

ROADMAP			
TITLE OF THE INITIATIVE	Interpretative Communication on Foreign Investment in Farmland and European Union law		
LEAD DG – RESPONSIBLE UNIT	FISMA B.1	DATE OF ROADMAP	12/06/2017
LIKELY TYPE OF INITIATIVE	Non-legislative guidance		
INDICATIVE PLANNING	3 rd quarter 2017		
ADDITIONAL INFORMATION	-		
This Roadmap aims to inform stakeholders about the Commission's work in order to allow them to provide feedback and to participate effectively in future consultation activities. Stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have. The Roadmap is provided for information purposes only and its content may change. This Roadmap does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content.			

A. Context, Problem definition and Subsidiarity Check
Context
<p>In recent years, a number of Member States have adopted laws to regulate their agricultural land markets and to address undesired developments such as excessive land concentration and speculation. To this end, they subjected the acquisition of farmland to certain restrictions. The Commission has taken legal action against some of these restrictions (http://europa.eu/rapid/press-release_IP-16-1827_en.htm?locale=EN).</p> <p>On 27 April 2017, the European Parliament adopted an own initiative report on farmland concentration ("State of play of farmland concentration in the EU: how to facilitate the access to land for farmers 2016/2141(INI)"). The report essentially deals with the difficulties of farmers to get access to farmland. It refers in particular to the Commission's legal action concerning the acquisition of farmland. In this respect, the Parliament calls on the Commission "to publish a clear and comprehensive set of criteria" that "make it clear to the Member States which land market regulation measures are permitted" under European Union law.</p>
Problem the initiative aims to tackle
<p>The acquisition of farmland falls within the remit of EU law. Foreign investments enjoy the fundamental freedoms, first and foremost the free movement of capital. At the same time, the Treaties allow restrictions on foreign investments in farmland where they are necessary to protect legitimate public interests such as preventing excessive land concentration and speculation, preserving agricultural communities or sustaining and developing viable agriculture. This is clear from the jurisprudence of the Court of Justice of the European Union (CJEU).</p> <p>The reactions to the Commission's legal action concerning the acquisition of farmland and the public debate it triggered have shown that there is a need to communicate the Commission's interpretation of the relevant EU law provisions. There is widespread uncertainty about the compatibility with EU law of a number of conditions for the acquisition of farmland imposed by the recent land laws. These conditions include the requirement of prior administrative approval and in particular that the acquirer of agricultural land farms the land himself, holds qualifications in farming, has been residing or doing business in the given country.</p> <p>The Commission recognises the validity of the objectives pursued by the recent land laws. Having examined these laws, however, it was concerned that some of their provisions infringe fundamental EU principles, namely the free movement of capital. In particular, in the Commission's view they discriminate, not formally but in their practical effects, against nationals from other EU countries or provide for other disproportionate restrictions that would negatively affect investment.</p>
Subsidiarity check
<p>Since the initiative refers to the interpretation of EU law (namely Articles 63, 65, 49 and 345 of the Treaty on the Functioning of the European Union, TFEU) and related jurisprudence of the European Court of Justice on national land market regulations, the Commission is better placed than Member States to provide guidance in this respect.</p>

B. What does the initiative aim to achieve and how

This Commission Interpretative Communication will set out the benefits and challenges of foreign investment in agricultural land. It will further outline the applicable EU law as well as the related jurisprudence of the Court of Justice. Finally, the Communication will draw some conclusions from the jurisprudence of the Court of Justice on the relevant Treaty provisions (namely Articles 63, 65, 49 and 345 of the TFEU) on how to achieve legitimate public interests in conformity with EU law. The Communication thus aims at informing the debate on foreign investment in farmland, supporting Member States in their efforts to regulate this market as well as helping to promote the wider dissemination of best practice in this complex area. At the same time, it will respond to the European Parliament's request to publish guidance on how to regulate agricultural land markets in conformity with EU law.

C. Better regulation

Consultation strategy

The Commission has consulted with Member States and stakeholders in various informal meetings. An informal group of experts from Member States has been set up and has discussed, in March 2017, the subject matter on the basis of a questionnaire. Furthermore, the Commission has been in contact with organisations representing farmers, land owners as well as national farmland agencies.

Impact assessment

This initiative does not require an impact assessment since it is about how the Commission interprets the impact of EU law and the related jurisprudence of the European Court of Justice on the regulation of agricultural land markets. It is of an informative nature only.

Evaluations and fitness checks

No evaluation is needed because the Communication is merely interpretative. There are no specific studies covering the subject matter.