article 4
		SMR 13	Council Directive	Article 4

Area	Main issue	Requirements and standards		
				<b>5(2) and 5(4)</b>
	<del>Animal diseases</del>	SMR 9	Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1)	Articles <del>7, 11, 12, 13 and 15</del>
	<del>Plant protection products</del>	SMR 10	Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p.1)	Article 55, first and second sentence
<del>Animal welfare</del>	<del>Animal welfare</del>	SMR 11	Council Directive 2008/119/EC of 18 December 2008 laying down minimum standards for the protection of calves (OJ L 10, 15.1.2009, p. 7)	Articles 3 and 4, <b>exempting part 15 of Annex I</b>
		SMR 12	Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs (OJ L 47, 18.2.2009, p. 5)	Article 3 and Article 4, <b>exempting Chapter 1, section 2 and section D, part 2</b>
		SMR 13	Council Directive	Article <b>43</b>

Area	Main issue	Requirements and standards		
			98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes (OJ L 221, 8.8.1998, p. 23)	

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			98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes (OJ L 221, 8.8.1998, p. 23)	

Justification for the proposed simplification of Annex (cross compliance)

#### SMR 4

##### Regulation (EC) 178/2002

Commission proposal: Articles 14, 15, 17(1), and 18 to 20 inclusive.

The Netherlands proposes that SMR 4 be restricted to: articles 15, (1)-(4) inclusive, 17(1), and 18 (1) and (2). The other provisions are less relevant because the farmer can exert no direct influence on compliance with them.

Article 14 concerns the placing on the market of foodstuffs, which is not an agricultural activity in the sense of Article 2 of the proposed 2011/0288 (COD).

Article 15 (5) is not a requirement aimed at the farmer, but a granting of freedom to a Member State to set more detailed rules. Article 15 (6) concerns putting animal feeds into free circulation, which is not an agricultural activity. Paragraph 6 furthermore leads to legal uncertainty for the farmer, because national legislation of the Member State on whose territory the feeds are brought into circulation is declared applicable, and that may be a Member State other than that in which the farmer is domiciled. The authorities of one Member State are not authorised to control compliance with the national legislation of another Member State.

Article 17(2) does not contain any requirements aimed at the farmer.

Article 18 (3) and (4) concerns the trade or placing on the market of products. This is not an agricultural activity in the sense of Article 2 of the proposed 2011/0288 (COD).

Articles 19 and 20 concern the placing on the market of foodstuffs and animal feeds: these are not agricultural activities either.

#### SMR 5

##### Directive 96/22/EC

Commission proposal: Article 3(a), (b), (d) and (e) and Articles 4, 5 and 7

The Netherlands proposes restricting SMR 5 to: Article 3(a), and (b), first indent and second paragraph, and the exceptions referred to in Articles 4 and 5.

In the Netherlands' view, the activities regulated by Article 3(b), second indent, (d) and (e), and Article 7 are not agricultural activities as defined in Article 2 of the proposed 2011/0288 (COD).

#### SMR 6:

##### Directive 2008/71/EC

Commission proposal: Articles 3, 4, 5

The Netherlands proposes restricting SMR 6 to: Article 3(1), Article 4(1) and Article 5(2) first indent.

The provisions concerning trade and movements (to market/off the farm) do not regulate any agricultural activity in the sense of Article 2 of the proposed 2011/0288 (COD). The obligations concerning required periods of storage for records, and the obligation to provide information to the competent authority on request are requirements that support the key provisions of the directive. Furthermore, under cross compliance, failure to provide information or produce farm records for inspection can be regarded as (complete or partial) non-cooperation with an inspection. It is therefore unnecessary to include it as a requirement here.

**SMR 7:****Regulation (EC) 1760/2000**

Commission proposal: Articles 4 and 7

The Netherlands proposes restricting SMR 7 to: Article 4(1) to (5), and Article 7(1) and (2).

The obligations concerning required periods of storage for records, and the obligation to provide information to the competent authority on request are requirements that support the key provisions of the regulation. Furthermore, under cross compliance, failure to provide information or produce farm records for inspection can be regarded as (complete or partial) non-cooperation with an inspection. It is therefore unnecessary to include it as a requirement here.

**SMR 8:****Regulation (EC) 2004/21**

Commission proposal: Articles 3, 4 and 5.

The Netherlands proposes restricting SMR 8 to: Article 3, (1)(a) and (1)(b), Article 4(1) to (7) inclusive, and Article 5(1), (2) and (4).

The obligations concerning required periods of storage for records, and the obligation to provide information to the competent authority on request are requirements that support the key provisions of the regulation. Furthermore, under cross compliance, failure to provide information or produce farm records for inspection can be regarded as (complete or partial) non-cooperation with an inspection. It is therefore unnecessary to include it as a requirement here.

Transport, trading and slaughter of animals are not agricultural activities as defined in Article 2 of the proposed 2011/0288 (COD).

**SMR 9****Regulation (EC) 999/2001 (TSE regulation)**

Commission proposal: Articles 7, 11, 12, 13, and 15.

The Netherlands proposes restricting SMR 9 to Article 7.

Articles 11-13 concern notification of an "outbreak" of BSE/TSE and the subsequent measures required to control the outbreak. The standards are therefore comparable with the animal diseases directives which have lapsed as a cross compliance requirement in the proposals for the new CAP. Compliance with these standards cannot be meaningfully controlled during a 1% on-the-spot check.

Article 15 concerns the placing on the market of live animal products. This cannot be regarded as an agricultural activity in the sense of Article 2 of the proposed 2011/0288 (COD).

**SMR 11****Directive 2008/119/EC**

Commission proposal: Articles 3 and 4.

The Netherlands proposes: Articles 3 and 4, in conjunction with Annex I with the exception of part 15 of Annex I. This part cannot be unsuitable for systematic control during an on-the-spot cross compliance check, as explained in the introduction.

**SMR 12****Directive 2008/120/EC**

The Commission proposes Articles 3 and 4.

The Netherlands proposes: Articles 3 and 4, in conjunction with Annex I with the exception of Annex I, Chapter I, under 2 and under D, part 2

The excepted parts are not suitable for systematic control (24-hour monitoring required) during an on-the-spot cross compliance check, as explained in the introduction.

**SMR 13**

**Directive 98/58/EG**

The Commission proposes Article 4.

The Netherlands proposes replacing Article 4 with Article 3<sup>7</sup> of the Directive.

If Article 4 is not replaced by Article 3, the Netherlands proposes: Article 4 in conjunction with the Annex, apart from parts 2, 11 and 15. These parts of the Annex are not suitable for systematic control during an on-the-spot cross compliance check, since an appropriate control would require an inspector to be present for the entire day.

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<sup>7</sup> Member States ensure that the owner or keeper takes all appropriate measures to ensure the welfare of his animals and to guarantee that the animals are not unnecessarily exposed to pain or suffering and that they are not caused any unnecessary injury.