



**THE DEVELOPMENT AND  
IMPLEMENTATION OF CROSS  
COMPLIANCE IN THE EU 15:  
AN ANALYSIS**

A Report for the RSPB

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## **COMMENTARY BY BIRDLIFE INTERNATIONAL**

Agriculture policy in Europe has undergone a fundamental change of direction over the past few years. Compulsory cross compliance, in theory, means that farmers who receive public subsidies must obey existing laws and meet acceptable environmental standards. Birdlife International welcomes cross compliance as an initial tool in improving environmental protection on farmland across Europe, and increasing the value for money of agriculture subsidies. However, improvements in cross compliance implementation are needed to raise standards across the whole EU.

The damage caused by previous subsidy regimes is now widely accepted and with Governments focusing increasingly on environmental targets and using indicators such as the wild bird index to judge progress, it is clear that farmers must take their environmental responsibilities seriously if they wish to continue to receive public funds. Cross compliance is just the first step on a long road, since it only requires compliance with existing laws and good practice standards, it is the bare minimum which farmers must do to receive funding. It is clear that, as reform of the CAP continues, in the long run public money should only be granted in return for public benefits such as biodiversity and clean water.

Birdlife International welcomes the fact that Europe is embracing the philosophy of improving environmental performance and our partners have endeavoured to work closely with their national governments to make meaningful cross compliance a reality. However, the findings of this report highlight the failure of many governments to tap into the wealth of knowledge of environmental NGOs. Only a few were involved in the consultation process and often this was on marginal issues.

This report clearly shows that implementation of cross compliance will be hit and miss, with huge disparities across Europe to the detriment of the environment. For example, only half the MS have included a measure to ensure appropriate grazing regimes and several MS have omitted the measure to protect landscape features.

The biggest difficulty has been defining standards for the Birds and Habitats Directives due to the underlying failure of Member States to put these directives into practice on farmland. Cross compliance has exposed the lack of knowledge, administrative set up, controls and will to implement existing environmental legislation properly. In the face of such a legislative void it is unsurprising that many Member States have failed to come up with a meaningful cross compliance regime. The flexibility which has been given to Member States to address regional circumstances has also been abused in some regions, and others have avoided setting standards or chosen to allow derogations as an easy route out.

Now is the time for Member States to take action to address these failures. We are calling on Member States to learn from the good practice which is highlighted in this report and on the Commission to ensure that all Member States reach an acceptable standard by fully implementing the underlying legislation and putting in place robust measures to deliver real environmental protection.

## 1 OVERVIEW OF REPORT

This report presents the findings of a research project commissioned by the RSPB. The aim of the project was to find out the cross compliance measures Member States were planning to implement and to provide a comparative analysis of the similarities and differences of Member State approaches. The analysis also highlights examples of good and bad practice, especially in respect to biodiversity. The information contained in this report is based on telephone interviews with officials from each Member State in the EU15<sup>1</sup>. These interviews were conducted in November 2004 and changes to the information gathered may have occurred since then.

The report is divided into the following five sections:

- the first presents a brief overview of cross compliance and outlines its legislative base to indicate what each Member State is committed to applying;
- a short section then details the methodology adopted to conduct the fieldwork;
- the next section, which forms the bulk of this report, gives a description of the standards that each Member State has adopted, or is planning to adopt, in order to implement cross compliance. The measures presented are based on the impression IEEP gained during the research phase, and are not necessarily exact or final. A short commentary on the extent to which each Member State has addressed key environmental problems is included for each Member State;
- the penultimate section presents a comparative analysis highlighting the similarities and differences in approaches between Member States and gives examples of some stronger and weaker proposals.
- the report then gives some concluding remarks on the approaches to, and possible effectiveness of, cross compliance measures in Member States.

## 2 INTRODUCTION TO CROSS COMPLIANCE

Attaching conditions to the receipt of agricultural subsidies is a policy tool known as cross compliance. Cross compliance can be viewed as a mechanism which aims to improve standards in modern farming practices. Cross compliance was first integrated into EU agricultural policy in 1992 as part of the ‘MacSharry’ reforms of the CAP which introduced a modest measure of voluntary environmental cross compliance on certain elements of the CAP<sup>2</sup>. Further options for voluntary cross compliance were made possible following the ‘Agenda 2000’ reform of the CAP. However only a limited number of Member States proceeded with voluntary cross compliance – Denmark, France, Greece, the Netherlands and the UK. Environmental cross compliance was revitalised following the 2003 reform of the CAP spearheaded by Franz Fischler.

As a policy tool, cross compliance is nested within wider sustainable development goals. The Council of the European Union, in its conclusions from the Gothenburg Council on the European Union’s Strategy for Sustainable Development in 2001, stressed the need for the EU to integrate environmental objectives into its internal policies and to improve the sustainable management of natural resources.<sup>3</sup> The Agriculture Council underlined these requirements by stating that:

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<sup>1</sup> The 15 Member States that existed prior to enlargement on 1 May 2004 - Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and the UK.

<sup>2</sup> Bennett et al (2004)

<sup>3</sup> [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressdata/en/misc/DOC.68868.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/misc/DOC.68868.pdf)

*'Farmers have the obligation to produce in accordance with good agricultural practices and environmental legislation, thus contributing to minimise the negative effects of production.'*<sup>4</sup>

The development of this policy orientation stemmed from a burgeoning realisation in the late 1990s that European agricultural policy needed to intervene less in agricultural markets and focus more on delivering public benefits in rural areas. The Agriculture Council stated that the renewed emphasis of agricultural policy should be on targeted support measures more oriented towards satisfying the general public's growing demands regarding food safety, food quality, product differentiation, animal welfare, environmental quality and the conservation of nature and the countryside. Cross compliance can be viewed as the outcome of this chain of thinking.

The midterm reform of the CAP, implemented by Regulation 1782/2003 (hereafter referred to as 'the Regulation'), requires farmers to observe certain standards in the areas of the environment, public, animal and plant health and animal welfare in return for direct payments under the Single Payment Scheme. This is set out in a system known as cross compliance. In order to achieve cross compliance and to avoid any reduction in the total level of direct aid received the farmer must concur with 19 Statutory Management Requirements (SMRs) and a number of standards aiming to ensure the 'good agricultural and environmental condition' (GAEC) of agricultural land. The SMRs are based on pre-existing EU Directives and Regulations. GAEC is a new requirement and consists of a total of eleven standards relating to the protection of soils and the maintenance of habitats. Regulation 796/2004 lay down detailed rules for the implementation of cross compliance.

Article 3 of Regulation 1782/2003 asserts:

*'a farmer receiving direct payments shall respect the statutory management requirements referred to in Annex III, according to the timetable fixed in that Annex, and the good agricultural and environmental condition established under Article 5.'*

These are described in turn in the sections 2.1 and 2.2. Article 3 continues by stating:

*'the competent national authority shall provide the farmer with the list of statutory management requirements and good agricultural and environmental condition to be respected.'*

The main section of this report sets out how Member States intend to implement the list of SMRS and GAECs. Member States need to finalise their plans for implementing cross compliance by the closing date they set for applications for aid under the SFP. According to EU rules, this date must not be later than 15 May of a given year (or 15 June in the case of Finland and Sweden). Therefore Member States are in the process of, finalising the implementation of cross compliance in late 2004, which as a policy instrument, takes effect from 1 January 2005.

## **2.1 The Statutory Management Requirements**

Annex III of the Regulation defines the 19 SMRs that form part of the cross compliance requirements on farmers. Eight will be introduced in January 2005, five of which are specifically environmental, whilst the remaining three relate to animal identification and registration. This report closely examines the five environmental SMRs which are shown in Table 1. The remaining SMRs concern public and animal health requirements and will be introduced in 2006 and 2007. Cross compliance is therefore an important means of promoting effective implementation of these Directives, as they apply to farmland.

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<sup>4</sup> [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressdata/en/misc/08486.en1.html](http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/misc/08486.en1.html)

## 2.2 Good Agricultural and Environmental Condition

The framework for good agricultural and environmental condition is defined in Article 5 and Annex IV of the Regulation. Article 5 states that:

*'Member States shall ensure that all agricultural land, especially land which is no longer used for production purposes, is maintained in good agricultural and environmental condition.'*

The preamble to the Regulation further states that standards should be established in order to avoid the abandonment of agricultural land. Article 5 continues by stating that:

*'Member States shall define, at national or regional level, minimum requirements for good agricultural and environmental condition on the basis of the framework set up in Annex IV, taking into account the specific characteristics of the areas concerned, including soil and climatic conditions, existing farming systems, land use, crop rotation, farming practices, and farm structures.'*

**Table 1: The five 'environmental' Statutory Management Requirements introduced in 2005.**

<b>Wild Birds Directive</b>	Council Directive 79/409/EEC on the conservation of wild birds
Article 3	Creation of protected areas & biotopes, management of habitats to preserve, maintain & re-establish sufficient diversity/habitats for wild birds.
4 (i, ii, iv)	More detailed requirements of above
5	Prohibits deliberate capture, killing, disturbance of wild birds, & destruction/damage to nests.
7	Permits hunting of certain wild birds without jeopardizing conservation efforts.
8	Prohibits use of certain methods to hunt birds eg snares.
<b>Groundwater Directive</b>	Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances
Articles 4 and 5	Requirement for authorization to dispose of certain substances to land
<b>Sewage Sludge Directive</b>	Directive 86/278/EEC on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture.
Article 3	Regulates use of sewage sludge to prevent harmful effects on soil, vegetation, animals, man.
<b>Nitrates Directive</b>	Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources
Articles 4 & 5	Voluntary Code of Good Agricultural Practice to prevent/reduce water pollution from nitrates.
5	Action Programme for NVZs (including, 170kg N/Ha limit)
<b>Habitats Directive</b>	Directive 92/43/EEC on the conservation of natural habitats and of wild flora and fauna
Articles 6	Protection of designated sites against deterioration of habitats.
13	Prohibition of deliberate picking, destroying etc of protected species
15	Prohibition of certain methods of killing or capturing wild species
22 (b)	Regulation of introduction of non-native species if prejudicial to native wildlife.

**Table 2: Annex IV of Council Regulation 1782/2003 – The Legislative Basis for GAECs**

Issue	Standards
Soil erosion: Protect soil through appropriate measures	<ul style="list-style-type: none"> <li>- Minimum soil cover</li> <li>- Minimum land management reflecting site-specific conditions</li> <li>- Retain terraces</li> </ul>
Soil organic matter: Maintain soil organic matter levels through appropriate practices	<ul style="list-style-type: none"> <li>- Standards for crop rotations where applicable</li> <li>- Arable stubble management</li> </ul>
Soil structure: Maintain soil structure through appropriate measures	<ul style="list-style-type: none"> <li>- Appropriate machinery use</li> </ul>
Minimum level of maintenance: Ensure a minimum level of maintenance and avoid the deterioration of habitats	<ul style="list-style-type: none"> <li>- Minimum livestock stocking rates or/and appropriate regimes</li> <li>- Protection of permanent pasture</li> <li>- Retention of landscape features</li> <li>- Avoiding the encroachment of unwanted vegetation on agricultural land</li> </ul>

Annex IV of the Regulation is reproduced in Table 2. The Annex presents a set of four issues that need to be broached by GAEC, and the associated standards that should be put into place to tackle these issues. The issues focus primarily on soil protection, but also include the minimum level of maintenance of the land.

The heavy focus on soils is not unsurprising given that the Communication on the Thematic Strategy for Soil Protection<sup>5</sup> underlines the European Commission's political commitment to protecting soil.

It would seem that Member States have considerable flexibility to develop standards that reflect circumstances particular to either the country as a whole, or regions within the country. Given this flexibility and the wide range of farming systems and circumstances across Europe, IEEP anticipated that a diverse range of conditions would be developed. Furthermore, it is unclear from the Regulation whether Annex IV provides a definitive list of requirements that each Member State must fulfil, or whether each Member State can discriminate between the standards listed to choose those that are most suitable to the national context. The anticipated variability in Member State interpretation of the Annex further enhances the prospect for the development of a diverse set of minimum requirements. For instance, one further consideration when assessing GAEC is to contemplate the balance that each Member State strikes between the agricultural and environmental aspects of GAEC. A prevalence towards either could further effect the shape of the model designed by each Member State.

### 2.3 Permanent Pasture

The preamble to the Regulation states:

*'Since permanent pasture has a positive environmental effect, it is appropriate to adopt measures to encourage the maintenance of existing permanent pasture to avoid a massive conversion into arable land.'*

<sup>5</sup> COM (2002) 179 16.04.2002



Article 5(2) of the Regulation requires Member States to ensure that land that was declared as under permanent pasture in 2003 is maintained under permanent pasture. The same article states that Member States may derogate from this in duly justified circumstances provided that it takes action to provide any significant decrease in its total area of permanent pasture. The afforestation of permanent pasture is permitted as long as it is compatible with the environment.

Article 3 of Commission Regulation 796/2004 explains that Member States should ensure that the ratio of land under permanent pasture in relation to the total agricultural area of the Member State does not decrease by ten per cent or more of the 2003 reference level. If there is any decrease in the level of permanent pasture, Member States can at either the national or regional level prohibit farmers in receipt of aid from converting land under permanent pasture without prior authorisation. If the decline reaches ten per cent Member States will be obliged to require farmers applying for aid and who breached the ten per cent rule to reconvert land back to permanent pasture. Derogation from the need to re-convert is permitted for those farmers who created land under permanent pasture as part of an agri-environment scheme. This should allow Member States to continue to encourage the conversion of permanent pasture to arable land for specified environmental and nature conservation benefits.

The general principle therefore is that there should not be a decline in the total area under permanent pasture. Interlinked is the Annex IV GAEC standard which targets the 'protection of permanent pasture'. In reviewing Member State implementation proposals IEEP expected to find variability in the treatment of this issue given the different farming systems throughout the EU 15 and the associated level of likelihood that land would be converted from permanent pasture. Given the overlap with GAEC there was also the possibility that Member States could confuse the maintenance of the level of permanent pasture as a GAEC measure with its concurrent protection.

#### **2.4 Farm Advisory System**

According to Article 13 of the Regulation Member States must set up a system of advising farmers on land and farm management by 1 January 2007. The advisory activity must cover at least the SMRs and GAECs. Given that there is a two year gap between the introduction of cross compliance and the establishment of an advisory system, this study also discerned what sources of advice would be available to farmers in the meantime.

#### **2.5 Control System**

Article 25 of the Regulation states that Member States must establish a control system to carry out on the spot checks to verify whether the farmer is complying with the minimum requirements for the SMR and GAEC standards established by the Member State. Article 44 of Regulation 796/2004 explains that the rate of on farm inspection should be one per cent of those farmers to whom the SMR and GAEC standards apply. Article 45 states that the control sample should be selected in accordance with a risk analysis. The inspection body must take account of the severity, extent, permanence and repetition of the case, or cases, of non-compliance, in order to assess the appropriate level of penalty (Article 41). A control report (Article 48) must then be submitted to the competent control authority to assess the level of penalty.

Article 66 of Regulation 796/2004 provides detailed rules for the reduction of a farmer's aid payment entitlement. The farmer's entitlement may be reduced as follows.

- In cases of negligence the percentage reduction may as a general rule be three per cent, but the Paying Agency can either reduce that percentage to one per cent or increase it to five per cent of the overall amount.
- In cases of repeated non-compliance the percentage reduction can increase to a maximum of 15 per cent.

- In cases of intentional non-compliance the percentage reduction shall not be less than 15 per cent, and may increase to 100 per cent. A farmer could also be excluded from an aid scheme in the following year.

Member State officials must therefore design a set of verifiable standards in order to determine whether those farmers in receipt of direct payments are achieving cross compliance. The accurate definition of these standards is a critical factor in establishing a control system that is both objective and uniform in its treatment of the entire control sample.

### 3 METHODOLOGY

Multiple sources were used to collect the information that forms the basis of this report. The research was conducted primarily through semi-structured interviews with officials from Member State governments who are actively involved in implementing or developing cross compliance in their country. Detailed telephone interviews lasting up to and over one hour were conducted. Questions were asked on the topics listed below.

- The development of cross compliance standards, including the consultation process and stakeholder engagement (including NGOs).
- The implementation of the SMRs that stem from the five environmental Directives. A decision was made to focus this report on the five environmental Directives in order to reduce the overall number of questions that respondents would be asked to respond to and thus help to reduce respondent fatigue in potentially long interviews.
- The verifiable standards for the SMRs.
- The minimum requirements for the issues and standards in Annex IV (GAEC).
- The implementation of standards to control the level of permanent pasture.
- The establishment of a farm advisory system and the availability of advisory services before 1 January 2007.
- Awareness raising with farmers prior to the 1 January 2005 start date.
- The nature of the administration and control system.

The findings from the interviews were corroborated as far as possible with findings from desk research. Presentations and short reports prepared by academic organisations in different Member States for a series of seminars on cross compliance were examined. Certain interviewees were also able to supply draft, and in some cases finalised, copies of guidance material written for farmers. In some instances copies of the national law that implements cross compliance were obtained and translated in order to further bolster the findings from the interviews. Some officials were also asked to read and confirm the accuracy of the findings recorded as a final step to authenticate the research. This was particularly important given the possibility that the some meaning could be lost in the translation process. Detailed information was obtained for all of the EU 15 with the exception of Luxembourg. A draft report was then disseminated the report throughout the European BirdLife network, of which RSPB is a partner, for comment and to verify the information collected.

#### **Note to Reader**

The information presented is the most up-to-date available when collected during the fieldwork phase in November 2004. In a number of Member States all the requirements had been finalised, but in others the standards were at the proposal stage and undergoing consultation. As a result, the information obtained was in certain cases more comprehensive than in others. The information presented in this report is therefore very much of its time and changes may have occurred in the time since this report was published. Furthermore, much information was collected from individuals whose first language is not English. Similarly, where documents were obtained they were translated by people whose first language is English. Therefore there were occasional difficulties in finding the appropriate technical term or meaning in the lexicon translated.

**The project was carried out by a team led by Vicki Swales (Senior Fellow at IEEP) with the main research work being undertaken by Martin Farmer. The conclusions and opinions expressed in the report are the responsibility of IEEP alone, and do not necessarily represent the views of the Member State officials contacted.**

## 4 THE DESIGN OF CROSS COMPLIANCE IN THE EU 15

### 4.1 Introduction

Each country section is presented in the following order.

- The first section briefly describes how cross compliance was developed in the Member State, and includes information on the constitution of any working group or consultation conducted.
- The second section details information on the Statutory Management Requirements and provides, where possible, details of the verifiable standards adopted.
- The third section delivers an insight into the GAEC standards chosen, followed by short sections on permanent pasture, the farm advisory system and the administration and control system.
- Each country section concludes with a short commentary providing IEEP's preliminary view on how the Member State is addressing key environmental problems. The views presented are IEEP's alone and are not intended as a detailed analysis, given that cross compliance has yet to be fully implemented.

### 4.2 AUSTRIA

#### *Development of Cross Compliance*

A working group consisting of representatives from each of the departments of the Ministry of Agriculture, Environment, Forestry and Water Management, the Chambers of Agriculture (which is the name of the Austrian farm advisory system) and farmers' unions met on a monthly basis. The discussions were mainly influenced by the farmers union. Environmental groups do not appear to have been heavily involved in discussions.

#### *The Statutory Management Requirements*

Various working groups checked how the legislation in Annex III of the Regulation had been transposed into national legislation. At the time of the interview with an official from the Austrian ministry of agriculture, work was continuing on defining verifiable standards and appropriate sanctions for all the Directives. The question perplexing the Austrian administration is how to bring a uniformity to setting verifiable standards and hence a standardised level of control for Annex III. IEEP obtained a copy of the draft information material prepared for farmers.

#### *Wild Birds and Habitats Directives*

At the time of the interview, the greatest problem encountered by the Austrian authorities had been with providing a uniform level of control and enforcement for these two Directives across the nine different Federal Länder (or regions). Each province has, in the past, set its own standards and thus farmers in different provinces have had to meet different requirements. The enforcement of these two Directives will be met through the ongoing management of Natura 2000 sites. Due to the varied nature of the Austrian landscape the regional authorities will be responsible for controls relating to the pre-existing regional regulations derived from the Directives. A cross compliance violation will be considered if the regional regulations are broken or if the articles of the Directives listed in Annex III of the Regulation are not complied with. The guidance provides information on the key management requirements within Natura 2000 sites, incorporating the requirements established by Annex III.

#### *Groundwater Directive*

This Directive has been transposed into national legislation. The guidance provides a list of which materials cannot be directly entered into groundwater and those materials, applied indirectly, which require permission from the water board for disposal.

### *Sewage Sludge Directive*

Protection is provided in various, regionally specific, regulations. The suitability of the ground for the spreading of sewage sludge must be certified, and the maximum application quantities must be observed. Farmers must also respect regulations specific to each region.

### *Nitrates Directive*

The Nitrates Action Programme for Austria applies to all farmers. The information booklet provides information on: the permissible quantities for spreading nitrogen rich manure, prohibited times for spreading manure, the requirements for adequate storage capacity, measures for spreading on slopes with a ratio greater than ten per cent, and restrictions on spreading within the vicinity of waterways.

### ***Good Agricultural and Environmental Condition***

The GAEC measures presented below are sourced from the draft national Regulation, the approved version of which is expected to be confirmed in mid-December 2004.

1. *Maintain green cover on arable land that is no longer in agricultural production.*  
Grass must be planted on unused arable land (as with set aside) and maintained over the growing season (normally from April until September). Exceptions are possible for nature conservation when other measures can be introduced.
2. *Appropriate machinery use.*  
Ground preparation in agricultural areas with agricultural machinery is not permitted for the following reasons:
  - if the ground is frozen;
  - if the soil is saturated;
  - if the ground is flooded;
  - if the ground has snow cover (of at least five cm).
3. *Ground preparation in areas close to water.*  
No tillage operations will be permitted within ten metres of the edge of a lake (with a surface area of at least 1ha), or similar water body, or within five metres of where there is running water (as measured from the river or stream's edge and where the watercourse's breadth is at least five metres). The prohibition does not apply to laying down new strips of land to create these buffer zones.
4. *Retain terraces.*  
Terraces must not be removed.
5. *Arable stubble management.*  
The burning of straw on stubble fields is not permitted.
6. *Retention of landscape features.*  
The removal of protected landscape 'elements' is forbidden. These include features protected by nature conservation laws such as 'natural monuments'.
7. *Maintain the land in satisfactory agricultural condition.*  
By:
  - a. avoiding the encroachment of unwanted vegetation.  
The entire agricultural area should be maintained so that there is no scrub or tree invasion.
  - b. set-aside management.

The total area used as set-aside should not total more than 50 per cent of the agricultural area of the farm.

### ***Permanent Pasture***

The Austrian guidance material states that if the total area of permanent pasture is likely to reach a ten per cent decrease in comparison to the reference year level, the Austrian authorities will be obliged to only allow those farm businesses with previous approvals to convert land from permanent pasture. If the total decline in the level of permanent pasture is more than ten per cent the re-establishment of permanent pasture will become an urgent stipulation.

Discussion on permanent pasture originally stalled as Austria needed to ask the Commission for permission to design a regional scheme, given the circumstances particular to the Alps. As a result, in areas where the average slope angle is greater than 15 per cent the allowable area for conversion from permanent pasture will be restricted to just 0.5 ha so long as the total area of permanent pasture accounts for more than 80 per cent of the holding. The conversion from alpine pastures and certain other alpine production systems is forbidden outright. Conversion is also not permitted within 20m of an area of standing water (with a surface area of at least one ha), and not within 10m of running water if the width of the waterway is more than five metres.

### ***Advisory System***

A leaflet has been drafted for farmers. It contains very detailed information on the cross compliance requirements. The farmer will also be able to make use of the national farm advisory system. Every farmer is a member of this system by law and will be able to contact their local 'chamber of agriculture' for more detailed information.

### ***Control System***

The inspection and penalty system is being finalised. A scheme to calculate sanctions is in discussion. The designation of who will conduct on-the-spot checks for the Wild Birds and Habitats Directives is creating some problems between the ministry at the national level, and the regional governments. In most cases, the provinces only want to conduct on-the-spot checks for the Wild Birds and Habitats Directives, but there is pressure from the national government to apply checks to each of the Directives that will form part of cross compliance from January 2005. IEEP has been informed that several working groups are discussing the matter, and will continue to do so with the aim of starting spot checks in May 2005, and applying sanctions from December 2005, when farmers will receive their first Single Farm Payment. For the time being, the most urgent matter is to produce a handbook for the control staff so they have a firm understanding of the verifiable standards for each of the Annex III SMRs and the Annex IV GAEC standards.

### ***Extent to which Key Environmental Problems are Addressed***

Whilst the regional model has created some tensions between the different strata of government in respect to the control of areas protected by the Wild Birds and Habitats Directives, the implementation of Annex III should provide for the more thorough integration of the five environmental Directives into farming practice. The Austrian interpretation of Annex IV is particularly strong on the protection of water bodies, which should see a reduced threat from soil erosion, and as with most other Member States Austria has introduced a measure to maintain green cover has been adopted. The measure to protect landscape elements is vague at this stage and will certainly require clearer definition to be effective. No measures have been chosen to meet the standard for the protection of permanent pasture, which could be considered a significant gap in meeting the Commission's requirements given the prevalence of large areas of Alpine pasture in Austria.

## 4.3 BELGIUM

As Belgium has a regional structure, two sections follow, the first on Flanders and the second on Wallonia.

### 4.3.1 Flanders

#### *Development of Cross Compliance*

A final ministerial decision on the implementation of the standards presented below still had to be made when the research was taking place. According to the Flemish BirdLife partner, a consultation may have taken place with farmers, but not with environmental NGOs.

#### *The Statutory Management Requirements*

IEEP obtained a copy of the draft guidance material for farmers which gave an overview of the standards that will apply for each of the Statutory Management Requirements. They are as follows.

##### *Habitat and Wild Birds Directives*

- Changes to the vegetation and ‘small landscape elements’ are subject to special conditions (which are either forbidden or permitted only after prior authorisation). A list of activities which are forbidden or subject to prior authorisation is provided in an annex to the guidance booklet.
- The killing and capturing of wild birds is forbidden as is the collection or destruction of eggs and nests. An exception is permitted for game birds (listed in another annex of the guidance booklet) and some birds considered to be pests.
- There is total protection for four species of plants and a number of animals (listed in a further annex).

##### *Groundwater Directive*

- An annex in the guidance material gives two lists of products that cannot be spilt, and lists two further products that may be spread after a special permit has been issued.
- There are conditions for disused wells in order to avoid the pollution of groundwater.
- Pesticide equipment must be checked every three years.
- Fuel tanks must be leak free.

##### *Sewage Sludge Directive*

- A certificate from the Flemish Waste Products Company and a license from the federal health agency are needed prior to spreading.
- Transport of sludge requires an authorisation from the Manure Bank (for an explanation of manure bank see the section below on the Nitrates Directive).
- Respect guidelines for heavy metal content (of sludge and soil), and nutrient content of soil.
- Sludge must be spread a minimum of six weeks before harvest or before the start of grazing. The gap must be a minimum of ten months if the crops are normally consumed raw.
- The spreading of sludge is forbidden for horticulture and fruits.

##### *Nitrates Directive*

- Farmers must respect the Manure Decree and Manure Bank. The Manure Decree is only applicable to Flanders and not Wallonia. It dates from 1991 and aims at the ecologically responsible disposal of Flanders’ huge manure production in order to mitigate the over-fertilisation of farmland. The administration of the Decree is carried out by the Manure Bank. The Manure Bank stimulates demand for animal manure, mediates in the trade in manure and provides a safety net for manure surpluses which cannot be sold immediately.

The Manure Bank also collects levies, pays out compensation and provides information in relation to the manure problem. The Manure Bank provides information regarding the policy on the development of manure surpluses and the manure problem in general, while on the other hand takes measures to further reduce the surplus and to achieve a situation where the amount of manure applied is in accordance with the carrying capacity of the environment.

- The storage capacity must be sufficient to store three months of stable manure and six months for 'liquid' manure. All storage devices must be leak proof.
- The spreading of manure is forbidden:
  - from either 1 or 15 September to either 31 January or 15 February, depending on the type of area;
  - on flooded/swampy land;
  - on land covered by snow;
  - less than 5m from surface water and less than 10m if the ground is sloping and on land included in the Flemish Ecological Network .
- Low emission techniques must be used when manure is spread on land.
- Manure can only be spread on cultured land (crops and grass).
- There are areas where no manure spreading is allowed. However cattle can still be kept for grazing up to a maximum of two cattle units per hectare between 1 July and 15 September.

### ***Good Agricultural and Environmental Condition***

#### *1. Minimum land management reflecting site specific conditions for erosion control on parcels in areas prone to erosion*

The table below, generated by IEEP, summarises the measures a farmer must adopt in order to combat soil erosion by taking account of the type of crop grown and how sensitive the land is to erosion (as classified by the competent authority). The information was sourced from the draft farmer guidance supplied by the Flemish administration.

	<b>Permanent cover</b> (grass, alfalfa, multi-annual fallow, natural vegetation, forest)	<b>Less erosion sensitive crops</b> (winter and summer grains, flax)	<b>Erosion sensitive crops</b> (potato, maize, vegetables, chicory, sugar and feed beets, tobacco, hop)
Land not erosion sensitive	<ul style="list-style-type: none"> <li>• No measures required</li> </ul>		
Land slightly erosion sensitive	<ul style="list-style-type: none"> <li>• No measures required</li> </ul>	<ul style="list-style-type: none"> <li>• No measures required</li> </ul>	<ul style="list-style-type: none"> <li>• Max 500m of crop split by 6m of a non-erosion sensitive crop</li> </ul>
Land medium erosion sensitive	<ul style="list-style-type: none"> <li>• No measures required</li> </ul>	<ul style="list-style-type: none"> <li>• Sow as close as possible to the contour of the field (if crop line extends for more than 150 m).</li> <li>• Do not leave soil without cover for</li> </ul>	<ul style="list-style-type: none"> <li>• Alternate crop with a 6m wide grass strip every 400m in the direction of the slope, or</li> <li>• Alternate with less erosion sensitive crops or use one of alternative soil protection</li> </ul>



		more than three months.	techniques*
Land strongly erosion sensitive	<ul style="list-style-type: none"> <li>No measures required</li> </ul>	<ul style="list-style-type: none"> <li>Sow as close as possible to the contour of the field (if crop line extends for more than 100m).</li> <li>Do not leave soil without cover for more than two weeks before sowing</li> </ul>	<ul style="list-style-type: none"> <li>Alternate with 12m wide grass strip at least every 300m in the direction of slope, or</li> <li>Alternate with less erosion sensitive crops or use one of alternative soil protection techniques*</li> </ul>

\*Alternative soil protection techniques include:

- do not plough the land;
- sow a green cover crop;
- plough to a depth less than 10cm.

In all cases farmers can voluntarily adopt more stringent measures in addition to those listed above as the minimum.

### 2. *Soil organic matter.*

Farmer must conduct a minimum number of soil organic content and pH tests annually, the numbers of which escalate in accordance with the area of the parcel farmed – from no tests on fields smaller than five ha, to one test on parcels between five and ten hectares in size up to ten tests on parcels larger than 100 hectares. If the result of the analysis is unfavourable a minimum of one corrective measure must take place from a menu that includes adjusting the level of manure applied and applying a lime spreading plan.

### 3. *Prohibition of the burning of crop residues.*

#### 4. *Minimum level of maintenance.*

For pastures (including permanent pasture):

- remove all woody growth over 1m in height;
- prevent the flowering and seed production of four kinds of thistle.

For arable fields:

- arable fields cannot be used for activities which are incompatible with agriculture;
- an approved crop must be sown before 31 May;
- only approved pesticides can be used.

### ***Permanent Pasture***

In Flanders the underlying remit is that there should not be a drop in permanent pasture at all and each farmer is therefore required to maintain the area of permanent pasture that was recorded in the reference year of 2003. If a farmer does remove an area from permanent pasture another area of the same size on the same farm must be converted back into permanent pasture. The strict nature of this measure is likely to be related to the need to maintain an area on which to spread problematic manure surpluses.

### ***Advisory System***

A draft guidance booklet had been written for farmers by late November 2004.

### ***Control System***

Discussions with control bodies were ongoing at the time of interview. The draft guidance booklet described the penalties as they appear in Regulation 796/2004, with non compliance determined within one of four categories – the environment, public health, animal and plant health, animal welfare and good agricultural and environmental condition. The Paying Agency (ABKL) will co-ordinate the various specialised bodies involved in cross compliance, which includes, for example, AMINAL, which has regional responsibility for the Wild Birds and Habitats Directives, the protection of groundwater and the GAECs. ABKL is seeking maximal integration of SMR and GAEC controls and will utilise remote sensing to monitor erosion control and permanent pasture.

#### ***Extent to which Key Environmental Problems are Addressed***

It is the impression of IEEP that the SMRs adopted by the Flemish authority are adequate. However, there are certain problems with the Manure Bank system and the Natura 2000 network in Flanders. According to the Flemish BirdLife partner, there are no management plans or priorities set for the Natura 2000 areas. The potential effectiveness of the rules that are in place for protecting biodiversity are diminished by a lack of enforcement and an apparent lack of vision over the operation of the network. The Manure Bank system is criticised by BirdLife for not sufficiently dealing with the region's nitrogen surplus. The system is complex and there is a lack of understanding by farmers as to what the system does and does not permit.

The GAEC standards show a heavy emphasis on measures for soil erosion. The variation in management methods according to slope, crop type and erosion susceptibility could be initially confusing for the farmer, but should produce beneficial environmental outcomes, especially if the implementation is backed up by a thorough advisory and guidance procedure. This is important because, according to the Flemish BirdLife partner, Flanders has a large soil erosion problem. There may be questions as to whether the measure for soil analysis is beyond the scope of Annex IV. For this measure, it is not clear whether the number of tests applies to the entire farmed area of the holding or for each individual land parcel on the holding, and as such the stringency of the measure is debatable. A measure for appropriate machinery use could be welcome given that soil compaction is a concern for Belgium.<sup>6</sup>

### **4.3.2 Wallonia**

#### ***Development of Cross Compliance***

All decisions were made in consultation with farmers and the farmers' unions. No mention was made of the involvement of environmental groups.

#### ***The Statutory Management Requirements***

The verifiable standards as detailed in a document prepared by the regional agricultural aid ministry for IEEP are listed below. The five environmental Directives have been reduced to four by combining the Habitats and Wild Birds Directives into one for Natura 2000.

##### *Wild Birds and Habitats Directives*

The standards for these two Directives concern the management of Natura 2000 sites.

- Prohibition of the destruction of trees and hedges except where authorisation has been previously attained.
- Prohibition from draining any parcel in a Natura 2000 site except where special authorisation has been given.

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<sup>6</sup> EEA (2003) p210.

- Prohibition of modifying the soil relief in a Natura 2000 site by adding soil or banking/excavation except where special authorisation has been given.
- Prohibition from using herbicides in Natura 2000 sites except with previous authorisation.
- Prohibition of ploughing grasslands within Natura 2000 sites except with previous authorisation.

#### *Groundwater Directive*

- Prohibition of releasing dangerous substances into groundwater.
- Farm tanks must be watertight/impermeable.
- Implementation of protection measures for water-catchment areas.
- Implementation of protection measures for 'prevention areas'.

#### *Sewage Sludge Directive*

- Use substances legally. Comply with sewage sludge utilisation conditions, including for storage.
- Respect standards concerning recommended levels of use.
- Implementation of administrative obligations (duties). Obligation to transmit information, signature on documents and to keep registers.
- Implementation of requirements (constraints) regarding substances management and manuring.

#### *Nitrates Directive*

- Legal use of products/materials, no discharge.
- Implement storage conditions.
- Respect spreading conditions for manure.
- Respect prohibitions and regulated use as imposed by the authorities.
- Implement administration requirements.

#### ***Good Agricultural and Environmental Condition***

1. *Measures for soil erosion.*
  - a. Prohibition of ploughing (stubble uprooting or other authorised superficial soil work) on parcels at risk from soil erosion between the 2004 harvest and 15 February 2005. However, ploughing is permitted in order to prepare the land for the growing of crops or to introduce soil cover before 30 November 2004.
  - b. The farmer must make all necessary arrangements to plant a 'tournière' at the bottom of all slopes. The tournière is a margin or strip of natural uncultivated land at the edge of a field. This headland must have a green cover and there must be no bare or uncovered tournières at the bottom of slopes.
2. *Maintenance of soil organic matter.*  
The burning of straw, stubble and other crop residues is prohibited.
3. *Soil management.*  
The farmer must correct possible abnormalities of irrigated soils (pH, salinity...) on the basis of the latest soil analysis results. The farmer is responsible, at his cost, for the implementation of the required analysis by an official laboratory.
4. *Minimum level of maintenance.*
  - a. Farmers must comply with national legal requirements to take measures against the encroachment of unwanted vegetation (for example, thistles).
  - b. For all land that is not in production (except for set-aside entitlements), a green cover must be sown before 31 May.

- c. Grasslands that are withdrawn from production must be mown between 1 July and 31 August every year.

#### ***Permanent Pasture***

The maintenance of the existing level of permanent pasture is treated by the Walloon ministry as follows. If the total decrease (for Wallonia) is greater than five per cent but less than 7.5 per cent of the reference level it is forbidden to assign another use to grasslands that are considered to be a part of permanent pasture. In the case of farm restructuring farmers who wish to assign a parcel of grassland to another use after August 2005 will have to receive prior authorisation and indicate which parcel(s) they are going to assign to permanent pasture in compensation, with a requirement that these must be maintained for at least the following five years. If the decrease reaches 7.5 per cent or more of the reference level there will be a general prohibition against changing the use of grasslands which are considered by the ministry to be permanent pasture. Those farmers who have changed the use of grasslands considered to be permanent pasture will be asked by the administration to put back an equivalent area into permanent pasture and maintain these new areas for a minimum of five years.

#### ***Advisory System***

The farm advisory system is presently being discussed and is likely to be ready for June 2006. Farmers have already received information via what has been published in agricultural papers and a booklet that was sent with the application forms.

#### ***Control System***

IEEP gained the impression from the agriculture ministry that cross compliance inspections and sanctions will be conducted in accordance with the Regulation and that the ministries of agriculture, environment and health will each conduct controls. IEEP also learned that farmers will not face the possibility of double sanctions.

#### ***Extent to which Key Environmental Problems are Addressed***

IEEP is of the impression that the SMR standards appear to satisfy the requirements of Annex III. Cross compliance seems to be a step to strengthening compliance with the Directives at the individual farm level. The GAEC standards loosely address some of the Annex IV standards and are likely to produce mixed environmental benefits. The requirement for uncultivated headlands could certainly provide a range of positive environmental outcomes, not only for soils, but also for buffering pesticide drift, and increasing and animal and plant biodiversity at the field's edge. In contrast, the requirement to mow grasslands that are withdrawn from production between 1 July and 31 August could have negative consequences for any ground nesting birds. There may be questions as to whether the measure for soil analysis is beyond the scope of Annex IV. A measure for Annex IV standard of appropriate machinery use could be welcome given that soil compaction is a concern for Belgium.<sup>7</sup>

## **4.4 DENMARK**

#### ***Development of Cross Compliance***

On 22 November 2004 the national cross compliance proposals entered a hearing phase as the plans were submitted for public scrutiny. This procedure allows anyone to pass comment, and was the first opportunity for environmental NGOs to review the proposed standards.

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<sup>7</sup> EEA (2003) p210.

### ***The Statutory Management Requirements***

All the Directives have been transposed into national regulations and the requirements for the SMRs in Denmark range from the minimum to the more comprehensive. The Groundwater Directive will only have one requirement, whereas the Sewage Sludge Directive will have five, and the Nitrates Directive six. Precise information on the standards that the farmer will have to meet was not available at the time fieldwork was conducted. In April 2004, at the earlier stage of preparation, management requirements for Natura 2000 sites were being discussed in order to determine which verifiable standards should be set at the farm level. There have been some difficulties in choosing the requirements as the process involved negotiations between three different ministries and four relevant legal institutions.

### ***Good Agricultural and Environmental Condition***

The requirements that will be implemented are presented below.

#### *1. Minimum soil cover.*

- i) Set-aside areas and agricultural areas no longer in agricultural use must have a plant cover. The plant cover has to be established not later than two weeks after the harvest and never later than the 1 October. If the harvest is later than the 1 October the plant cover must be established as quickly as possible and not later than 31 May.
- ii) Plant cover must be based on seeds remaining from earlier seasons or the sowing of grass species or any other seed combination approved by the Danish Plant Directorate.
- iii) Every year before 1 October plant cover has to be re-established in insufficiently covered areas.

Beetle banks can be established and approval can be given for other activities that aim to enhance wildlife.

#### *2. Minimum land management*

- i) Set-aside areas and agricultural areas no longer in agricultural use must be maintained by cutting according to certain requirements. This must be done in such a way that there is no plant cover (including trees and scrub) older than five years. Agricultural areas no longer in use can be maintained by grazing or mowing, as decided by the farmer.
- ii) Areas taken out of production must not be used in such a way that plant cover is destroyed. An example given by the interviewee was the use of agricultural land for music festivals. Temporary activities will be allowed (for example, gravel storage) if plant cover is re-established immediately.
- iii) Permanent pasture must be maintained in such a way so that there is no growth that is older than five years. National legislation has been implemented to support this rule. Grasslands on very wet and very steep locations, or those that are otherwise difficult to access, are exempt. Exemptions are also possible if the farmer would like to change the area to a 'nature area'.
- iv) The plant cover must not be cut between 1 May and 30 June.
- v) On areas taken out of production pesticides must not be used, with the exception of products approved for the control of specific weeds (wild oat, giant hogweed).

### ***Permanent Pasture***

The farmer must respect the rules concerning changes to the reference share of permanent pasture (i.e. the five and ten per cent thresholds).

### ***Advisory System***

The farm advisory system will be set up by utilising funding available through the Rural Development Programme. At the moment a system is being set up to approve advisers for the new environmental conditions.

In August 2004 guidelines on the new subsidy system were issued to farmers. The guidelines included a one page, brief overview of cross compliance. In October guidelines on control were issued. Before 2005 a detailed booklet will be produced, which will incorporate legal definitions, guidelines, and information on where to find further information. Information gained from the hearing procedure will assist in refining the material produced.

### ***Control System***

The 'Administration and Control System' will be ready for January 2005 and has been set up according to Article 25 of Regulation 1782/2003. Control will be through physical field inspections for all GAEC measures apart from the sixth on maintaining the area of permanent pasture. One of the most problematic standards to check will be how to demonstrate that the growth of trees and shrubs on land no longer in agricultural use is not more than five years old. Responsibility will fall to the Danish Plant Directorate. The level of permanent pasture will be controlled by a combination of physical field controls, remote sensing and maybe satellite photos, and responsibility will be with the Danish Plant Directorate and the Danish Ministry of Food, Agriculture and Fisheries. Some controls will take place at the municipality scale, where the level of control varies, and is an issue farmers' groups are concerned about.

Accounting for the authorities responsible for controlling the SMRs, there are a total of five control institutions, and just one paying agency. Each control institution will report to the paying agency in order for a reduction from the SFP to be applied and communication between agencies will be by internet. Farmers may get up to four visits from control agencies, and each control body must check one per cent of all farms. If a controller visits for another purpose and finds non-compliance, this can also be sanctioned.

### ***Extent to which Key Environmental Problems are Addressed***

At this stage it is difficult to determine how well the environmental SMRs will be implemented as it was not possible to gather information on the verifiable standards farmers will have to meet. Certainly, the difficulty in determining standards at the farm level for Natura 2000 sites is a key issue for the success of cross compliance environmentally, and an issue not restricted to Denmark alone. The GAEC standards are strong in relation to soil cover and the restriction on cutting plant cover will provide benefits to ground nesting birds. The decision as to whether a farmer chooses to either graze or mow unused agricultural areas could result in variable environmental outcomes, given that grazing is probably more suitable from an environmental viewpoint.

## **4.5 FINLAND**

### ***Development of Cross Compliance***

Cross compliance measures were planned in working groups that started in September 2003. The coordination group was composed of representatives from the Ministry of Agriculture and Forestry and the Ministry of the Environment, as well as from producer organisations. Two sub-groups worked under the coordination group: one concentrated on implementation and data systems and the other one on controls. In July 2004, the proposal was circulated extensively for comments, receiving a total of 35 responses from the different interest groups. During this process the working group also consulted various regional interest groups, such as local 'employment and economic development centres', regional environment centres and members of rural advisor networks and agricultural producer organisations.

### ***The Statutory Management Requirements***

It is the impression of IEEP, from the information supplied by the Finnish ministry, that all of the environmental directives in Annex III have been transposed into national legislation. For

example, the national Nature Conservation Act appears to meet the requirements of the Wild Birds and Habitats Directives.

### ***Good Agricultural and Environmental Condition***

The GAEC standards are presented below.

1. *Minimum soil cover.*

- A 60cm strip of uncultivated cover must be present along main ditches, brooks and other waterways. The use of fertilisers and plant protection products on these strips is forbidden.
- Areas of set-aside should be used to maintain three metres of green cover alongside waterways.
- Agricultural land which is no longer in use for production purposes should maintain a green cover.
- Areas of green cover have to be mowed once every growing period.

2. *Maintenance of soil organic matter levels.*

- The burning of stubble is restricted.

3. *Maintenance of soil structure.*

- Using heavy machinery on wet fields should be avoided.

4. *Minimum level of maintenance.*

- Permanent pasture must be maintained by grazing, mowing or otherwise clearing vegetation.
- Open landscape features such as small tree and shrub elements and 'piles of stones' have to be maintained.
- Wild oat protection requirements.

### ***Permanent Pasture***

Permanent pasture should be maintained as permanent pasture. No further information was forthcoming from the Finnish ministry.

### ***Advisory System***

A working group, established in September 2004 to plan the farm advisory system, has consulted various interest groups, including rural advisor organisations. The working group will produce a report at the end of January 2005, and the advisory system is planned to start on 1 January 2007 as required by the Regulation.

In June 2004 a general brochure about cross compliance measures was published and delivered to 'regional environment centres', and rural advisor and agricultural producer organisations. In December 2004 two guidebooks on cross compliance will be sent to all farmers. Two more guidebooks have been planned and will be distributed to all the farmers in 2005 and 2006.

### ***Control System***

The paying agency will administer the control system and provide instructions to farmers. A control body set up by the department of agriculture will control the standards required by cross compliance, and also coordinate inspections. Farms will be selected for inspection through a system of 'centralised random sampling based on risk analysis'. Inspectors will then give an assessment of the severity, extent, permanence and repetition of the possible case of non-compliance and assess whether it is a case of negligence or intentional non-compliance. Once this information is collated a percentage reduction will be calculated.

### ***Extent to which Key Environmental Problems are Addressed***

A thorough analysis of the Annex III SMR standards is not possible at the moment given the information available. Annex IV has been treated modestly. The need for farmers to maintain uncultivated strips next to waterways is a positive step to reducing soil erosion, nutrient runoff and improving biodiversity, although a strip width of 60cm will have only a limited impact in this regard. In contrast the requirement to maintain permanent pasture by mowing, grazing or 'otherwise clearing vegetation' could lead to mixed environmental outcomes depending on which method the farmer adopts, how frequently it is undertaken and at what time of year. More guidance on these issues could secure improved environmental benefits. The measures stated for minimum level of maintenance appear vague and the definition of these should be refined and clarified in any communications with farmers.

## **4.6 FRANCE**

### ***Development of Cross Compliance***

Two Ministerial decrees will be issued before the end of 2004, the first of which will officially state all the obligations in relation to achieving cross compliance, whilst the second will detail the responsibilities of various bodies within the control and sanction system.

A working group was established to aid debate over cross compliance and consisted of representatives from the Ministry of Agriculture, paying agencies, farmers' unions and independent experts. Between December 2003 and May 2004 a consultation was conducted with all stakeholders including farmers' unions and environmental and consumer groups.

### ***The Statutory Management Requirements***

#### *Habitats and Wild Birds Directives*

The transposition of these Directives in France concerns the resulting Natura 2000 network of sites. France is currently undergoing a process of designating potential sites, and will then produce detailed maps. Currently very few sites have these detailed maps, and maps are being produced for approximately 300 sites. Farmers with agricultural land in any of the sites (which will total about 2-3 per cent of the UAA of France) will be told that they must not destroy any of the habitats therein. Once mapping has been completed farmers will receive more precise details on specific habitats which must not be destroyed. Derogations are possible, so long as prior authorisation is received from the administrative authority. According to the French BirdLife partner, LPO, the French government has not confirmed that there will be an SMR to ensure that habitats are not destroyed. The reason given by the French government is that the rules of implementation, as they stand, are not technically sufficient for immediate implementation. At the time of writing, LPO was continuing to lobby the French government to introduce this requirement.

#### *Groundwater Directive*

Farmers will be controlled on the basis of fines recorded under this Directive from the 1 January 2005. The level of any sanction imposed will take account of those farmers who have continually failed to implement corrective procedures for previous breaches of the Directive. Sanctions will be applied to these farmers when the two following conditions are fulfilled:

- The pollution of groundwater is due to the use of one of the substances concerned by the Directive.
- The responsibility of the farmer can be demonstrated.

#### *Sewage Sludge Directive*

A spreading contract must be signed between the farmer and the sludge producer. This contract must contain:



- a detailed list of plots where sludge is spread;
- a formal pledge from the farmer that sludge spreading will comply with legislation in terms of permitted usage.

#### *Nitrates Directive*

Nitrate Vulnerable Zones (NVZs) cover, approximately, just under one fifth of France and are concentrated on the Atlantic coast. The requirements below will apply.

1. All farmers in NVZs must keep a record of their practices for applying nitrogen. These records should contain information on the type of crop grown, the date of sowing, application dates and rates and yield harvested. Nitrogen use will be tracked throughout the year.
2. Farmers must respect the 170kg N/ha limit.
3. There will be restrictions on the time of year that manure spreading will be permitted. The periods are decided at the local level for each NVZ.
4. There will be restrictions within NVZs on where the application of nitrogen is not permitted. For example, manure spreading cannot be made within a certain distance of a watering place.
5. Farmers must ensure they have sufficient capacity to store manure. The storage unit should be large enough to last throughout the winter and restriction period (point 3 above). State aid has been designated to assist farmers purchase new storage units.
6. Farmers will be obliged to sow a winter mix in those NVZs judged to have more severe problems.
7. From 2006, farmers must comply with a balanced nitrogenous fertilization (controlled from 2006).

#### ***Good Agricultural and Environmental Condition***

The GAEC standards for France are presented below.

##### *1. Minimum soil cover.*

Three per cent of the cultivated area of the farm must be sown with an ‘environmental cover’. If a watercourse runs through or is present on the farm, the cover must be adjacent to the watercourse and be between 5m and 10m wide, taking the form of a grass strip. The use of pesticides and fertilisers is forbidden on this land. Small producers are exempt (at least for 2005), as complying with this standard would have a significant impact on productivity. The French ministry considered making this standard more targeted by specifying that the cover should, for example, be placed at the bottom of all slopes. Instead ‘preferential areas’ will be suggested, but the final decision will be left with the farmer.

##### *2. Prohibition of burning crop residues.*

Exemptions will be possible. For example, the producers of rice are not controlled by the measure.

##### *3. Crop rotation standards.*

A minimum of three different crops must be grown on the farm in the same year, with at least five per cent of the cultivated area given over to one crop. If the farmer cannot meet this standard, the agricultural area must have a winter cover. Farmers must also undertake suitable management of crop residues, in particular maize producers, by incorporating the residues into the soil.

Farmers operating on permanent grasslands may be granted an exemption, as could single-crop farmers, such as maize producers. If single crop farmers cannot implement the measure, they have to respect one of the two following obligations: to sow a winter cover or to undertake crop-waste management.

4. *Standards for irrigation.*

This measure originates as a standard from voluntary cross compliance in France. Authorisation is needed before any water pumping activity begins and a water meter must be used. Farmers are obliged to meet certain legal requirements including abiding to authorised volume usage. The aim of the measure is to protect both water resources and soil structure.

5. *Minimum level of maintenance.*

There are a number of special maintenance requirements. They include the management of invasive species, the requirement to mow pasture areas and the application of general rules relating to set aside.

***Permanent Pasture***

The requirements of Article 5/2 of Regulation 1782/2003 will be applied by calculating the rate of change in the area of permanent pasture at the level of the Département. Restorative measures will then be applied, if necessary, at the local level, with farmers obliged to restore or convert land to permanent pasture if the decline is especially severe. Derogations are possible, for example if local authorities require the land for another usage, and certain 'environmentally interesting' pastures will not be allowed to be changed from permanent pasture.

***Advisory System***

The establishment of a farm advisory system has yet to be dealt with intensively. The present system will need to be upgraded for 2007. The French are considering using funds financed from the Rural Development Regulation to grant aid for advisory services. Another possibility is that the principles of 'agriculture raisonnée', which guides respect for the environment in agricultural production, could form the basis of a new advisory network. However, no official statement has been made on this.

On 18 May and 28 July 2004 general information was disseminated to farmers by using national media. All 450,000 farmers will receive a 30 page document on 15 December 2004 which will give an overview of the EC regulation and describe the precise standards that will be controlled.

***Control System***

The administration and control system will centre on the CAP administration, to which all the various control bodies must report. Each control body will have to choose selection criteria to achieve the one per cent inspection rate. Sanctions will be calculated by using a system that awards points according each case of non-compliance. Other information obtained suggests that there will be 4,700 GAEC inspections, 3,800 by remote sensing. Each GAEC controlled by remote sensing will be completed by an actual on-the-spot inspection. The Department of Agriculture and Forest (DDAF) will calculate sanctions according to the control report and transmit the sanctions to the appropriate paying agency.

***Extent to which Key Environmental Problems are Addressed***

In certain respects, the French approach to cross compliance can be considered more substantial than the other countries examined so far. The French ministry may have benefited from its experience with implementing voluntary cross compliance in 2000 in designing the standards above. However, there is a key problem with the SMR standards for the birds and habitats Directives. Although the mapping of Natura 2000 habitats could lead to a more developed application of the Directives at the farm level, the absence of any requirement to avoid the destruction of protected habitats could have severe implications for biodiversity.

A number of the GAEC standards stand out as worthy of further attention. The requirement for minimum soil cover, albeit on three per cent of the holding, and the prioritisation of the establishment of cover next to waterways should provide a range of environmental benefits by reducing soil erosion. Biodiversity should also benefit from a decrease in the runoff of fertilisers and pesticides and through the provision of green corridors. France is one of very few Member States to include a measure for crop rotations, a requirement that should again provide environmental benefits for those farmers who fully apply the measure. This measure is unfortunately not extended to current monoculture producers. There may be questions as to whether the choice to include a measure for irrigation is catered for by Annex IV of the Regulation. However, its inclusion does underline a commitment by the French to address the key environmental problem of unsustainable irrigation systems, which can contribute significantly to the salinisation and erosion of cultivated lands<sup>8</sup>. Given that irrigation management is already existing practice, it can be argued that it makes sense to continue with the measure under the model of compulsory cross compliance.

#### **4.7 GERMANY**

As Germany has a federal political structure, composed of 16 Länder, IEEP interviewed representatives from the Federal and Regional Ministries of Consumer Protection, Food and Agriculture. This allowed IEEP to observe the application of cross compliance at both the Federal and Regional level.

##### ***Development of Cross Compliance***

Cross compliance in Germany was developed by a Working Group composed of representatives from the Federal ministry and from the Länder. It was reported to IEEP that particularly intensive discussions had taken place with the Länder. An Act on cross compliance was submitted to the Federal Government in January 2004 and adopted by the Bundestag and Bundesrat<sup>9</sup> in July 2004. The act created a framework for cooperation between paying agencies and the specialised control bodies and gave authorisation to the Federal ministry to lay down, with the Bundesrat, detailed rules on Annex IV and permanent pasture. GAEC standards were developed by a working group in the German Ministry for Agriculture, which in itself was composed of seven sub-working groups. At the beginning of November 2004 the Federal government issued a draft 'cross compliance implementation ordinance'; within the ordinance, specific paragraphs grant each Land the right to make regional decisions, and to define the minimum standards that farmers will have to meet (called 'Lastenheft'). Following the publication of the ordinance, a hearing was held where all interest groups were able to comment, either directly at the hearing, or via written comments. This was the only stage at which comments from NGOs could be submitted.

##### ***The Statutory Management Requirements***

At the time of the interviews, the Working Group was still in the process of defining the 'Lastenheft', or verifiable standards, that farmers would have to respect in order to comply with the SMRs. A final decision was expected in December 2004. However IEEP learned the following from the interviews, and from translating a copy of the draft ordinance<sup>10</sup> and guidance booklet:

##### ***Wild Birds Directive***

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<sup>8</sup> EEA (2003) p200.

<sup>9</sup> The Bundestag is the German federal parliament and the Bundesrat is the body which represents the federal states, which are called Länder.

<sup>10</sup> Verordnung über die Grundsätze der Erhaltung landwirtschaftlicher Flächen in einem guten landwirtschaftlichen und ökologischen Zustand (Direktzahlungen-Verpflichtungenverordnung – DirektZahlVerpflV).

The draft guidelines describe the need to observe the rules which protect species of birds both inside and outside of protected areas. For example it is forbidden to remove certain landscape features and to disturb or destroy nesting sites. The rules on hunting must also be followed. In the protection areas there are more specific rules which must be followed at the Regional level. Where a voluntary agri-environment agreement is undertaken by a farmer within a protected area, the regional authorities have to ensure that farmers are not penalised through the reduction of direct payments where there are breaches of the voluntary agreements. Nevertheless, authorities have to ensure that no considerable damage occurs to those protected areas.

#### *Habitats Directive*

Legislation at the regional level applies to farming activities in protected areas, taking the form of both national decrees for protected zones and specific administrative orders which the farmer must observe.

#### *Groundwater Directive*

The farmer must ensure that mineral oil products and other dangerous substances are not diverted into groundwater. Farmers are required to check that storage facilities for pesticides and mineral oils are placed on a solid ground and are covered in order to avoid the discharge of dangerous substances.

#### *Sewage Sludge Directive*

The national law on the application of sludge applies, which regulates conditions relating to both the quantity and timing of applications in accordance with crop nutrient requirements. In addition, provisions under the national fertiliser law apply. The application of sludge is forbidden on permanent grassland, forest areas, and in vegetable and fruit growing areas. Where sugar beet, silage and forage maize are grown for food production, the sludge needs to be incorporated into the soil before sowing.

#### *Nitrates Directive*

According to the national law on the application of fertilisers, fertilisers have to be used in a manner which ensures that the quantities applied match the nutrient requirement of the crops to which they are applied. The law also outlines the maximum rates of application, time restrictions on application and that farmers must keep documentation of all application activities. In addition, rules apply to the minimum storage capacity for slurry, manure and silage effluent. The German authorities are also in continued discussions with the Commission about the limit for spreading nitrates, which is set at 210kg/ha in Germany, as opposed to the limit of 170kg/ha designated by the Nitrates Directive.

### ***Good Agricultural and Environmental Condition***

IEEP obtained a copy of the national ordinance and draft guidance booklet which describe the measures to be implemented throughout Germany.

#### *1. Minimum soil cover.*

Between 1 December and 15 February at least 40 per cent of the total arable area of a holding must either be covered/seeded with plants or the farmer will not be allowed to plough the remaining area. The farmer could also fulfil the measure if he or she does not plant winter crops so long as they do not plough up 40 per cent of the harvested area before 15 February. In the development of this measure, an early consideration was to introduce ploughing controls according to the angle of the slope, but this measure was later abandoned due to a feeling that the commitment to developing a national soil erosion map was more adequate in addressing the erosion problem (see 2b below).

#### *2. Retain terraces.*

The ordinance states that terraces must not be removed. There may also be exceptions, although details are not yet clear.

3. *Standards for crop rotations.*

Farmers will need to establish a crop rotation of at least three kinds of arable crops, each with at least a 15 per cent share of the total arable land. All cereals count as one kind of arable crop, as do summer and winter crops of the same type. Permanent and multi-annual crops cannot be counted as an element of the required crop rotation. It is also possible to meet these requirements by swapping fields with other farms growing a different crop, or growing a different crop on the whole holding in three years intervals. For this measure, land in set-aside can be counted as one of the three arable crops.

4. *Measurement of soil organic matter.*

Farmers must evaluate the humus balance of the soil every year. On average over a three year period, the humus balance cannot fall below a threshold value of minus 75kg of humus carbon material per hectare per year. If the humus balance falls below this level, advice must be taken. Alternatively, farmers can examine the organic composition with the help of scientific soil tests, which must be done at least once every six years.

At the same time, and continuing until 2009, all areas will be assessed to determine their real and potential risk to soil erosion. A regionalised map graded according to erosion risk will be developed. In turn, more strategic measures and concrete controls will be implemented to tackle any problems from 2009. The classification scheme and the adopted control provisions for every risk group will be laid down in a new national ordinance.

5. *Burning Controls.*

The burning of stubble will be prohibited. In certain cases the regional authority may be able to make exceptions.

6. *Minimum Level of Maintenance.*

a. Arable land

All land subject to obligatory or voluntary set-aside must be greened or maintained as self-seeding. The resulting vegetation must be cut and distributed evenly across the whole area once a year, or be mown every two years and the cuttings then removed.

b. Permanent grassland

Land under permanent grassland must be cut and distributed evenly across the whole area at least once a year, or be mown at least every two years if the mowed material is removed.

Under this measure, there is also a general obligation not to mow or mulch the land in the main nesting period between 1<sup>st</sup> April and 15<sup>th</sup> July in order to protect young animals and nesting birds. Furthermore, each regional government can implement additional measures for special nature conservation and environmental protection reasons.

7. *Protection of landscape features.*

It will be forbidden to remove the following landscape features:

- a. Hedges that run for a length of at least 20m.
- b. Tree rows that contain at least five trees and run for a minimum length of 50m.
- c. Field woods that range in size from 100m<sup>2</sup> to 2000m<sup>2</sup>.
- d. Wetland habitats up to a maximum size of 2000m<sup>2</sup> as protected by the German Federal Nature Conservation Act.
- e. Single Trees that are protected by the German Federal Nature Conservation Act.

It is stressed that the farmer has no responsibility to take care of any of the above landscape features; such management may be available in the agri-environment schemes.

### ***Permanent Pasture***

According to the draft guidance booklet obtained by IEEP, this measure will be implemented at the regional level. Each Land will calculate the change in the area of permanent pasture each year, basing the calculation on the area stated by farmers in their annual Single Farm Payment application. The conditions below apply if there is a decrease in the total area of permanent pasture.

- A decrease of five per cent - an individual farmer does not have to do anything;
- A decrease greater than five per cent - The Land concerned is obliged to introduce corrective measures. What conditions have to be met for the sanctions to be applied is not yet determined. However the farmer must revert land back to permanent pasture.
- If the decrease reaches eight per cent - Each Land can ask the farmer to re-establish permanent pasture.
- If the decrease reaches ten per cent - Each Land must force the farmer to re-establish an equivalent area of permanent pasture.

Permanent pasture can be re-established either by reconverting land taken out of permanent pasture or by introducing a completely new area of permanent pasture. Permanent pasture established on arable land as a part of an agri-environment scheme and that is then brought back into arable use is exempt from this requirement.

### ***Advisory System***

IEEP learned that it is the responsibility of the paying agency to inform the farmer about cross compliance. At the time of writing farmers had yet to receive any correspondence. As of November 2004, the Federal government had sent draft guidance to the Länder for comments in order to make corrections and amendments. The guidance material extends to 40 pages and will be revised each year. The Federal government will make a final decision on the format and content of the guidance, but the Länder will be able to choose whether they use the guidance as it is, or in an amended form. Farmers will receive the guidance at an as yet unspecified date in 2005.

The establishment of a farm advisory system depends on each Land. IEEP observed that in the case of Hessen, some difficulties had been experienced due to plans to privatise the advisory service. Farmers there are likely to be provided with a CD-ROM, which will help them decide what they need to do in order to meet the requirements of cross compliance. A website will also be set up, borrowing the example of that developed by the Land of Baden-Wuerttemberg. Each Land will also be able to utilise the funding available for training measures in the Second Pillar of the CAP in order to introduce voluntary farmer training.

### ***Control System***

At the time of the interview, the German agriculture ministry was at the planning stage in defining the control system. However IEEP discovered that each Land is responsible for developing its own inspection system in terms of the sample selection, and the method of control and sanctions. It is likely that a risk based approach will be used with separate risk analyses being conducted by those bodies which are responsible for the different environmental Directives. Every Land is attempting to merge inspections in order to reduce the total number, for example by combining inspections to check standards under both the Wild Birds and Habitat Directives.

### ***Extent to which Key Environmental Problems are Addressed***

Based on the available information, the proposed implementation of the SMRs seems satisfactory, and the farmer guidance relatively comprehensive. The requirements in Annex IV for soil protection have been approached relatively seriously with the adoption of some

standards that are arguably more advanced than those chosen by some other Member States. The requirements to measure the soil humus balance and to undertake a crop rotation are obvious examples. There may be questions as to whether the measure for soil analysis is beyond the scope of Annex IV. Restrictions on cutting grass or other vegetation during the main bird nesting period is a positive measure. It is the impression of IEEP that the protection of landscape features appears to be a rare occurrence in Member States' cross compliance programmes; the adoption of five such standards in Germany is positive from an environmental and landscape perspective. A measure for appropriate machinery use could be welcome given that soil compaction is a concern for Germany.<sup>11</sup>

## **4.8 GREECE**

### ***Development of Cross Compliance***

A working group was formed with executive staff from the Ministry of Rural Development and Food, representatives of stakeholders, including agriculture co-operatives and farmers' professional organisations, paying agencies, researchers from universities and external experts. It appears to IEEP that environmental groups do not appear to have been considered. A Greek expert states that NGOs were missing from the consultation, and the stakeholders consulted were of a very narrow definition. This was effectively verified by the Greek Ministry of Agriculture.

### ***The Statutory Management Requirements***

The Greek ministry set up a task force to concentrate on the legislative areas for each of the Directives, and has worked with the Ministry of Environment on the five environmental Directives. These Directives have created the most difficulty in interpretation for the Agriculture Ministry, who intend to establish basic requirements and then to then monitor them in 2005 and 2006, with the possibility of then implementing various amendments.

The five environmental directives are all transposed into Greek legislation, but the Greek ministry acknowledges that there are certain gaps with regard to the agricultural sector. For example the Code for Good Agricultural Practices includes measures to protect waters from nitrates pollution, under the Nitrates Directive, but the Code only applies to land that is part of a Less Favoured Area or land that is covered by an agri-environment measures. There are also implementation lags for NVZs, including a lack of on-the-spot checks, and the slow designation of new vulnerable areas. Statutory requirements have only been set for ten of the 220 proposed Natura 2000 sites, and work is ongoing to set verifiable standards for farmers in the remaining sites.

The ministry is working on supplementing previous legislation in order to produce a single document on cross compliance.

### ***Good Agricultural and Environmental Condition***

The GAEC standards will be based on the current Codes of Good Agricultural Practice that were designed for the Rural Development Regulation (1257/1999). Minimum GAEC requirements have yet to be designated. As negotiations on Annex IV are unlikely to be concluded in Greece before late December 2004, the Good Agricultural Practice conditions on which GAEC will be based are outlined below. These should not be interpreted as standards that will feature in the final version of GAEC, but as indicative of what was being considered by the Greek ministry in late 2004.

*Measures for areas of crop production:*

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<sup>11</sup> EEA (2003) p210.

- crop rotation provisions;
- fertiliser management – rules on application period and dosage, and options for biological control. Restrictions on use near water bodies. Necessity for appropriate storage;
- water management;
- crop protection management;
- protection from erosion (controls on tillage on slopes above a certain angle (for example, avoid tillage on slopes above six per cent). Where possible use terrace cultivation. Minimum soil coverage in winter;
- protection from fire hazards (requirement to undertake stubble management by incorporating residue into ground where organic matter is very low.);
- wildlife, biodiversity, landscape protection requirements.
- Special provisions for:
  - certain types of soil (acidity, slope);
  - areas under Nitrates Directive (NVZs);
  - protected areas under the Habitats Directive;
  - water resource exhaustion areas (irrigation control).

*Measures for areas of livestock production:*

- limitations of grazing periods and grass cutting;
- no grazing in burned areas or areas under afforestation;
- no fires allowed for grass regeneration;
- grazing load limitations (regional variations according to mainland/islands and if cattle/sheep/goat are grazed);
- waste management.
- Special provisions for:
  - certain types of soil (acidity, slope);
  - areas under Nitrates Directive (NVZs);
  - protected Areas under the Habitats Directive.

***Permanent Pasture***

Controls for maintaining the area of permanent pasture were being considered in November 2004. There is currently a legal prohibition against the change in land use from permanent grassland.

***Advisory System***

The new advisory scheme will be planned within the next RDP. Advice is currently delivered through regional offices and IEEP has been told that farmers know, through this outlet, that cross compliance requirements are forthcoming. No guidance documents had been despatched as of November 2004.

***Control System***

Discussions are continuing about the control authority. A new control authority may be established, perhaps by creating a new ‘cross compliance unit’ within the ministry or payment authority.

***Extent to which Key Environmental Problems are Addressed***

Given the paucity of information and the lack of concrete decision making emanating from the Greek ministry at the time of research it is too early to gauge just how well environmental considerations are being addressed. GAEC in Greece certainly has the potential to exceed the minimum required by the Council Regulation given that the Codes of Good Agricultural Practice incorporate measures on water management. The implementation of the SMRs should propel the implementation of Action Programmes for NVZs and the creation of mandatory management requirements in Natura 2000 sites.



## 4.9 IRELAND

### *Development of Cross Compliance*

The proposals of the Department of Agriculture and Food (DAF) went to consultation in October 2004, with a deadline of 19 November 2004. At the time of finalising this report, the views of the various interest groups had been received and DAF intended to meet the farming organisations to discuss their submissions. The standards presented below are the same as those published in the consultation paper and as such may be subject to change following the conclusion of the consultation process.

### *The Statutory Management Requirements*

The verifiable standards for each of the five environmental Directives to be introduced in 2005, as described in the official consultation document obtained by IEEP, are:

#### *Wild Birds Directive*

Farmers must observe the general provisions of the Wildlife Acts for protection of birds within the State. The provisions generally concern the actions that should be avoided so as to ensure wild birds are protected. It is an offence to cut, grub, burn or destroy growing vegetation on land not cultivated during the period 1 March to 31 of August. This does not apply to vegetation growing in a hedge or ditch which may have to be cut in the ordinary course of farming. It also does not apply to the cutting or grubbing of isolated bushes of gorse or mowing isolated growths of fern in the ordinary course of farming. There are separate standards for farms within a Special Protection Area (SPA):

1. A farmer must implement any agreed management prescriptions applicable within a particular SPA, and adhere to the following key rules:
  - (a) keep grazing within a sustainable level, especially in coastal sandy areas and on peat and thin peaty soils. Supplementary feeding is allowed only if provided for in the approved farm plan or with the written consent of National Parks and Wildlife Service (NPWS);
  - (b) do not cut turf by 'sausage' machine in bog areas of the farm;
  - (c) do not engage in the following operations unless provided for in the approved farm plan or with written consent from NPWS:
    - alter watercourses;
    - reclamation or re-seeding;
    - dumping/burning, including burning of hill areas;
    - wide scale tree cutting or clearance of waterside vegetation.
2. If a farm plan is in place either under the Rural Environment Protection Scheme (REPS) or the NPWS scheme, all provisions of the Plan must be implemented.

Farmers must comply with national legislation with regard to hunting of birds. The deliberate killing or capture of wild birds, the deliberate destruction, damage or removal of their nests or the deliberate disturbance of wild birds during breeding is not allowed. Hunting of birds on the farm outside relevant set dates is not allowed. Do not use snares, traps or poisonous bait other than those licensed by National Park and Wildlife Service

#### *Habitats Directive*

Farmers must observe the general provisions of the Wildlife Acts for protection of wild flora and fauna within the State. The provisions generally concern the actions that should be avoided so as to ensure habitats are protected. The farmer must meet the farming standards within a Special Area of Conservation (SAC), which are as above for SPAs under the Wild Birds Directive. If notified of the presence of a protected plant species protected, farmers must not cut, uproot or damage these in any way, or offer them for sale or alter, damage or

interfere in any way with their habitats. Farmer must comply with national legislation in regard to hunting. Article 22, regulating the deliberate introduction of non-native species, is not currently relevant at farm level, according to the proposals in the consultation document.

#### *Groundwater Directive*

Prior authorisation is required to discharge substances such as pesticides, fungicides etc. into waters either directly or indirectly. Application forms for licences are available in the Local Authority Office

Farmers should ensure that silage and slurry pits are properly built and maintained in a leak proof and structurally sound condition. They must also ensure that wastewater run off from farmyards and rainwater from roofing are properly dealt with.

Farmers must adhere to Section 12 notices issued by Local Authorities in relation to pollution or potential pollution. Section 12 notices specify measures on holders of polluting material to be taken within a prescribed period for the purpose of preventing or controlling the pollution of waters including groundwater.

#### *Sewage Sludge Directive*

Sludge use on agricultural land must be in accordance with the National legislation. Sludge can only be used where a nutrient management plan is in place and the sludge must be used in accordance with a nutrient management plan. The soil must also be analysed to establish if the agricultural land is suited to the application of sludge.

#### *Nitrates Directive*

Standards will be defined to reflect forthcoming legislation.

#### ***Good Agricultural and Environmental Condition***

The proposed GAEC minimum standards, as they appear in the consultation document, are outlined below.

- 1. Take all reasonable steps to ensure that soil is covered by vegetation or else ploughed with the intention of sowing a crop as soon as possible after ploughing.*  
Fields must have crop cover, stubble cover or be in the process of crop establishment (subject to derogation for extreme weather conditions). The management of animals outdoors must not result in severe poaching causing the movement of soil, particularly at supplementary feeding sites and 'sacrifice paddocks'.
- 2. Take all reasonable steps to prevent soil erosion resulting from poaching or overgrazing.*  
In order to comply farmers must retain ridges on hillsides and sand dunes, must not overgraze sand dunes, and any activity causing soil erosion must be avoided. On common land, the requirements to avoid overgrazing as set out in the Commonage Framework Plan (CFP) must be followed.
- 3. Maintain an adequate level of soil organic matter by means of appropriate cropping rotations where necessary.*  
In general current cropping practices are adequate to maintain soil organic matter levels. These practices should not be changed significantly without consultation with an agricultural advisor.
- 4. Management of stubble must not lead to the depletion of soil organic matter levels.*  
In general current stubble management practices maintain adequate soil organic matter levels e.g. ploughing in stubble is one method to maintain soil organic levels.

5. *Do not use machinery on land where surface water is present and/or where soil is saturated with water.*

The owner or occupier of land shall take all reasonable steps to ensure that soils are not unduly rutted or compacted.

6. *Maintain land in a readily utilisable condition.*

This is defined as land in a state that permits agricultural production to continue and is also aimed at preventing abandonment of land. Undergrazing must be avoided by using appropriate grazing and/or cutting management, except where it is deemed necessary by DAF or DEHLG (Department of the Environment, Health and Local Government) for environmental protection purposes. Stocking levels and/or appropriate minimum levels of maintenance regimes for designated target areas or agri-environmental schemes take priority over any of the options outlined below. Farmers may, by means of a written application to DAF, seek permission to follow alternative management plans outside the options outlined below for minimum level of maintenance on environmental or conservation grounds.

Conditions on non-tillage land:

In LFA areas a minimum stocking rate of 0.15 livestock units/hectare is required to qualify for Compensatory Allowances. Where the stocking rate is inadequate to prevent under grazing inside or outside LFA areas, one of the following options must apply:

a) Increase the stocking rate to a level sufficient to maintain the existing state of vegetation in good agricultural and environmental condition across the total forage area,

or

b) where it is not possible to achieve an adequate stocking rate the land must be harvested for hay or silage, or the land must be topped at least once between 1 June and 30 July to leave a covering of vegetation not exceeding 10cm in height and topped in a way that provides an escape route for wildlife.

or

c) where the land is not grazed it must either be topped at least once between 1 June and 30 July to leave a covering of vegetation not exceeding 10 cm in height and topped in a way that provides an escape route for wildlife or the land must be harvested for hay or silage.

On tillage land in and outside LFA areas a crop (including grassland) must be grown in the relevant Single Payment Scheme Year unless it is set-aside which must be managed according to set-aside management conditions as outlined in the Single Payment Scheme Terms and Conditions.

7. *Action must be taken to prevent any significant decrease in its total permanent pasture area.*

If the ratio (permanent pasture to total agricultural area) changes to the detriment of permanent pasture by more than five per cent it will be necessary to obtain prior authorisation to plough. If the ratio change is greater than ten per cent it will be necessary to re-convert land back into permanent pasture.

8. *Retain features of historical, archaeological interest and habitats that are protected under National or EU legislation.*

Archaeological or historical monuments or sites protected under National and EU legislation must not be damaged or removed

9. *Destruction of vegetation shall be in compliance with the Wildlife Acts of 1976 and the Wildlife (Amendment) Act 2000.*

Habitats protected under EU or National legislation e.g. designated SACs and SPAs must not be damaged or removed. Vegetation on uncultivated land or vegetation in any hedge or ditch must not be burned between 1 March to 31 August in any year.

10. *Avoid the encroachment of unwanted vegetation.*

Farmers must prevent the establishment of invasive species, which degrade land to such an extent where it can not be used for agricultural purposes, unless a derogation is granted by DAF or DEHLG on the basis of environmental benefits. Appropriate measures must be adopted to prevent establishment of invasive species (for example, blackthorn, furze, briars, scrub species, rhododendron, bracken) onto forage/arable area that would result in the land being incapable of agricultural production. Appropriate measures must also be adopted to prevent the establishment of noxious weeds (for example, ragwort).

***Permanent Pasture***

The maintenance of the overall area of permanent pasture is included as the seventh GAEC measure. In Ireland over 90 per cent of agricultural land is under permanent pasture. Monitoring of the ratio of permanent pasture to total agricultural area will be carried out at a national level. If there is a five per cent decrease in the level of permanent pasture it will be necessary to introduce an authorisation system prior to ploughing. If the ten per cent threshold is passed, farmers who breached the ten per cent rule will need to reconvert land back to permanent pasture.

***Advisory System***

The Department of Agriculture and Food recognises that a farm advisory system must be operational by 1 January 1 2007 at the latest. Consideration is being given to Article 21d of Regulation 1783/2003 on support for rural development which provides that support may be granted to farmers to help them meet the costs arising from the use of farm advisory services. An initial explanatory handbook on the Single Farm Payment was published in May 2004 in which GAEC was briefly introduced in the appendix. A comprehensive Cross Compliance booklet will be published and issued by the end of 2004.

***Control System***

The Department of Agriculture and Food is the EU accredited paying agency and will have primary responsibility to ensure that the required level of cross compliance inspections is carried out and for fixing any sanctions to be applied. The rate of on-farm inspection will be 1 per cent of those farmers to whom the relevant SMR or GAEC apply. The Competent Control authorities are responsible for ensuring compliance with the specific SMRs and GAECs. For example, the body responsible for ensuring compliance with the Habitats Directive is the national Parks and Wildlife Service Section of the Department of Environment, Heritage and Local Government. Local authorities have responsibility for compliance with the requirements defined in the Sewage Sludge, Nitrates and Protection of Groundwater Directives. The aim is for all eligibility and cross compliance checks to be carried out in a single farm visit so as to minimise the level of inconvenience for farmers (and currently number 20,000 per year). Inspectors will submit control reports to the Paying Agency and non-compliance will be judged according to its severity, as outlined in the Regulation.

***Extent to which Key Environmental Problems are Addressed***

On the basis of the proposals Ireland has pursued a comparatively rigorous interpretation of the Regulation. The one key gap in the SMRs is with the Nitrates Directive, which is currently being transposed into national legislation. This is certainly an example of the effectiveness of the Regulation in bolstering, if not accelerating, the implementation of one of the environmental Directives. There are also standards for all of the GAEC Annex IV

standards, except for retaining terraces, which is arguably an irrelevant measure in Ireland. Ireland is one of only a handful of Member State to include measures to protect historical or archaeological features on farms and also the first of the countries examined so far to impose stocking density requirements. The proposed standards could of course change pending the outcome of the consultation procedure.

#### **4.10 ITALY**

##### ***Development of Cross Compliance***

The Italian Ministry for Agricultural and Forestry Policies (MIPAF) is the national body competent on GAEC, and other ministries (for example, environment and health) have direct competence for the SMRs. A Ministerial Decree on 5 August 2004 established the main provisions for the implementation of the Regulation by introducing a two level system. The national government would provide a general framework for the regulation, in particular the obligations concerning the SMRs and GAEC, whilst the regional governments would be able to define more precise standards for GAEC. A national law on cross compliance was passed in December 2004.

Several different groups of stakeholders were involved with the development of cross compliance, including representatives of the 21 regional governments, the National and Regional Paying Agencies and the farmers' union. The Italian Ministry for the Environment, food chain organisations and environmentalists were also involved, as was the Istituto Sperimentale per la Difesa del Suolo (Italian Institute for Soil Protection). Each region produced a list of relevant issues for soil protection and minimum level of maintenance to include in GAEC and provided feedback on their experiences of Good Farming Practice. MIPAF then discussed a preliminary list of 21 standards, which was followed up in meetings with stakeholders in July 2004, consisting of representatives from the farming unions and, more informally, environmental groups such as LIPU, the Italian partner of BirdLife International. LIPU were able to influence the cross compliance measures in this discussion process. The first list of standards was amended to create a provisional list of cross compliance measures. This list was approved in late November 2004 at the State-Regions Conference to form part of the national cross compliance law. The Italian ministry stated that this process had a high profile, relevant effect on the final decisions taken by MIPAF. The law of December 2004 which implements cross compliance in Italy states that a stakeholder committee will be set up to supervise the implementation of cross compliance.

##### ***The Statutory Management Requirements***

IEEP obtained a copy of the national Decree on cross compliance. The Decree asserts that farmers will need to comply with the national and regional regulations that transpose the five environmental Directives into Italian law. An annex to the Decree outlines the national laws applicable to farmers, but does not go so far as to state the verifiable standards that will apply to farmers claiming the Single Farm Payment. The Italian ministry was concerned during the development of the SMRs that as each Italian region has a right to set its own regulations in the agricultural sector, distortions in competition between farmers from different Regioni could occur.

##### ***Good Agricultural and Environmental Condition***

The ministry has decided on a set of measures which will be the minimum that will apply for Italy. Each Regione then has the possibility to enforce higher standards if they wish. The deadline for doing this is 60 days after the Ministerial Decree is signed (which was expected to happen by mid-December 2004). The following measures are to be adopted at the national level, as detailed in Annex 2 of the Ministerial Decree.

*1. Avoid soil runoff on sloping ground.*

Farmers are asked to insert temporary drainage furrows/gullies on fields where there is a clear erosion risk. The gully must be perpendicular to the slope. This measure was developed in conjunction with the Institute for Soil Defence in order to reduce soil erosion. Each Regione has the power to apply stricter rules than those indicated at the national level, so long as the rules can be justified by pre-existing legislation. Surfaces with a grass cover or cover crop are exempt from this measure. This measure is supported by measure three, below, on maintaining the field drainage system.

*2. Maintain soil organic substance at a good level.*

Farmers will not be allowed to carry out stubble burning. According to the ministry, although most farmers in northern and central Italy already comply, the practice is still widespread among farmers in the south. Each Regione has the power to define the time period in which this measure is applied and can apply stricter rules for certain homogeneous areas as defined by the prevalent vegetation type.

*3. Maintain field drainage system in order to maintain soils structure.*

Farmers are requested to maintain field drainage systems in good working order. However, farmers must respect the management requirements in Natura 2000 areas and comply with safeguards put in place, for example by avoiding any disturbance to wild birds. Each Regione can define the characteristics of the field drainage system that must be maintained as these systems can vary across the country.

*4. Protection of permanent pasture.*

Farmers must respect the obligation not to change land designated as permanent pasture to other uses. Each region has the possibility to specify minimum and maximum livestock stocking rates.

*5. Maintenance of land not in agricultural production.*

Land abandonment is a particular concern of the Italian ministry following the decoupling of support payments from production. Consequently this measure seeks to avoid the threat by requesting farmers to maintain a green cover, natural or sowed, for the whole year on surfaces that are not cultivated, in set-aside or no longer in agricultural use. Farmers must also conserve soil fertility, protect wild fauna, reduce the threat posed by fire, especially in the south, and control the spread of weeds. Discussions with the Italian BirdLife partner LIPU led to the possibility of regions being able to designate periods when cutting would not be permitted in order to protect ground nesting birds. The period suggested is 150 days from 15 February to 31 August. Each Regione can specify a longer time span. This measure was considered by LIPU to be the most innovative and useful measure in GAEC for protecting birds and biodiversity.

However, on 15 March 2005, the ministry of agriculture implemented a new law concerning the use of set-aside land for the cultivation of non-food products. This law amends this GAEC measure by introducing the option for regional governments to allow other methods to be used to control the spread of vegetation. This would include the use of herbicides, which could be applied at any point during the year, therefore failing to mirror the exclusion dates set for cutting. According to LIPU, this decision was taken without the consultation of the stakeholder committee.

*6. Maintenance of olive groves.*

According to the ministry, olive trees, especially in the south of Italy, are ornamental rather than commercial in nature, and as such are not regularly maintained. Farmers are therefore requested to prune olive trees at least once every five years. The Regioni can implement a higher pruning frequency if they wish.

#### *7. Maintenance of characteristic of landscape elements.*

Farmers must comply with two requirements. Firstly they must not destroy existing terraces. Secondly they must respect regional regulations established to protect features in the Natura 2000 site network, for example ponds. The Regioni are permitted to add more detailed criteria depending on the local situation. This could include the protection of dry walls in the hilly central areas of Italy.

A measure for crop rotations has been omitted as some Regioni highlighted that crop rotations are presently being financed in their Rural Development Programs for the 2000-2006 programming period. However the possibility of including this requirement in the GAECs during the 2007-2013 RDP programming period is being considered.

#### ***Permanent Pasture***

The Ministerial Decree on Cross Compliance provides for the maintenance of the ratio of permanent pasture as the fourth measure in the second annex which details Italian good agricultural and environmental condition (and is described above).

#### ***Advisory System***

A network of regionally based agencies already exists and needs to be more oriented to provide improved technical assistance, which is already being done in some Regioni. A Decree on the establishment of the farm advisory system is in the planning stage, with the aim of starting it by 1 January 2007. The farm advisory system will be implemented at both a central (ministerial) and Regional level. Farmers will receive information on cross compliance through three channels. The first channel is the publication of the decree on cross compliance in the Gazzetta Ufficiale, the official tool for informing the public of new laws. Each farmer will receive a letter attached to their aid application and will be targeted by press releases and advertising presented in the national media.

#### ***Control System***

AGEA, the national agency for aid in the agricultural sector, will be responsible for the implementation of the control system, which will be carried out on the ground by the four regional paying agencies. Verifiable standards have been created according to a set of indicators which assess the size of the breach according to its extent, permanence and severity. The control rate will be one per cent of beneficiary farmers and penalties will be applied in accordance with Regulation 796/2004.

#### ***Extent to which Key Environmental Problems are Addressed***

The absence of any verifiable standards for the SMRs at the time this report was completed, makes it difficult to determine how well the environmental Directives will be implemented. The development of these standards will be essential in determining how effective the environmental SMRs are in Italy.

A brief analysis of the Italian interpretation of Annex IV raises some interesting points. The most important is the possibility for the regions to derogate from the measure to maintain land no longer in agricultural production. Those regions which observe the restrictions on cutting dates will provide benefits for breeding birds. The option to derogate from this measure on set-aside land by choosing to use other methods to control vegetation growth could create severe problems for wildlife, such as ground nesting birds.

Other GAEC measures may provide more environmental benefit. The maintenance of the field drainage system is a measure that few other Member States have adopted, although any benefit of this measure is likely to be agricultural rather than environmental. There is a clear focus on avoiding land abandonment with measures to maintain land that is not entirely in agricultural production, including less productive olive groves. The measures to tackle soil erosion should offer some environmental benefits with the requirement for farmers to maintain terraces and to form water runoff gullies. However, it could be argued that further

measures could have been implemented given that soil erosion is such a serious problem in Mediterranean Europe. An additional measure could be to implement minimum or no tillage operations in olive groves.<sup>12</sup> Allowing the Regions to adapt baseline standards to local conditions could be seen as a positive step although it remains to be seen whether any will go beyond the basic requirements for environmental reasons.

#### **4.11 LUXEMBOURG**

##### ***Development of Cross Compliance***

A transcript of an interview with Fernand Boden, the Minister for Agriculture, Viticulture and Rural Development, obtained by IEEP, and available on the ministry's website revealed the state of play in Luxembourg as of November 2004<sup>13</sup>. The Luxembourg ministry seems to be waiting for neighbouring countries to make their decisions before advancing their own ideas, which they aim to finalise before the end of 2004. At the time of writing, the agriculture ministry and its relevant departments had been looking at various ideas in order to implement the Regulation and several technical aspects needed to be clarified with the EC. The different options and models were being talked through with the relevant professional organisations at the end of October 2004. An acknowledgement is made that cross compliance will take effect in January 2005, although precise measures are not described.

Unfortunately no information on the SMRs, GAEC, permanent pasture, the advisory system and inspections and penalties was forthcoming.

#### **4.12 NETHERLANDS**

##### ***Development of Cross Compliance***

A research agency was commissioned to carry out a risk analysis related to all issues in Annex IV, on the basis of which either national or regional standards were to be determined. This research was concluded in May 2004, and was followed by a consultation in which some interest groups, including the Society for Nature and Environment (SNM) and the Young Farmers Organisation (NAJK) suggested some potential GAEC measures. The Dutch ministry claims that a 'continuous consultation' was carried out in preparation for implementing the Regulation and a total of 20 organisations including farmer unions, NGOs and environmental groups submitted their opinions. National legislation was scheduled to be passed in early December 2004.

##### ***The Statutory Management Requirements***

At the time of interview with the ministry of agriculture on 22 November 2004 the national regulation detailing all the standards that farmers would need to comply with was in the process of being prepared. Each of the environmental Directives is transposed into national legislation. The indication is that there will be many verifiable standards, including specific standards for Natura 2000 sites. The debate between the Dutch ministry and the European Commission over the Nitrates Directive will not impact on its implementation of cross compliance.

##### ***Good Agricultural and Environmental Condition***

The conclusions of the risk analysis referred to above contribute some useful background information which helps to understand the rather limited number of choices adopted by the Dutch ministry. The research concluded that (a) the abandonment of land is not an issue in

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<sup>12</sup> EEA (2003) p203.

<sup>13</sup><http://www.gouvernement.lu/functions/search/resultHighlight/index.php?linkId=3&SID=a0ed9635c7fb47785409ce13fc3ffadc>



Netherlands, now or in the near future; (b) soil erosion is of minimal concern and is only a problem in a small part of the south of the Netherlands (Zuid-Limburg) and (c) there is no reason for concern over the minimum maintenance of the land. However, the research concluded that there is reason for concern over soil organic substance and soil structure, but the Dutch are wary of applying measures given that there is insufficient proven data or systematic monitoring of the issue. Partially as a result of this research, just two measures, both relating to soil, have been chosen by the Dutch ministry.

1. *Soil erosion.*

Farmers will be required to comply with the national legislation on soil erosion as recorded in the Regulation from the Board of Arable Crops. This Regulation covers three areas, described below.

- i) Grass must be grown on steep slopes. Farmers will be subject to controls dependant on slope gradient (<2°, 2-18°, >18°).
- ii) Contour ploughing must be practiced.
- iii) Terraces must be retained.

Many farmers will already have an approved Soil Erosion Prevention Plan and will meet the GAEC standards. Those without such a Plan must follow the Regulation which contains very detailed descriptions on the actions farmers need to undertake.

2. *Soil cover.*

A green cover must be present on black fallow land (in black fallow fields, tillage operations stir the soil and bury crop and weed residues) and set-aside. Farmers will not be able to plough such land up and should sow a winter cover. Exceptions are made for certified organic farms, where black fallow land is needed for the control of a certain invasive grass (for which farms can be ordered to leave land uncultivated).

***Permanent Pasture***

Although there had been no formal agreement at the end of November 2004, the proposal concerning permanent pasture was that no standards were likely to be imposed on farmers. This is because the Dutch authorities are expecting a large rise in the number of new aid applicants in 2005, the majority of whom will be dairy farmers in possession of a large amount of permanent pasture. As there is a minimal risk of there being a decrease in the total area of permanent pasture, no requirements will be levied on farmers, although the overall area will continue to be monitored.

***Advisory System***

The Dutch ministry was originally planning to introduce the farm advisory system in 2005, but continuing debate with the European Commission over the Nitrates Directive means its introduction will be delayed until 2006 at the earliest. This is ahead of the date of 1 January 2007 required by 1782/2003, but could be problematic for farmers, as in the meantime the only advice available is non-subsidised. Guidance material is being prepared to be issued to farmers on 1 December 2004 at the same time as the national regulation on cross compliance is published.

***Control System***

The Dutch aim to implement a transparent, simple and feasible control system with minimal administrative burden and costs for both farmers and national authorities. The format of the inspection system had still to be decided as of November 2004, and the ministry was in discussion with the specialised control bodies about the best way to guarantee a control rate compliant with Regulation 1782/2003. The mutual exchange of control results between the five specialised control bodies will be arranged. Consideration was being given to various formats, for example whether controls could be carried out by every specialised body through

the central control of a coordination unit. An alternative discussed is for control to be executed by the four paying agencies who will interact through a delegated body i.e. the General Inspection Service.

#### ***Extent to which Key Environmental Problems are Addressed***

IEEP is of the impression that the Dutch GAEC requirements appear to be weak relative to other Member States. The primary concern for the Dutch is how to deal with an intensive agricultural sector, and primarily how to manage manure surpluses and deal with the implementation of the nitrates Directive. The Dutch measures appear to neglect the line of thought that an aim of cross compliance is to prevent over intensification. Whilst the soil erosion measures are relatively sophisticated in comparison to other Member States, a measure for appropriate machinery use could be welcome given that soil compaction is a concern for the Netherlands.<sup>14</sup>

### **4.13 PORTUGAL**

IEEP was able to obtain a copy of a presentation prepared by the Portuguese ministry which outlined some details for the implementation of cross compliance. This was followed up by several email discussions.

#### ***Development of Cross Compliance***

The ministry did not comment on the development of cross compliance and did not state whether a consultation process took place or not.

#### ***The Statutory Management Requirements***

IEEP was able to gain a general overview of what verifiable standards might be applied to ensure the compliance of farmers with the SMRs. The Portuguese ministry contact described a series of 'general rules' that would provide the framework for more specific verifiable standards. These are reproduced below.

##### *Wild Birds and Habitats Directives*

- Changes in agro-forestry utilisation.
- Changes to land morphology.
- Waste deposition.
- Agricultural practices.
- Fauna and Flora.
- Buildings and Infrastructures.

IEEP learned from another sources that verifiable standards for Natura 2000 sites are being prepared.

##### *Sewage Sludge Directive*

- Restrictions on sludge application.
- Soil and sludge analysis.
- Requirement for a license to spread sludge.
- Crop cover.

##### *Nitrates Directive*

- Control of infrastructure for organic manure storage.
- Controls on application of nitrates.
- Controls for plots which neighbour drinking water extraction sites.
- Restrictions on fertiliser application (by season).

No reference was made to the Groundwater Directive in the information supplied by the Portuguese ministry.

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<sup>14</sup> EEA (2003) p210.

### ***Good Agricultural and Environmental Condition***

The GAEC conditions as stated by the Portuguese ministry are described below.

1. *Minimum soil cover.*

All parcels should have a green cover over the autumn and winter period. However there are restrictions on crop cover when a parcel has a 'plot physiographic qualification index' (PPQI)  $\geq 4$ . IEEP has interpreted this to mean either that plots with a reasonable level of green cover will not be subject to this measure, or plots with a higher erosion risk will be subject to more stringent controls.

2. *Control the growth of spontaneous vegetation.*

Parcels classified as set-aside arable land, fallow land, grassland and permanent pasture cannot have more than 25 per cent of the area occupied by woody plants taller than 50cm. There will also be restrictions on ploughing up soil for vegetation control.

3. *Buffer strip alongside parcel borders.*

Parcels of set-aside arable land, fallow land, grassland and permanent pasture must have a minimum three metre wide strip which should be mowed once a year.

4. *Restrictions on bush fires.*

5. *Disposal of agriculture residues.*

The collection of farming related plastic materials, tyres and oils is mandatory.

6. *Storage of fertilisers and plant health products.*

Fertilisers and plant health products should be stored in a safe and dry place with a waterproof floor, and more than 10m away from streams, ditches, wells, water drill holes and springs.

### ***Permanent Pasture***

Land abandonment is considered a major problem. However the ministry was not forthcoming on any standards to maintain the level of permanent pasture.

### ***Advisory System***

There is currently no advisory system

### ***Control System***

The Portuguese ministry, at the time of publishing this report, were continuing work on the identification of the rules that will be monitored, the definition of control indicators (and sanctions), the establishment of the monitoring authorities and the harmonisation between all the entities (presumably, the paying agencies and the monitoring authorities) involved.

### ***Extent to which Key Environmental Problems are Addressed***

The SMRs should ensure the firmer implementation of the EU's environmental Directives, however the apparent omission of any standards for the Groundwater Directive is a concern. The GAEC standards do not appear to be relatively ambitious, especially in relation to soil erosion, and are unlikely to be particularly beneficial to the environment. The measures to prevent soil erosion will be largely dependent on the workability of the 'PPQI' system. It can be questioned whether the last two GAEC measures (five and six, above) are covered by Annex IV, but are welcome from an environmental point of view, although it is questionable why the sixth is not an SMR within the Nitrates Directive.

#### 4.14 SPAIN

##### ***Development of Cross Compliance***

The implementation of cross compliance concerned three central authorities and 17 regional authorities. It was the task of each regional authority to define standards for both Annexes III and IV. Although a formal consultation was not conducted, it seems that the decisions about the standards for both Annexes were permeated by discussions with regional authorities and farmers. Farmer groups do seem to have had some influence in spurring the ministry into providing guidance and training. Meetings with environmental authorities have taken place.

##### ***The Statutory Management Requirements***

The Spanish ministry was unable to reveal exact information on the verifiable standards that farmers would need to achieve in order to comply with the SMRs. However all of the relevant Articles of the SMR environmental Directives have been transposed into national legislation. One key concern is the difficulty of designating Natura 2000 sites. It is the intention of the national ministry that each regional ministry will define a good practice code for Annex III. This should be developed at the regional level to account for each region's specific characteristics. This had yet to be accomplished as of November 2004 as the ministry was in the process of defining new controls based on clear, easy to measure indicators. At the time the interview was conducted a handbook on the subject for both inspectors and farmers was being written.

##### ***Good Agricultural and Environmental Condition***

A summary of all the measures is presented below.

###### *1. Management of slopes.*

For arable land: on slopes of ten degrees or more all tillage operations will be prohibited.

For woody crops: on slopes of fifteen degrees or more all tillage will be prohibited.

For all other slopes: ploughing along the slope is prohibited.

However there will be a set of exceptions for small land parcels and when the maintenance of traditional farming practices is the overriding concern.

###### *2. Minimum soil cover.*

For arable land: for a set period of time, to be defined by each region, there will be a ban on ploughing the soil from the time of harvest.

For woody crops: Olive groves must be maintained in a good vegetative state. Exceptions will be permitted in certain circumstances.

For set aside land: Compulsory maintenance of green cover.

There will also be criteria established for ground cover in areas no longer in use and on fallow land and in areas with a heightened risk of erosion. Exceptions may be permitted according to criteria from the regional authority based on climatic variability and soil typology.

###### *3. Retain terraces.*

Terraces must be maintained in such a way so that their drainage capacity is not affected, and controls will be put in place to avoid the risk of silting up and gully formation. It is also forbidden to significantly alter the structure of the land except for certain agricultural reasons, including the construction of banks and irrigation facilities associated with the production of rice.

###### *4. Arable stubble management.*

All burning will be banned, although exceptions will be made for plant health reasons. If a farmer wishes to conduct burning, he or she must first submit their plan to be approved by the regional authority. The interviewee stated that this would be a 'hard measure' to

implement, although he stated that he was aware that burning leads to many problems in rural areas. Criteria will be put in place for removing stubble post-harvest.

5. *Appropriate machinery use.*

There will be limits on machinery use on saturated soil. The minimum requirement is that any tracks on agricultural land must not be of a depth greater than 20cm. A deeper rut is regarded as a clear sign of soil compaction. There will be a set of specific requirements/exceptions. Exceptions will be permitted for harvest and for cattle care. During harvest the restriction will apply to only 25 per cent of the parcel, and to just five per cent throughout the rest of the year.

6. *Maintenance of permanent pasture.*

The burning and ploughing of land classified as permanent pasture will be forbidden. A minimum stocking density of 0.1 livestock units per hectare will also be applied to further maintain permanent pasture. Originally six different stocking rates were established for the six agro-pasture systems identified. However it will be difficult to check real grazing and figures will be an annual average as the pasture capacity varies with season and climate. The deterioration of grassland should be avoided, and will be measured against a set of undergrazing and overgrazing indicators. Undergrazing will be indicated by the per cent of foreign forage and bush species present. Overgrazing will be indicated by degradation or lack of forage plants. Farmers are requested to avoid the deterioration of bushy and arboreal pasture.

7. *Invasion of unwanted vegetation.*

Each region will produce a list of specific species of unwanted vegetation that must not be allowed to encroach onto agricultural land. There will be some exceptions permitted for certain invasive situations.

8. *Irrigation management.*

The management of the country's water resources is seen as a vital environmental consideration by the Spanish ministry. Farmers will need an authorised activity record in order to be able to exploit subterranean aquifers. Farmers will also need to maintain their irrigation equipment in good order, so as to avoid the unnecessary loss of water. Conditions will also apply to water quality. In addition, the application of fertilisers and manure will not be permitted on waterlogged ground.

9. *Agricultural and animal waste*

Watertight storage tanks will be required for manure and all spillages must be treated immediately.

***Permanent Pasture***

IEEP gained the impression that land declared as permanent pasture in the register will not be eligible for a change in productive function. No derogation system is planned.

***Advisory System***

At the time of the interview farmers had not received any guidance from the ministry, and there seemed to be no concrete plans as to when information will be made widely available. The interviewee noted that a future task is to define and write a procedural code in the form of a handbook. The ministry intends to develop a training plan, training seminars, a good practice code for farmers and a website exclusively dedicated to cross compliance. The interviewee did not yet know when the farm advisory system will be implemented, but ideas are currently being discussed.

***Control System***

The development of an inspection regime is also at an early stage. A difficulty raised was the problem of co-ordinating the development of a balanced set of standards between all the regions. A handbook for inspections is currently being written. With regards to the development of verifiable standards, the Spanish are adopting an approach that is based on the three foundations of sustainable development, namely the social, economic and environmental impacts of non-compliance. A traffic light system is in development that will be used to demonstrate the severity of non-compliance with each measure, which will be used to calculate the size of the penalty accordingly. There will be some discretion in applying any penalties.

#### ***Extent to which Key Environmental Problems are Addressed***

The implementation of cross compliance in Spain appears to be largely dictated by the application of the nationally adopted standards at the regional level. Thus the success of meeting Annex III standards will largely rest on the ability of each region to establish a set of good practice guidelines for farmers, particularly in relation to soil erosion. The list of GAEC standards is, in relation to the other Member States of the EU 15, fairly comprehensive and likely to deliver some environmental benefits. The soil standards for slopes are particularly important environmentally given that soil erosion greatly affects Mediterranean countries, and in particular intensively ploughed olive groves<sup>15</sup>. The measure for appropriate machinery use could be potentially difficult to implement, and even more difficult to control. The same can be said of proposals for maintaining permanent pasture; the intention to set undergrazing and overgrazing indicators appears complicated but could deliver significant benefits if successfully implemented. There may be questions as to whether the measure for irrigation is catered for by Annex IV, but from an environmental perspective is important for maintaining the country's water resources. This measure addresses the key environmental problem of unsustainable irrigation systems, which can contribute significantly to the salinisation and erosion of cultivated lands<sup>16</sup>.

### **4.15 SWEDEN**

#### ***Development of Cross Compliance***

The Swedish Board of Agriculture is the implementing agency for cross compliance in Sweden, rather than the agricultural ministry itself. The verifiable standards for Annex III were developed by the Board of Agriculture with the authority responsible for each Directive, and with little external consultation. It appears that a more inclusive discussion took place on the requirements for good agricultural and environmental condition. A proposal was distributed to stakeholders in mid-September and farmers, representatives from advisory services, farmers' unions and environmental groups were invited to a one day discussion. A redrafted proposal was circulated in mid-November 2004 with a view to making a final decision before the end of December 2004.

#### ***The Statutory Management Requirements***

The verifiable standards adopted for the SMRs were developed directly with the authority responsible for each SMR. The division of responsibility for each Directive is split between the Swedish Board, which has partial responsibility for the Nitrates Directive, and other groups which are responsible for the remaining four environmental Directives.

#### *Wild Birds Directive*

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<sup>15</sup> EEA (2003) p200.

<sup>16</sup> EEA (2003) p200.

Sanctions will be enforced against two key areas. The first is not to disturb birds or their nests. The second is to do with the methods used for capturing birds. The verifiable standards for this Directive are currently being developed.

#### *Habitats Directive*

The verifiable standards chosen will refer to the need for farmers to follow the rules if their land forms part of a Natura 2000 site, if particular plants on a checklist are picked or destroyed and if certain animals on a checklist are caught or killed.

#### *Groundwater Directive*

The implementation of this Directive provides standards for Articles 4 and 5 of the Directive.

#### *Sewage Sludge Directive*

The controls farmers will have to abide by are as follows. Firstly, the farmer will be subject to certain restrictions as to when sludge can be used on the ground, secondly on how the sludge has been treated and thirdly on whether the farmer is authorised to spread it. The final requirement is that the farmer must analyse the ground for its metal content in order to decide whether it is appropriate to use sludge in certain areas.

#### *Nitrates Directive*

The farmer must ensure that the storage facilities for manure are suitable and leak-proof. There will be guidance provided on the stocking density of livestock and the frequency and timing of spreading manure. Winter cover will also need to be provided to stop nitrate leaching by designating the proportion of the total area of a holding which will need to be sown with green cover. This will range from 40 to 50 per cent.

#### ***Good Agricultural and Environmental Condition***

The Swedish Board entered into a long discussion with the agriculture ministry in September 2003 over how to interpret Annex IV, what the main problems are in Sweden and what the verifiable standards should be. It was recognised that the requirements do not adequately reflect the priority environmental problems. For example, the soil erosion issues raised by Annex IV are not an especially large problem in Sweden. Nevertheless, the Swedish Board asked the EC whether the issues and standards in Annex IV should be seen as a set of minimum rules that must be covered by Swedish cross compliance. The Swedish Board of Agriculture had the impression that the European Commission agreed that Annex IV could be read as an example list. Concurrently, the agriculture ministry concluded that the rules for cross compliance should not be dissimilar to current demands, especially those already in place for set-aside, and that permanent pasture should always be maintained by grazing animals.

The standards agreed in the development phase are listed below. Note these are subject to change pending the publication of a formal decision by the Swedish Board of Agriculture on 15 December 2004.

1. *Minimum level of activity on arable land.*

The farmer must maintain a certain level of activity in order to avoid the encroachment of bushes, or the development of young shoots of broad leaved or coniferous forest on arable land. The farmer is free to choose the maintenance method to achieve this.

2. *Land not in agricultural production.*

The demands under this measure are in practice the same as those that currently apply to all set aside land. Any land taken out of production or in set aside must be maintained with a green cover. There will be guidelines on how and when this land should be sown according to what crop will be sown after the set-aside period and where the land is situated in Sweden. The first date for when fallow can be worked is 1 July.

3. *Restrictions on the use of fertilisers and manure.*

Between certain date brackets the use of fertilisers will either be entirely prohibited or restricted according to certain criteria, such as what will be grown on the land in the next season.

4. *Minimum level of maintenance of permanent pasture.*

Permanent pasture should be maintained as it has been before so it doesn't start a transition to forest. Permanent pasture must be grazed by more than one animal at least once a year, but no explicit stocking density is given. Inspectors will look for signs that the ground has been clearly grazed.

The definition of permanent pasture has created some problems for Sweden. Swedish permanent pasture is characterised by tree growth and is often on rocky, wet ground. These traditional permanent pastures are of a high biodiversity value according to the Swedish Board of Agriculture.

IEEP understand from an independent source that the Swedish implementation of Annex III has a number of detailed rules pertaining to the establishment of green cover. It is believed that the government argued this was sufficient to maintain the land in good agricultural and environmental condition and instructed the Board to limit Annex IV standards to land taken out of production.

***Permanent Pasture***

This follows the requirement in the Regulation to avoid a drop of ten per cent or more in the total area of permanent pasture from the 2003 reference level.

***Advisory System***

Farmers received one brochure in June that provided information on the CAP reform and some general information on cross compliance. A second brochure was sent in mid-October which mainly gave more detail on premium rights. A further brochure will be sent in February 2005 and will contain detailed information and the application form. Seminars which all farmers will be able to attend will also be scheduled, and an advisory programme will be set up and financed through the Rural Development Programme.

***Control System***

The inspection regime will be performed by a mix of inspectors from a range of levels. The environmental Directives will largely be inspected by municipalities, and some at the higher hierarchical level of the county board. The county board is also vested with taking care of scheme applications, as well as carrying out checks for GAEC. The aim is to try to combine separate inspections in order to reduce the overall burden. The inspection procedure is complicated in Sweden because the Swedish Board of Agriculture is not permitted to dictate how the municipalities should perform inspections; they can only provide recommendations. There will be a flow of information from the county board to the national board in order to decide whether sanctions against a farmer should be enforced. This creates a problem where a farmer could be sanctioned for breaking the rules of a particular Directive, as transposed into national legislation, and then be sanctioned by the national board for breaking the rules of cross compliance. The Swedish board admit that this is a disadvantage of their system, that the government is aware of this and will conduct an evaluation in 2005 of how the system is performing. Instructions for inspectors were being prepared in late 2004, following a trial of the standards with representatives from the Swedish Boards of Agriculture.

***Extent to which Key Environmental Problems are Addressed***

The implementation of cross compliance in Sweden has clearly been influenced by a series of political decisions concerning the allowable degree of flexibility permitted by Member States



in the interpretation of Annex IV. This has led to a minimal set of standards for GAEC, given that it appears the Swedish official line is that soil erosion is not a particular problem. The Annex III standards underline the Directives already implemented, and the creation of a suitable set of verifiable standards, especially for the Birds and Habitats Directives, would assist farmers in achieving compliance with the SMRs.

#### **4.16 UNITED KINGDOM**

The devolved administrations in Scotland, Wales and Northern Ireland have each formulated their own requirements for cross compliance.

##### **4.16.1 England**

###### ***Development of Cross Compliance***

The Department of the Environment, Food and Rural Affairs ('Defra') conducted a public consultation which received 465 replies from a range of interested bodies including individual farmers, the farmers' union and environmental organisations.

###### ***The Statutory Management Requirements***

The published guidance material (Defra, 2004b) reveals that the SMRs require farmers to comply with various items of existing legislation, and that providing they already follow these laws they will not need to make any changes to their farming practices to meet the SMRs. The guidance provides a relatively detailed overview of the standards farmers will have to meet, and these are summarised below:

###### ***Wild Birds Directive and Habitats Directive***

These two SMRs are transposed into English legislation by the Wildlife and Countryside Act 1981 and the Habitats Regulations 1994. On land classified as a Special Protection Area under the Wild Birds Directive (SPA) or a Special Area of Conservation (SAC) under the Habitats Directive, farmers must comply with the following.

- Farmers are advised to contact English Nature (EN) in order to find out whether their land in an SPA or SAC.
- EN must be notified and consent obtained in order to proceed with any proposals to carry out any operation likely to damage the protected interest of the SPA.
- Where a special nature conservation order applies, the farmer must notify EN of proposals to carry out any specified operation, and obtain consent before commencing that operation, unless it is permitted by the terms of a management agreement.
- The farmer must comply with the terms of a restoration order (under the Habitats Regulations).
- The farmer must comply with all management notices served by EN or restoration orders served by a court for the purposes of protecting or restoring the interests of a Site of Special Scientific Interest (SSSI) that are also relevant to the SPA.
- The farmer must not, without reasonable excuse, intentionally or recklessly destroy or damage the protected interests of a SSSI that are also relevant to the SPA or disturb any protected interest fauna.

On all land in the holding (under the Wild Birds Directive):

- The farmer must not, unless authorised by a licence, take part in the intentional killing, injuring or taking of any wild bird; possess any live or dead wild bird, intentionally damage to, destroy, take or keep any egg of a wild bird, or intentionally or recklessly disturb certain birds that are nesting (farmers are provided with a list in an appendix to the guidance). There are two main exceptions to this.
- The farmer must not kill or take game birds during the close season for that bird species.

- The farmer must not use prohibited means of killing or taking (e.g. spring traps and snares) wild birds.

On all land in the holding (under the Habitats Directive):

- The farmer must not pick, collect, cut, uproot or destroy a wild plant of a European protected species or keep, transport, sell or exchange, or offer for sale or exchange any live or dead wild plant of a European protected species.
- Use indiscriminate means for killing and taking certain European protected species (a list is provided in an appendix to the handbook). Certain prohibited methods can be used in prescribed circumstances if a licence has been granted.
- Release or allow to escape into the wild any species of animal listed in legislation, and included in an appendix to the handbook or any not normally found in England, or plant or cause to grow any wild plant listed in the legislation and in an appendix to the handbook.

#### *Groundwater Directive*

This Directive is transposed into English law by the Groundwater Regulations 1998, the Water Resources Act 1991 and the Pollution Prevention and Control (England and Wales) Regulations 2003. The farmer must:

- not make any discharges of List I substances (as detailed in Council Directive 80/68/EC) (for example, organophosphorus compounds and mercury) or cause pollution to groundwater by List II substances (for example, certain metalloids such as lead, zinc), including through indirect discharges;
- only dispose the listed substances (including spent sheep dip and pesticide washings) with a permit from the Environment Agency (EA);
- comply with notices served by the EA for the protection of groundwater.

#### *Sewage Sludge Directive*

Defra advise in the guidance handbook that the relevant domestic legislation on sewage sludge is due to be amended with new regulations expected to come into force in May 2005. Until then, the requirements for the farmer are as detailed below.

- Sludge can only be used on agricultural land if the following set of requirements are met:
  - o the sludge is tested in accordance with the Sludge Regulations 1989;
  - o the soil on the land is tested/assessed in accordance with the Sludge Regulations 1989;
    - o Unless the land is a dedicated site:
      - the average annual rate of addition to the land by means of the sludge of any elements in the sludge table in the Sludge Regulations must not exceed the specified limit, and
      - the concentration in the soil of any of the elements listed in the soil table must not exceed the specified limit either at the time of using sludge or as a result of applying it.
  - o the pH of the soil must not be less than 5;
  - o no fruit or vegetable crops, other than fruit trees, should be grown or harvested in the soil at the time of the use of the sludge;
  - o sludge use must take account of the nutrient needs of the plants so that the quality of the soil and of the surface and groundwater is not impaired.
- Take the following precautions after sludge or septic tank sludge has been used on agricultural land:
  - o do not graze animals or harvest forage crops for three weeks from the date of use;
  - o do not harvest fruit and vegetable crops which are grown in direct contact with the soil and normally eaten raw for ten months from the date of use;
  - o where any untreated sludge has been used on land without being injected into the soil, the farmer must work the sludge into the soil.

- Supply information about the agricultural unit, the date the sludge was used, the quantity of sludge used, and details of the sludge supplied to the sludge producer.

#### *Nitrates Directive*

Compliance with this SMR takes the form of conforming to the Nitrate Vulnerable Zones (NVZs) Action Programme measures. The farmer must:

- Limit the organic manure loading averaged over the whole farm each year (commencing 19 December) to 250kg Nitrogen (N) per ha for grassland in any NVZ, 170kg N per ha for non-grass crops in a NVZ that was designated in 1996 and 210kg N per ha for non grass crops in a NVZ that was designated in 2002 (changing to 170kg N per ha from 1 January 2006).
- Not exceed 250kg N per ha to individual fields in any twelve month period (not including manure deposited by grazing animals).
- Respect the closed periods for applying N.
- Do not apply more N fertiliser than a crop requires by taking account of crop uptake, soil N supply, excess winter rainfall and plant or crop available N from organic manures.
- Respect the spreading controls:
  - o Spread N fertiliser and organic manure evenly and accurately.
  - o Do not apply any materials containing N: when the ground is waterlogged, flooded, frozen hard, snow covered; to steeply sloping fields; in a way that contaminates watercourses; within 10m of watercourses.
- Ensure that there are sufficient slurry storage facilities or alternative arrangements for the closed period.
- Keep records on cropping, livestock numbers, fertiliser and manure usage for a minimum of five years after the activity takes place.

#### ***Good Agricultural and Environmental Condition***

The GAEC standards are summarised below and listed in the order they appear in the draft guidance material (Defra, 2004c). The first four deal with issues of soil management and protection, and the rest with the maintenance of habitats and landscape features.

#### *Soil Management and Protection*

Defra has adopted an evolutionary approach to meet the soil requirements of Annex IV of Regulation 1782/2003. The first measure asks farmers to retain and take account of new guidance (still to be published at the time of writing) for soil management and mentions that in 2006 farmers will need to draw up a 'simple, risk based soil management plan' which will need to be implemented on the farm from 2007. The other three measures apply from 1 January 2005.

##### *1. General requirements.*

From 1 February 2005 the farmer must retain a copy and take account of the new guidance for soil management which will be sent to them. This standard gives forewarning for the need to draw up a simple risk-based soil management plan in 2006 which must be followed on farm from 2007.

##### *2. Post harvest management of land after combinable crops (from harvest to 1 March).*

Where land has carried a crop of oil-seeds, grain legumes or cereals (other than maize) which have been harvested using either a combine harvester or a mower, the farmer must ensure that from harvest until 1 March one or more of four provisions is met at any time:

- the stubble of the harvested crop remains on the land;
- the land is left after cultivation with a rough surface to encourage the infiltration of rain (through ploughing or discing);

- the land is sown with a temporary cover crop;
- the land is sown with another crop within ten days of a final seedbed preparation in normal weather.

A crop may be established at any time between harvest and 1 March providing the rules are complied with until the time of sowing.

3. *Waterlogged soil.*

Mechanical field operations (harvesting, cultivation and spreading operations) cannot be carried out on waterlogged soil (with water standing on the surface) unless: the soil is waterlogged only within 20m of a gateway or other field access point and access is required to an area of land that is not waterlogged; mechanical operations are required to improve the drainage of the land or to incorporate gypsum into it following saltwater intrusion; mechanical operations are essential for the welfare of humans or animals; in order to harvest a crop to meet contractual obligations or where the quality of the produce would deteriorate if not lifted; if the Secretary of State has made an announcement during or after a period of exceptional weather conditions (the announcement will specify an area of England and the length of time for which the exception applies).

4. *Burning of crop residues.*

This GAEC measure underlines the need for farmers to comply with crop residues (burning) legislation. Burning restrictions apply to cereal straw, cereal stubble and residues of oil seed rape and field beans and peas harvested dry. Burning is permitted for education or research, disease control or the elimination of plant pests and the disposal of straw stack remains or broken bales.

5. *Environmental Impact Assessment (EIA).*

The Environmental Impact Assessment Regulations for Uncultivated Land and Semi-Natural Areas determine the value of habitats and aim to protect environmentally valuable areas from intensive agricultural use. Farmers must not carry out a project whereby construction works, installations or 'other interventions in the natural surroundings and landscape' (including the application of pesticides, lime and fertilizers, scrub clearance, land drainage and filling in ditches or ponds) involve the use of semi-natural areas or uncultivated land unless they have obtained prior permission from Defra. Similarly a project for afforestation, deforestation, forest road works and forest quarry works cannot commence without permission from the Forestry Commission.

6. *Sites of Special Scientific Interest (SSSIs).*

This GAEC supports existing legislation which protects SSSIs from inappropriate management or neglect. The farmer must not carry out any operation specified in the notice designating the land as SSSI, and must not intentionally or recklessly destroy or damage any plants, animals, geological or landscape features on the SSSI, nor intentionally or recklessly disturb those animals.

7. *Scheduled Monuments (SMs).*

This GAEC measure reinforces existing rules on the protection of scheduled monuments (SMs), or archaeological features. The onus is placed on the farmer to identify the location of SMs on their holding and to take appropriate actions to protect them. The farmer must not carry out any operation or action that will destroy or damage any protected monument.

8. *Public rights of way.*

This measure reinforces existing legislation by instructing farmers not to obstruct or disturb the surface of a public right of way that crosses their land. Farmers are permitted to derogate in order to plough the land or bring the land into agricultural use, so long as the path or bridleway is restored to its minimum width within 14 days if the land is disturbed to sow a crop or within 24 hours in all other circumstances.

9. *Overgrazing and unsuitable supplementary feeding.*

Appropriate grazing and supplementary feeding regimes need to be adopted by the farmer in order to avoid cases where overgrazing adversely affects the growth, quality or diversity of natural or semi-natural vegetation and where supplementary feeding leads to a deterioration in the quality or diversity of natural and semi-natural vegetation through poaching or trampling of land by livestock or by rutting caused by vehicles used to transport feed. Farmers must not: overgraze the natural and semi-natural vegetation on their farm; carry out unsuitable supplementary feeding on natural or semi-natural vegetation (except for animal welfare concerns in periods of extreme weather) or breach a management prescription set by the Secretary of State on overgrazed land or on supplementary feeding arrangements.

A proposed standard for undergrazing will be considered in 2005/06.

10. *Heather and grass burning.*

This GAEC measure underlines the need for farmers to comply with existing legislation. Farmers are told not to burn heather, rough grass, bracken, gorse or *Vaccinium* in breach of the Regulations and to respect restrictions on the dates and timing of burning, the precautions that must be in place and when landowners must be given notice.

11. *Control of weeds.*

Farmers are asked to take all reasonable steps to prevent the spread of common ragwort, spear thistle, creeping (or field) thistle, broad-leaved dock and curled dock, rhododendron, Japanese knotweed, giant hogweed and Himalayan balsam.

12. *Eligible land which is not in agricultural production.*

Eligible land not in agricultural production includes permanent pasture and arable land and excludes permanent crops, forests and land used for non-agricultural purposes. This measure sets out minimum requirements to avoid the land losing its eligibility status under the SPS by avoiding the encroachment of scrub and weeds. This land needs to be in good enough condition so that it could be returned to agricultural production by the next growing season at the latest. Therefore farmers must conform with the measure for the control of weeds by taking action so that a thick scrub does not develop and weeds do not spread or encroach. Farmers are asked, as a minimum, to cut scrub and cut or graze rank vegetation once every five years as a minimum, with no more than 50 per cent of the land area being cut or grazed in year 4 or 5. Farmers must also establish and maintain a green cover (through seeding or natural regeneration) as soon as possible after 1 March in the following year. The farmer does not need to establish a green cover if they can show that they intend to return the land to agricultural production by 15 May. Vegetation cutting must not take place between 1 March and 31 July to avoid disturbance to nesting birds, the land must not be used for non-farm vehicular use, and manure or slurry should not be applied to the land except in preparation for a following crop.

13. *Stone walls.*

Farmers will not be able to remove a stone wall on their land or remove stone from a stone wall on their land. Exceptions may be made if it is necessary to widen an existing gap in a wall to enable machinery or livestock access, to repair other walls on the holding or to improve a public footpath on the holding. The RPA may allow removal for other

reasons. Stone walls have been afforded protection under GAEC since they are distinctive regional landscape features and also act as wildlife corridors.

*14. Protection of hedgerows and watercourses.*

The measure seeks to create 'protection zones' alongside hedges and watercourses by introducing a 2m buffer strip. Farmers must not cultivate or apply fertilisers, manures, or pesticides to land within 2m of the centre of a hedgerow or watercourse or within 1m of the top of a bank of a watercourse. The measure will take effect on all cropped land following the first harvest after 15 July 2005 and on all other land from 15 July 2005. The spot application of herbicide can be used to control weeds in the 2m protection zones and cultivation is allowed to establish green cover on the zones. The measure does not apply to new hedgerows for the first five years after planting and for fields under 2ha in size. Protection can also be given by using set aside strips (in which case the 2m rule does not apply).

This is the GAEC measure that has courted the greatest controversy in England. Defra and environmental organisations support the measure as it will help protect hedgerows from spray drift and watercourses from pesticide contamination, nutrient enrichment and soil runoff. The farmers' union recognises the environmental benefits, but claims that removing 2m strips from production around the edge of each field will lead to a significant decrease in the productive capacity of the unit.

*15. Hedgerows.*

Hedgerows will continue to be protected by existing legislation which dictates that hedgerows must not be removed unless all the requirements of the Hedgerows Regulations 1997 are met. The Regulations mean that a hedgerow removal notice must be submitted to and approved by the Local Authority in order to proceed. There is a restriction on cutting the hedgerow between 1 March and 31 July, the main breeding season for birds, unless the hedgerow overhangs a highway and is a safety hazard for drivers and horse riders, or if the hedgerow is dead. All hedge laying and coppicing should be complete before 1 March, but may continue up to 30 April.

*16. Felling of trees.*

Trees can only be felled with a valid licence, obtained from the Forestry Commission, under the Forestry Act 1967 and the Forestry (Felling of Trees) Regulations 1979. The farmer must also comply with a restocking notice or other conditions served under the Forestry Act. This measure seeks especially to protect old and ancient trees because of their biological, historic, cultural and landscape importance.

*17. Tree Preservation Orders (TPOs).*

TPOs are made by Local Authorities and protect trees, groups of trees and woodlands that are of local amenity. Farmers must not breach a TPO by cutting down, uprooting or wilfully destroying a tree.

***Permanent Pasture***

Permanent pasture is defined in the guidance handbook as 'any land that is down to grass or other herbaceous forage and has been outside of a crop rotation for five years'. Land in set aside will not be classified as permanent pasture. Permanent pasture may be ploughed up for another agricultural use or afforested as long as the farmer complies with the Environmental Impact Assessment (EIAs) Regulations which form the fifth GAEC (see above). Farmers are advised by Defra that should the area of permanent pasture in England *or the UK* decline when compared to 2003 figures, Defra may have to take steps to prevent any further loss of permanent pasture, especially when the decline reaches five per cent. If the area declines by more than ten per cent, farmers who converted pasture in the three years prior to the ten per cent threshold being exceeded will be obliged to reconvert land to permanent pasture and

retain it as permanent pasture for five years. Defra state that they will publish further details if this measure becomes necessary.

### ***Advisory System***

English farmers have received reasonably substantial guidance information from Defra in the lead in period for cross compliance. In July 2004 farmers received a document called 'Single Payment Scheme – Information for farmers and growers in England' (Defra, 2004a), which was updated by a new publication in November 2004 (Defra, 2004b). A detailed handbook on cross compliance was published in early December 2004 (Defra, 2004c). Two further Handbooks are scheduled to be published, one on 'Guidance for Soil Management' and another for 'the Management of Habitats and Landscape Features', both giving practical illustrated guidance, and the latter of which was refined through a stakeholder workshop. There has been copious coverage in the agricultural press.

The Rural Payments Agency (RPA) will be the key source of advice for cross compliance, whilst assistance on the SMRs will be produced by the enforcement agencies English Nature and the Environment Agency. Furthermore a dedicated cross compliance advice service will be in operation from 17 January 2005 with a dedicated telephone helpline and website ([www.crosscompliance.org.uk](http://www.crosscompliance.org.uk)).

### ***Control System***

The RPA will have overall responsibility to ensure inspections are carried out. The Inspections Coordination Board, to be commissioned by Defra, will assist the RPA in coordinating inspections and ensure that cross compliance rules are applied consistently. The RPA will work in conjunction with specialist enforcement agencies, such as the Environment Agency. It is hoped that there will be a reduction in total number of farm inspections required.

The penalty system as outlined in Reg (EC) 796/2004 has been treated as follows. In cases of negligence the overall direct payments received will be reduced by three per cent for each non-compliance, but reduced to one per cent or increased to five per cent depending on the seriousness of the breach. If the breach of the same standard is repeated within three years the reduction can increase to between 20 and 100 per cent of direct payments. Intentional non-compliance may result in exclusion from that aid scheme in the following calendar year. Defra advise that failure to comply with certain cross compliance requirements may be a criminal offence and as such farmers could be prosecuted in addition to receiving payments reductions and exclusions. The farmer will be able to appeal against any decision to apply a reduction or exclusion.

### ***Extent to which Key Environmental Problems are Addressed***

The set of cross compliance standards for England is perhaps one of the most detailed and comprehensive of all of the Member States of the EU 15, particularly the interpretation of Annex IV with its strong emphasis on protecting landscape features. Environmentally, GAEC is likely to provide more environmental benefits than in some other Member States considered in this report. The protective buffers provide a range of environmental benefits, and, amongst other benefits, will decrease the possibility of pesticide spray drifting into hedges as well as protecting hedgerow roots from ploughing. Buffers placed next to waterways assist in decreasing the level of organic matter that enters them, thus decreasing the level of nutrient and organic pollution in inland waters<sup>17</sup>. They also reduce soil erosion to waterways and provide biodiversity benefits. This comprehensive interpretation of GAEC is underlined by the inclusion of a requirement to maintain public rights of way. Such measures contrast with more common measures, such as the need to maintain a crop cover over winter, although this soil protection measure is a precursor to the more stringent soil management plans which will become effective in 2007. However, the Annex III standards and many of

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<sup>17</sup> EEA (2003) p174.

the Annex IV measures implement pre-existing legislation and farmers should be complying with the requirements already.

#### **4.16.2 Scotland**

##### ***Development of Cross Compliance***

A consultation exercise was conducted between February and May 2004 and received a total of 74 responses from a range of interest groups (SE, 2004c). A Stakeholder Working Group was formed as part of this process to develop the draft conditions for GAEC. Membership was drawn from a wide range of organisations with a close interest in the issue and include the Scottish Environment Protection Agency (SEPA), Scottish Natural Heritage (SNH), National Farmers' Union Scotland, the Scottish Agricultural College, the Scottish Crofting Foundation and others.

##### ***The Statutory Management Requirements***

The Statutory Management Requirements are already transposed into Scottish law and are legally binding on farmers and crofters in Scotland. According to the guidance material (SE, 2004a) farmers will need to do the following:

##### ***Wild Birds and Habitats Directives***

Farmers must abide by any management agreements with SNH or the Scottish Executive Environment and Rural Affairs Department (SEERAD) affecting Natura 2000 sites or species of birds listed in the Wild Birds Directive. Birds, plants and animals protected by Natura 2000 designation cannot be harmed.

##### ***Groundwater Directive***

Farmers will require an authorisation from SEPA to dispose of waste sheep dip and pesticide washings to land to avoid groundwater pollution. Checks will be carried out to ensure that the conditions of such authorisations are complied with.

##### ***Sewage Sludge Directive***

Farmers will need to comply with The Sludge (Use in Agriculture) Regulations 1989. These include the testing of sludge and soil and withdrawal periods for grazing animals or harvesting of crops.

##### ***Nitrates Directive***

Farmers with land in Nitrate Vulnerable Zones must comply with the requirements in the 'Action Programme for Nitrate Vulnerable Zones (Scotland Regulations 2003)'. These require farmers to keep farm records for at least five years from the date of last entry covering details of cropping, livestock numbers, the use of inorganic nitrogen fertilisers and organic manure. A Fertiliser and Manure Plan must be prepared and implemented each year.

##### ***Good Agricultural and Environmental Condition***

The Scottish Executive (SE) detailed the GAEC standards to farmers in guidance material published electronically on 9 September 2004 (SE, 2004b). The material states that the GAEC measures have been developed to reflect Scottish conditions and the wide variability of soils, habitats and farming systems found throughout Scotland.

The SE have made two requirements which will apply to all land subject to GAEC conditions.

- The first is a requirement for the land to be available for agricultural use at present or by any time during the next growing season.
- The second is that the land must be in a condition that an inspector or auditor can undertake normal control activity such as being able to walk the land.



All other measures address the issues within the Annex IV requirements.

1. *Minimum soil cover.*

All cropped land must, where soil conditions after harvest allow, have either: crop cover, grass cover, stubble cover, a ploughed surface or a roughly cultivated surface over the following winter. Fine seedbeds should only be created very close to sowing.

2. *Minimum land management reflecting site specific conditions.*

There a number of measures addressing cases of soil erosion:

a. *wind erosion;*

In areas prone to wind erosion the farmer must take steps to reduce the risk of soil loss in spring by maintaining crop cover, using coarse seedbeds, shelter belts or nurse crops, or use other appropriate measures with an equivalent effect. Farmers are advised to undertake all or some of these measures if there is a risk of soil erosion by wind.

b. *capping;*

On sites where capping is a problem the farmer must leave a coarse seedbed or break any cap that forms to avoid erosion. The guidance material defines capping as those conditions which occur particularly in fine sandy and salty soils where soil particles run together when wet and dry out to form a crust. Water infiltration is reduced and leads to soil deposition on the side of fields.

c. *erosion caused by high livestock densities;*

The farmer must prevent erosion of land resulting from overgrazing, heavy trampling or heavy poaching by livestock, particularly on the banks of watercourses, land adjacent to watering points and in feeding areas. Where this occurs the farmer must reduce stock levels until the land has recovered. All problems should be rectified at any time during the next growing season after the period in which the problem has occurred. This measure does not apply to areas within 10m of a gateway and 3m of farm tracks which need to be used during wet periods, although consideration should be given to using alternative gateways. The accompanying advice in the guidance booklet states that sacrificial areas may be more desirable on improves grassland/arable land providing the risk of soil erosion in such areas is low.

d. *maintenance of field drainage systems;*

The farmer must maintain functional field drainage systems including clearing ditches, unless environmental gain is to be achieved by not maintaining field drainage systems. An example of environmental gain given in the booklet is the creation of wetland grazing areas.

e. *comply with the Muirburn Code.*

The farmer must follow the latest edition of the Muirburn Code. The Code gives guidance on the statutory controls on the burning of all vegetation on moorland and according to the guidance booklet will help to avoid extensive erosion on steep sites through burning, but will also provide benefits for wildlife biodiversity, landscape, archeological assets and air pollution.

3. *Standards for crop rotations.*

On arable land the farmer should:

- use suitable break crops in an arable rotation; or
- optimise the use of organic materials by basing rates of application on soil and crop needs. Where break crops are not used, a record should be kept for five years of the organic materials applied to arable land.

4. *Arable stubble management.*

The farmer is asked to incorporate livestock manures within two weeks after spreading on stubbles. In areas prone to wind erosion, the incorporation of livestock manures can be delayed.

5. *Appropriate machinery use.*

Do not carry out any cultivations if water is standing on the surface or the soil is saturated.
6. *Avoid undergrazing and overgrazing.*
  - a. Avoid undergrazing at a level where scrub or coarse vegetation is detrimental to the environmental or agricultural interest in the field. Where undergrazing is identified, a management regime to be observed on that site must be approved by SEERAD.
  - b. Avoid overgrazing with livestock and other species in such numbers as to adversely affect the growth, structure or species composition of vegetation other than vegetation normally grazed to destruction on that land to a significant degree (for example, land that is to be cultivated immediately after grazing by livestock which remove the entire crop). Where overgrazing is as a result of an unexpected and unpredictable incursion of wild deer or geese and it can be shown that appropriate action had been taken to deal with the problem (including for deer, taking advice from the Deer Commission for Scotland where significant), then the farmer will not be held accountable for overgrazing caused as a result of this infringement. Where overgrazing is attributable to rabbits the farmer will be expected to provide evidence of use of available control methods. Where overgrazing is identified, a management regime to be observed on that site must be approved by SEERAD.
7. *Protection of permanent pasture.*
  - Any proposal to plough up pasture of high environmental or archaeological value, for example species-rich grassland, machair habitats, pastoral woodland and heather moorland will require the consent of the relevant authority (e.g. SNH for land in SSSIs, SEERAD for land in an agri-environment agreement) or approval under the Environmental Impact Assessment (Uncultivated Land and Semi- Natural Areas) (Scotland) Regulations 2002.
  - To ensure the protection of rough grazing areas and other semi-natural areas applicants must not undertake new drainage works, ploughing, clearing, leveling, re-seeding or cultivating unless approved under the Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Scotland) Regulations 2002.
  - To ensure the protection of rough grazing areas and other semi-natural areas, pesticides, lime or fertiliser must not be applied except in certain cases or as approved under the Environmental Impact Assessment (Uncultivated Land and Semi-Natural Areas) (Scotland) Regulations 2002. Exceptions are allowed in the following circumstances:
    - i) herbicides may be applied to control injurious weeds as defined in the Weeds Act 1959, and with the prior written approval of SEERAD for the control of other plants e.g. Japanese Knotweed and Giant Hogweed;
    - ii) for the control of bracken with Asulam or other approved herbicides; or
    - vi) the application of lime or fertiliser where no conservation damage will result e.g. holding fields adjacent to hill livestock pens.
8. *Retention of landscape features.*
  - a. Do not damage, destroy or remove any of the following boundary features without the prior written agreement of SEERAD and/or other statutory bodies: drystone or flagstone dykes, turf and stone-faced banks, walls, hedges and hedgerow trees, boundary trees or watercourses. Written approval is not required where it is proposed to widen field entrances to enable access for livestock or farm machinery.
  - b. No hedge trimming is permitted between 1 March and 31 July except for roadside hedge trimming in the interests of safety.

- c. Avoid the deterioration of non-productive landscape features which are part of the agricultural unit, such as shelter belts, copses and ponds. Deterioration is defined as:
    - i) Not maintaining functional stockproof fences around shelter belts and copses; ii) Severe poaching where feeding & other husbandry practices of livestock occur in copses and shelterbelts; iii) Failure to maintain ponds on the holding, for example to mitigate eutrophication.
  - d. Avoid altering, damaging or destroying protected elements of the historic environment. This includes scheduled ancient monuments, listed buildings and sites included in the Inventory of Historic Gardens and Designed Landscapes.
9. *Encroachment of unwanted vegetation.*  
 The farmer should avoid the encroachment of unwanted vegetation which degrades the agricultural and environmental value of the land to the extent that the land is not capable of returning to agricultural production at any time during the next growing season. However, the encroachment of native species is allowed in the following instances: i) for the recolonisation of trees across the boundary line from native woodland; ii) for the recolonisation of scrub species such as gorse, birch and juniper as part of a mosaic of habitats; iii) for the reversion of land to wet grassland or wetland.

#### ***Permanent Pasture***

Whilst there are a number of measures to protect and maintain permanent pasture, there is no reference in the guidance booklet to any requirement aimed at avoiding a drop in the level of permanent pasture from 2003 levels, as required by the Commission Regulation. Information found on the SE website revealed that overall level of permanent pasture will be monitored against a 2003 baseline area and if the ratio of permanent pasture to all agricultural land falls by ten per cent the SE will apply a remedy. The SE may require producers who have reduced their permanent pasture to reconvert.

#### ***Advisory System***

Scotland appears to have been one of the most efficient Member States in finalising GAEC measures and distributing guidance. Initial guidance was made available from summer 2004, with the most comprehensive being published in October 2004 (Scottish Executive, 2004a). Accompanying preliminary information exclusively on GAEC was published as early as September 2004 (SE, 2004b), which also lists good practice guidelines. SEERAD has also organised a 'Single Farm Payment Scheme Roadshow' in November and December 2004 in order to explain the details of the CAP reform, including cross compliance. Advisory support will be provided by SEERAD, as well as SNH and SEPA.

#### ***Control System***

At the time this research was conducted SEERAD had not confirmed the nature of the inspection and control system. However it is anticipated that SEERAD will conduct the inspection regime and will involve specialist bodies such as SEPA. The farmer must allow SEERAD to inspect the holding at any reasonable time.

#### ***Extent to which Key Environmental Problems are Addressed***

The interpretation of the Regulation by the Scottish Executive appears to be relatively rigorous, with a comprehensive range of GAEC measures adopted. The option to apply a standard for crop rotations is relatively rare throughout the EU 15, and there are a number of measures aimed at retaining landscape features. Environmental benefits are likely to stem from the measures put in place to protect semi-natural habitats (through the Environmental Impact Assessment Regulations) and those which aim to ensure an appropriate level of grazing.

### 4.16.3 Wales

#### *Development of Cross Compliance*

A consultation was conducted between 5 April 2004 and 2 June 2004 resulting in 50 detailed responses. The main outcome of the consultation was to adapt the approach to soil erosion. Originally the preparation of Soil Management Plans was a requirement on farmers in the proposal (and a measure adopted by the English administration), but this has been replaced by an arguably less stringent need for the farmer to complete a risk assessment pro forma. Details are given in the GAEC section below. A Minister's announcement on the chosen standards followed on 6 October 2004, paving the way for National Assembly legislation on cross compliance to be drafted and approved at the end of 2004.

#### *The Statutory Management Requirements*

The Welsh SMRs stay true to the requirements in Annex III of Regulation (EC) 1782/2003 and are described below, as summarised from the guidance material made available to farmers (Welsh Assembly, 2004a).

#### *Wild Birds Directive*

Farmers must comply with the terms of management agreements entered into under either the Sites of Special Scientific Interest (SSSI) regime that underpin Natura 2000 sites (including Special Protected Areas and Special Areas of Conservation), or under the 1994 Habitats Regulations. The SSSI regime requires notification to the Countryside Council for Wales (CCW) of proposals to carry out any operation specified as likely to damage the protected interest of the site. CCW's prior consent must be obtained before commencing such operations.

Farmers must comply with the Wildlife and Countryside Act 1981 which relates to the intentional killing, injuring, taking or keeping of any wild bird, intentional damage to, destruction or the taking of any nest while it is in use or being built, the destruction, taking or keeping of any egg, or the disturbance of birds while they are nesting. This prohibition does not apply to the killing of certain birds outside the relevant close season. A licence can be obtained to authorise such capture and killing in prescribed circumstances. Farmers are not prohibited from killing or taking certain hutable birds provided this is done outside the relevant close season. Farmers must not use large-scale or non-selective methods of catching or killing birds, including the use of springs, traps, and electrical devices for killing, stunning or frightening. A licence can be obtained to authorise certain means of hunting, capturing and killing in prescribed circumstances.

#### *Habitats Directive*

Farmers must comply with the terms of the SSSI regime, management agreements or notices as applicable to their holding. Compliance is necessary with the SSSI regime requirements to notify CCW of proposals to carry out any operation specified as likely to damage the protected interest of the site. CCW's prior consent is required before commencing those operations. Farmers must comply with the Conservation (Natural Habitats) Regulations 1994 that states it is an offence to pick, collect, cut, uproot, destroy, keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild plant of a European protected species (including any part or derivative of such a plant). Farmers are also prohibited, under the same Regulation, from using certain methods of killing or taking wild species, including for example the use of blind or mutilated animals as live decoys. The SMR also governs the regulation of the introduction of non-native species prejudicial to native wildlife.

#### *Groundwater Directive*

Under the Groundwater Regulations 1998, land managers will require an authorisation from the Environment Agency (EA) before disposing various substances (list I and list II) on land.

The major consequence of this is that farmers will require an authorisation for the disposal of used sheep dip and pesticide washings. Where list I and list II substances are otherwise used, manufactured, stored or handled, farmers will be expected to comply with relevant codes of practice i.e.: Disposal of Sheep Dip Code, Petrol Storage Code and Sceptic Tanks Code. Where it is necessary for the protection of groundwater, the EA will serve a Notice that requires the activity to comply with certain conditions, or, where the risks cannot be controlled, will be prohibited altogether.

#### *Sewage Sludge Directive*

The Sludge (Use in Agriculture) Regulations 1989 (as amended) implement the obligations of this SMR in order to prevent harmful effects on soil, vegetation, animals and man. In proposed amendments to the Sludge Regulations, there will be additional precautions to be taken by farmers relating to expiry periods after sludge is used for harvesting salad crops, vegetable crops, silage or forage crops, fruit crops, horticultural crops or grazing animals.

#### *Nitrates Directive*

All farmers in NVZs will need to comply with Action Programme measures. The farmer must respect the whole farm organic manure limit (ranging from 170kg N/Ha to 250 kg N/Ha) and the field organic manure limit (250 kg N/Ha), and respect the closed periods for applying nitrogen. The farmer should not spread nitrogen on the ground if it is waterlogged, flooded, frozen, snow covered or if the fields are steeply sloping. Fertilisers and manure should be spread as evenly and accurately as possible, manure must not be applied within 10m of watercourses, and fertilisers should not be applied in such a way that they enter water courses. The farmer should also have sufficient slurry storage facilities to cope with the closed periods and keep adequate farm records on cropping details, livestock numbers and fertiliser and manure usage.

#### ***Good Agricultural and Environmental Condition***

The GAEC measures published by the Welsh Assembly (Welsh Assembly, 2004b) have been summarised below.

##### *1. Soil management checklist.*

All farmers will need to complete a soil management checklist in order to identify problems with soil erosion, soil structure and loss of organic matter on their holdings. The questionnaire was first sent to farmers in November 2004 and will ask farmers to check a list of possible symptoms on their farms and to provide details of remedial action they are taking to address the problem identified. If there is a problem the farmer will then need to obtain advice and prepare and implement a soil management plan (SMP). Failure to complete the checklist and return it to the Divisional Office of the Environment, Planning and Countryside department will be a breach of cross compliance requirements. If the farm is selected for inspection then the checklist will form part of the check.

##### *2. Avoid overgrazing/management of supplementary feeding sites.*

Farmers will need to avoid overgrazing and properly manage supplementary feeding sites. This measure should prevent land from being severely trampled or poached by livestock, but does not apply to areas around gateways provided that the land is not an archeological feature or is likely to cause run off to adjacent watercourses. Farmers are advised to immediately remove livestock from land where this occurs and regularly rotate supplementary feeding sites. Supplementary feeding sites on semi-natural habitats, archeological features or within 10m of watercourses are prohibited.

##### *3. Minimum level of soil cover.*

All cultivated land over the following winter must also either have crop cover, stubble cover or be primarily cultivated. The minimal cultivation of fallow over winter is recommended. Although not a specified measure, farmers are also advised that grass

buffer zones at the bottoms and sides of cultivated slopes and around gateways will help to prevent run off on harvested maize and forage crops such as swedes which are grazed during the winter.

4. *Soil structure.*

Farmers are instructed to avoid any cultivations if water is standing on the surface or if the soil is saturated. Farmers are advised to minimise vehicle movements on land in wet conditions.

5. *Undergrazing.*

Farmers are asked to avoid this by using an appropriate grazing or cutting regime, although there could be exceptions under an agri-environment scheme. No minimum stocking density is required.

6. *Avoiding the encroachment of unwanted vegetation on agricultural land.*

Farmers will need to monitor the land for infestation of invasive species such as rhododendron, gorse and giant hogweed. Encroachment by native species could be permitted where it has environmental benefits.

7. *Set Aside.*

The present set-aside management rules must be adhered to.

8. *Retention of landscape features.*

a. Field boundaries, which include stonewalls and hedgebanks among others, will need to be retained, protected and not wilfully damaged. This is extended to a separate requirement to retain, protect and not wilfully damage stone sheep folds and traditional stone buildings.

b. The cutting, coppicing and laying of hedgerows is also covered by this standard, all of which are not permitted between 1 March and 31 August.

c. The farmer must retain, protect and not wilfully damage a range of landscape features including wetlands, shelterbelts, trees protected by Tree Preservation Orders and archaeological features

9. *Respect the heather and grass burning codes.*

Burning is not allowed between 1 November and 31 March in the lowlands and between 1 October and 15 April in the uplands.

10. *Retention of permanent pasture.*

Farmers must not plough, undertake new drainage work, drain, re-seed or cultivate permanent pasture except where this is part of the normal rotational management of the land or where it is environmentally beneficial and complies with EIA (Uncultivated Land and Semi Natural Areas) Regulations 2002.

***Permanent Pasture***

The Welsh Assembly had not made an announcement on any controls that would be put in place to maintain the ratio of permanent pasture against 2003 levels at the time this report was written.

***Advisory System***

In September 2004 the Welsh Assembly published a colour booklet which introduced cross compliance to farmers. Detailed factsheets on the SMR and GAEC requirements were produced and sent to farmers in December 2004, accompanied by a series of presentations across the country. The December 2004 edition of *Gwlad*, a newsletter prepared by the Welsh Assembly's Countryside Department, was dedicated to the CAP reform (Welsh Assembly,

2004c). Farmers have been told that they should contact their local Divisional Office or Farm Liason Team in order to gain advice on any aspect of the changes created by the CAP reform.

### ***Control System***

The Welsh Assembly, as the competent control authority, expects that 300 of the estimated 22,000 single farm payment applicants will be subject to a formal cross compliance inspection each year. At the time of writing, details of the inspection, enforcement and appeals system had yet to be finalised.

### ***Extent to which Key Environmental Problems are Addressed***

As with the other UK countries, the Welsh approach to cross compliance is relatively comprehensive. The verifiable standards for the SMRs should further ensure that farmers are complying with the Directives, as transposed into national legislation. The Soil Management Checklist should enable farmers to identify any problems on their holding, but a lack of information on the proposed remedial actions makes it difficult to assess how well problems of soil erosion will be addressed. As with the other UK countries, there is a strong emphasis on retaining landscape features, and on methods to tackle both overgrazing, and to a lesser extent, undergrazing.

## **4.16.4 Northern Ireland**

### ***Development of Cross Compliance***

A consultation was carried out by DARD (Department of Agriculture and Rural Development) between 9 April and 18 June 2004, and received replies from all interest groups.

### ***The Statutory Management Requirements***

The verifiable standards for each of the five environmental Directives are listed below as they appear in the list that was published on 16 November 2004 (DARD, 2004a).

#### *Wild Birds Directive*

For Areas Within Natura 2000 Sites:

- no evidence of non-compliance with terms of management agreements;
- no evidence of the carrying out of operations or activities, specified in the Area of Special Scientific Interest notification as likely to damage the interests of the Special Protection Areas, which have not been notified to EHS and have not been consented.

On All Land:

- no evidence of non-compliance with the provisions of Articles 5, 7 and 8 as implemented by the 1985 Wildlife Order and conservation regulations.

#### *Habitats Directive*

For areas within Natura 2000 Sites:

- no evidence of the carrying out of operations or activities specified in the Area of Special Scientific Interest notification as likely to damage the interests of the Natura 2000 site which have not been notified to Environment and Heritage Service and consented to, or evidence of developments that require a consent for which that consent has not been given;
- no evidence of non-compliance with terms of management agreements.

For all land:

- no evidence of destruction, cutting or uprooting of protected plant species;
- no evidence of use of prohibited methods of killing or taking wild species;
- no evidence of non-compliance with measures designed to regulate introduction of non-native species.

#### *Groundwater Directive*

- No evidence of the pollution of groundwater and/or surface water by pesticides, sheep dip or oil.
- Farmers must comply with the conditions of an approved groundwater authorisation.
- Farmers will be required to produce upon request satisfactory records that indicate that no breach of the legislation has occurred.
- Farmers will be required to ensure the proper siting, operation and maintenance of a sheep dipper.
- No evidence of the pollution of groundwater and/or surface water by pesticides, sheep dip or oil.

#### *Sewage Sludge Directive*

- Sewage sludge must be analysed before application, according to the sludge table within the Regulations, this analysis should be carried by the sludge producer at least every six months.
- The soil within the application area must be analysed by the sludge producer to determine the pH and metal concentrations as detailed in the soil table within the Regulations.
- Sewage sludge must be used in a manner that takes account of the nutrient needs of plants and ensures that the quality of the soil and of surface waters and groundwater is not impaired.
- Sludge producers are required to maintain a register providing details on the sewage sludge produced and supplied each year for use in agriculture. The register must include the names and addresses of those supplied with sewage sludge, the quantity used and the location of application along with the results of soil and sludge analyses.
- Sewage sludge is not to be applied if the soil pH is below pH5.
- The application of sewage sludge must not increase the metal concentrations in the soil above the limits as set in the sludge table in the Regulations.
- No fruit or vegetable crops other than fruit trees should be growing or being harvested in the soil at the time of sewage sludge application.
- Grazing of animals or harvesting of forage crops must not occur within three weeks from the date of sewage sludge application.
- Fruit and vegetable crops, which are grown in direct contact with the soil and eaten raw must not be harvested within ten months from the date of sewage sludge application.
- Where untreated sewage sludge has been applied without injection into the soil, it must be incorporated into the soil as soon as practicable.
- Where sewage sludge is used on agricultural land, its occupier must provide the sludge producer with details as to the date and quantity of the sludge used, address and area of the agricultural unit to which it was applied, and the name and address of the sludge supplier, if different from the producer.

#### *Nitrates Directive*

- Compliance with Action Programme Measures.
- Farmers will be required to produce upon request satisfactory records as required by the legislation.

#### ***Good Agricultural and Environmental Condition***

The guidance published by DARD states that there are six main GAEC measures. The measures and accompanying guidelines (in some cases) are described below.

##### *1. Soil management.*

- a. Protect soils from erosion and maintain soil structure by preventing land from being severely trampled or poached.



- It is suggested that livestock grazing should be managed appropriately according to ground and climate conditions to ensure soil erosion does not occur. It is recommended that riverbanks which are prone to erosion by livestock require protective fencing.
- b. All cultivated land must have either crop cover, stubble cover, grass cover or be ploughed or disced (a method of soil cultivation lighter than ploughing) over the following winter. Finely tilled seedbeds are not permitted over the winter. Compliance with the Nitrates Directive measures relating to land use management will become mandatory in line with Action Programme Regulations to be introduced in 2005.
  - Green cover (grass or stubble) is preferable to prevent erosion and nutrient loss.
- c. Do not carry out any cultivations if water is standing on the surface, or if the soil is saturated.
  - To minimise erosion, compaction and rutting of the soil. Vehicle movements on land in wet conditions must be minimised.

The introduction of Soil Management Plans will not be a general requirement but will be considered in individual cases if a significant breach of the measure is identified.

## 2. *Supplementary feeding site management.*

- a. Supplementary feeding sites on semi-natural habitats, archaeological sites or within 10m of waterways or 50m from a borehole or well are prohibited.
  - Definitions and descriptions of semi-natural habitats will be provided to farmers. Archaeological features are all extant historic or archaeological sites which have been identified by the Department of the Environment in the Sites and Monuments record.
- b. Supplementary feeding sites should be rotated and managed to prevent excessive trampling/poaching or vehicle rutting to minimise soil erosion and to avoid runoff to waterways.
  - Supplementary feeding sites should be sited on hard core areas avoiding habitats and sites on hard areas will not require rotation provided they are sited more than 10m for a waterway and 50m for a borehole or well, and where there is no risk or runoff reaching a waterway.
- c. Sacrifice areas/paddocks are not permitted.

## 3. *Avoid overgrazing.*

Avoid overgrazing grassland, semi-natural habitats or archaeological sites with livestock in such numbers which would damage the growth, quality or species composition of vegetation on that land to a significant degree (i.e. where there is no vegetative cover and/or there is evidence of run off or standing water) or destroy the archaeological feature. This measure does not apply to areas within 5 metres around gateways/laneways provided this land is not a semi-natural habitat, archaeological site or is likely to cause run off to adjacent waterways.

- No minimum or maximum stocking rates will apply but farmers receiving the Less Favoured Area Compensatory Allowance must adhere to the minimum stocking rates of 0.2LU/ha.

## 4. *Avoid undergrazing and the encroachment of unwanted vegetation.*

- a. Undergrazing must be avoided by using appropriate grazing or cutting management, except where it is deemed necessary for environmental management for example, as part of an agri-environment scheme management agreement.
  - No minimum stocking rate is required. The farmer must take remedial action or seek professional advice if stock numbers decrease significantly. The LFA minimum must be respected.
- b. Avoid infestation by species such as rhododendron, gorse, giant hogweed, Japanese knotweed and other noxious weeds which degrade the agricultural and environmental

value of land to such an extent where the land is not capable of returning to agricultural production by the start of the next growing season.

- Farmers are advised to take action through appropriate grazing, topping or other permissible control methods.

5. *Retain field boundaries.*

a. Removal of field boundaries (dry stone walls, ditches, hedges, earthbanks) is not permitted except by prior written permission from DARD.

- Hedges are defined as hedgerows, hedge banks, rows of trees and hedgerow trees. Ditches are “sheughs”/open channels with or without water

b. Hedge cutting/ coppicing or laying is not permitted between 1 March and 31 August. Derogations for hedge cutting dates will be granted where health and safety is an issue for example for roadside and lane hedges.

- DARD advice is that where hedges are cut, this should be in a two or three year rotation and ideally during January and February to provide a food resource for farmland birds.

6. *Retention of permanent pasture, semi-natural habitats, archaeological features and earth science sites.*

a. Retain uncultivated land, semi-natural areas such as woodland/scrub, wetlands, species rich grasslands, moorland, ponds, shelterbelts, trees protected under the Tree Preservation Order, archaeological features and earth science sites. The EIA Uncultivated/Semi-natural Areas Regulations 2001 will be enforced. In-filling, reclamation, extraction of peat, sands or gravels is not permitted without necessary permissions.

- Uncultivated land is classed as land with less than 25% ryegrass, and/or white clover or other sown grass species. The EIA regulations mean that farmers must not undertake new drainage works, ploughing, clearing, levelling, re-seeding or cultivating on uncultivated land or semi-natural areas unless approved under the EIA Regulations. No restrictions on the conversion of permanent pasture to arable cropping will be imposed providing farmers comply with the EIA regulations and the national area of permanent pasture is not reduced by more than 5% of the total agricultural area. Measures to halt/reverse loss of permanent pasture will be brought forward if 5% is breached. A control mechanism will be put in place to ensure this requirement is met. The EIA regulations will ensure that all ploughing of environmentally valuable permanent pasture is properly risk assessed.

b. Heather and gorse burning is not permitted between 15 April and 31 August.

***Permanent Pasture***

Measures to control the level of permanent pasture have been incorporated by DARD in the sixth GAEC measure above.

***Advisory System***

Farmers received very basic information on the CAP reform in September 2004, where the focus was on the SFP entitlement rather cross compliance. In December 2004, the Department of Agriculture and Rural Development will issue a booklet to all farmers providing details of the cross compliance verifiable standards, together with associated guidance, in respect of the nine Statutory Management Requirements that come into effect in 2005 and the Good Agricultural and Environmental Condition standards. A booklet setting out the cross compliance enforcement and sanction system will also be issued in December 2004. Information on the Statutory Management Requirements that come into effect in 2006 and

2007 will issue separately 'in due course'. Advice will also be available, as at present, through a variety of avenues including development advisers, the College of Agriculture, the GFP host farms and the network of Focus Farms. There is no information at present on what form the farm advisory system for 2007 will be, though it is expected that it will build on the existing framework.

***Control System***

The inspection and breach framework is currently being worked on by inspectors from the Department of Agriculture and inspectors from the individual authorities with responsibility for each Directive. There is an aim to combine inspections, although the official line has yet to be announced.

***Extent to which Key Environmental Problems are Addressed***

The implementation of standards to meet the requirements of the SMRs and GAEC appear to be in line with the Commission's expectations. Uptake of management methods to meet the requirements of the environmental Directives should improve through cross compliance, and the GAEC measures appear to respond to most of the relevant standards of Annex IV. The soil erosion and grazing requirements should be particularly beneficial to semi-natural habitats, as should the concentration of measures on requiring farmers to implement an optimum grazing regime to avoid soil erosion problems.

## 5 COMPARATIVE ANALYSIS OF THE DESIGN AND IMPLEMENTATION OF CROSS COMPLIANCE IN THE EU 15

### 5.1 Introduction

This section compares and contrasts the different approaches to cross compliance implementation adopted in the 15 EU Member States. The first sub-section discusses the different ways Member States have engaged with stakeholders in the development of cross compliance measures. The following section analyses how Member States are approaching the SMRs. A particular emphasis is placed on the verifiable standards Member States have chosen to fulfil the SMRs for the Birds and Habitats Directives. The following section examines different Member State approaches to GAEC, and provides an assessment of what the GAEC measures could offer for biodiversity across the EU15. The final two sections compare how Member States have been developing the farm advisory and inspection and control systems. The report ends by providing some overall conclusions.

### 5.2 Analysis of the Development of Cross Compliance

This section shows whether a Member State utilised a consultation procedure as part of their development process to define cross compliance measures. The table below indicates, based on the available information, whether a working group was established, whether a public consultation took place, and whether environmental NGOs or farmers' organisations were involved at any stage. A gap in the table does not necessarily mean a gap in the consultation process, but could mean a gap in the data collected.

**Table 3. Approaches to Consultation on Cross Compliance in the EU 15**

Member State	Description of Consultation Conducted			
	Working Group	Public Consultation	Environmental NGOs Involved?	Farmers' Union Involved?
Austria	•			•
Belgium				?(FI)
Denmark		•	•	•
Finland	•		•	•
France	•	•	•	•
Germany	•	•	•	•
Greece	•			•
Ireland	?	•	•	•
Italy	•		•	•
Lux	?	?	?	?
Netherlands		•	•	•
Portugal	?	?	?	?
Spain	•		•	•
Sweden	•	•	•	•
England	•	•	•	•
Scotland	•	•	•	•
Wales	?	•	•	•
NI	?	•	•	•

The constitution of working groups varied between Member States, and in all countries the group was not composed exclusively of officials from the relevant governmental ministries. It is the impression of IEEP that whilst the integration of farmers' unions into the discussion process was common practice across the 13 Member States for which information is available, the involvement of environmental groups was more dispersed, and when such

groups were involved, they were often of marginal relevance to the overall discussion. This is perhaps surprising given the environmental focus of both the SMRs and GAEC.

It seems to IEEP that environmental NGOs were able to exert greater influence through the public consultation process. Each of the four regions of the UK was particularly active in conducting public consultations, and the English proposals attracted a total of 465 responses from a range of interest groups. In other countries, formal proposals could be challenged in public hearing sessions, as was the case in Sweden and Germany.

It is difficult to assess whether the consultation process significantly affects the final decision taken by the responsible officials, or whether it is an embellishment designed to make the decision making process more acceptable to the public eye. It can be argued that those Member States which sought the involvement and opinions of environmental non governmental organisations (NGOs), and other organisations such as farmers' unions have shown a greater transparency and openness to assessing what cross compliance can be used to achieve. The challenge for Ministries that have consulted widely is to balance often contradictory views from environmental NGOs on the one hand, and farmers' groups on the other, as to what cross compliance should deliver environmentally. There are some examples of the influence of the environmental lobbies in some Member States. The key example is the restriction imposed on farmers in Denmark, Germany and the UK not to cut or mow plant cover between certain dates over the summer months, which is the main breeding season for nesting birds. In England, the adoption of 2m protective zones next to hedges and watercourses, a vital measure for biodiversity, was adopted despite intense pressure from the farming community to reject it.

### **5.3 Analysis of Annex III Implementation**

It is the impression of IEEP, based on the data collected, that Member States have had similar experiences with the implementation of the SMRs. A brief analysis of the SMRs for each of the environmental Directives is presented below.

#### *5.3.1 Wild Birds and Habitats Directives*

The implementation of cross compliance rules for the birds and habitats Directives offers substantial scope to address biodiversity concerns in Member States. In considering the ways Member States have implemented SMRs for the birds and habitats Directives, it is worth looking at the scope offered by Annex III of Council Regulation 1782/2003.

For the birds Directive, Member States must:

- Create protected areas & biotopes, management of habitats to preserve, maintain & re-establish sufficient diversity/habitats for wild birds (Article 3).
- Prohibit the deliberate capture, killing, disturbance of wild birds, & destruction/damage to nests (Article 5).
- Permit hunting of certain wild birds without jeopardizing conservation efforts (Article 7).
- Prohibit use of certain methods to hunt birds eg snares (Article 8).

For the Habitats directive, Member States must:

- Protect designated sites against deterioration of habitats (Article 6).
- Prohibit deliberate picking, destroying etc of protected species (Article 13).
- Prohibit certain methods of killing or capturing wild species (Article 15).
- Regulate introduction of non-native species if prejudicial to native wildlife (Article 22b).

This analysis is based on imperfect information as many Member States had not finalised their plans when fieldwork was conducted in November 2004. Therefore Table 4 indicates, according to this information, where SMR rules might be being applied. A gap in the table does not necessarily mean that no requirements have been made by the Member State; the gap may be attributed to a lack of available information.

**Table 4: Overview of Measures Adopted by Member States in the EU 15 to meet the requirements of Annex III.**

<b>Birds Directive</b>	AT	BE (Fl)	BE (Wa)	DK	FI	FR	DE	GR	EI	IT	LU	NT	PO	ES	SE	EN	SCO	WA	NI
Create protected areas & biotopes, management of habitats to preserve, maintain & re-establish sufficient diversity/habitats for wild birds.	•	•	•	•		•	•	•	•			•	•	•		•	•	•	•
Prohibit the deliberate capture, killing, disturbance of wild birds, & destruction/damage to nests.		•					•		•						•	•		•	•
Permit hunting of certain wild birds without jeopardizing conservation efforts							•		•							•		•	•
Prohibit use of certain methods to hunt birds eg snares.							•		•						•	•		•	•
<b>Habitats Directive</b>																			
Protect designated sites against deterioration of habitats.	•	•	•	•		•	•	•	•			•	•	•	•	•	•	•	•
Prohibit deliberate picking, destroying etc of protected species									•						•	•		•	•
Prohibit certain methods of killing or capturing wild species									•						•	•		•	•
Regulate introduction of non-native species if prejudicial to native wildlife.																•		•	•

	Insufficient information available to make a judgement.
•	Measure(s) implemented. The degree, rigour and level of sophistication of the measure(s) implemented to meet the SMR standard varies between Member States.





From the information available, the table shows that most Member States appear to be setting requirements for farmers to observe the management requirements of Natura 2000 sites. This is certainly a requirement for farmers in Belgium, Denmark, the Netherlands, Sweden and the UK. Other Member States, for example Greece and Spain, are continuing to establish and define management requirements for new Natura 2000 sites. It could be argued that the need to define SMRs is spurring on these Member States to designate SPAs and SACs, and to decide on the environmental standards that will apply to them. Within those Member States that have an established Natura 2000 network, work is continuing to define verifiable standards that will be possible to inspect, as is the case with Sweden.

Given the limited information available, it is difficult to assess the potential benefit to biodiversity that these verifiable standards could deliver. Examples of good management, from a biodiversity perspective, include Wallonia, where grasslands in Natura 2000 sites cannot generally be ploughed up, thus preserving an important habitat, and the standards farmers must meet in Ireland if they farm within a Special Protection Area or a Special Area of Conservation.

Countries with a regional organisation are deciding how to determine a uniform level of enforcement standards across the entire country, which is the case for Austria, and could be an issue for Germany and Italy where regional administrations have the power to define regional standards.

Other Member States could only be partially implementing management requirements for protected sites. The key example that arises from this study is the current situation in France, whereby the French Ministry of Agriculture has not confirmed that the non-destruction of habitats will form a SMR rule.

It has been more difficult to discern what requirements will be placed on farmers in respect of the other articles of the birds and habitats directives that apply to cross compliance. The table shows that a number of Member States appear to be taking definite steps to put measures into place in order to meet some of these requirements. For example, in relation to the birds Directive, farmers are instructed not to kill or capture certain species of wild birds and not to destroy eggs or nests (as in Finland, Germany, Sweden and England). In relation to the Habitats Directive, farmers are required not to significantly alter the landscape by abiding with prohibitions on, for example the destruction of trees and hedges (in Wallonia) or ploughing grasslands (as in Finland) or the cutting of vegetation (as in Ireland).

Of the five environmental Directives, it would seem that Member States appear to have had the greatest difficulty defining standards for these two. Most Member States are in the process of defining verifiable standards which can be appropriately applied at the farm level. An added complication in ensuring satisfactory farm-level cooperation and compliance is that farmers require some degree of 'environmental' knowledge, for example in recognising plant, animal and birds species as opposed to 'agricultural' knowledge, which is usually required by the other Directives. The transfer of environmental knowledge to farmers by Member State authorities is therefore necessary for the successful integration of these two Directives into cross compliance.

As the above commentary illustrates, there are a number of negative and positive aspects of implementing these SMRs.

Negative aspects include:

- No implementation of the birds and habitats Directives in relation to farming, eg. Italy
- Partial implementation of the birds and habitats Directives, eg. France

- Difficulty of defining verifiable standards at the level of the individual farm holding.
- Insufficient rate of inspection and enforcement to identify cases of non-compliance.
- Differences in level of standards a farmer must meet in Member States with a regional structure e.g. Austria.
- Lack of clear understanding or knowledge of the Directives on the part of the farmer.
- Lack of information available on standards to address articles 4, 5, 7 and 8 of the birds Directive.
- Lack of information available on standards to address articles 13, 15 and 22(b) of the habitats Directive.
- These Directives pre-date cross compliance. Therefore, although the SMRs offer no new scope for further protection, they should re-enforce existing requirements that farmers should already be aware of and complying with.

Positive aspects include:

- Comprehensive set of cross compliance rules in certain Member States. This is especially the case for the UK and Ireland.
- Increasing awareness of nature protection issues at the level of the individual farm.
- Re-enforcement of existing legislation, and in certain cases, cross compliance has sped up the designation of protected areas

However, given that this study is not comprehensive, but rather presents a general overview of Member States' level of thinking with regard to these Directives, it is difficult, and perhaps inappropriate to draw any major conclusions as to how the measures put in place to satisfy the birds and habitats Directives will address biodiversity issues in Member States. The information required to enable this probably needs to be the subject of another, more targeted study.

#### *Groundwater Directive*

The SMRs required by Member States are closely related to the requirements of the specified articles of the Groundwater Directive. The predominant SMR is for farmers not to dispose dangerous substances, such as organophosphorus compounds into groundwater, either directly or indirectly. Some Member States have reacquainted farmers with the restricted substances by listing them in Annexes to the guidance material being sent to farmers (for example, Austria, Denmark and Ireland). Another common SMR is for farmers to ensure that all on-farm storage facilities (for fuel, oil and pesticides) are leak free and adequately sited (as in Flanders, Wallonia, Germany and Ireland). Farmers in certain Member States also need to obtain permits for the disposal of certain listed substances. For example, farmers in England require a permit from the Environment Agency in order to dispose of spent sheep dip.

#### *Sewage Sludge Directive*

The SMRs closely relate to the requirements of the Directive. For example, a number of Member States require farmers to assess and certify the suitability of the ground for the spreading of sludge (including, Austria, Finland, Ireland and Sweden), by conducting a soil analysis (Portugal and Northern Ireland) or by analysing the suitability of the sludge for spreading (as in England and Northern Ireland). From the evidence gathered, some Member States are requesting farmers to respect spreading quantities, which is the case for farmers in Austria, Wallonia, Germany and Portugal. The spreading of sludge on areas of fruit growing is restricted in, for example, Finland, Germany, England and Wales. Other farmers must abide by more specific regional regulations, as in Austria, undertake and comply with a nutrient management plan, as in Ireland and perform certain administrative obligations, such as keeping a record of the source of the sludge and the quantity spread, which is an obligation in Finland and Portugal, amongst others.

#### *Nitrates Directive*

The majority of Member States have issued detailed standards relating to a number of requirements on the management of the application of nitrogen. However, Greece is enduring implementation lags in the designation of Nitrate Vulnerable Zones, and Ireland is currently in the process of transposing the Directive into national legislation, and is therefore as yet unable to establish verifiable standards. The Manure Bank system in Flanders has also received criticism. Most other Member States, from the data gathered, have set a similar range of requirements. For example, most Member States have issued a requirement for farmers to ensure they have sufficient on-farm storage capacity for slurry, and to respect the permissible quantities for the application of manure. Another common standard is for farmers to respect the prohibition periods for the application of manure and to maintain a record of spreading practices. To embed these practices into farming practice farmers need to a certain amount of environmental, as well as agricultural knowledge. Comprehensive and clear guidance material therefore needs to be produced, and particularly good examples, at this stage, appear to have been produced in the UK, Flanders, Austria and Germany.

#### *Conclusions on the implementation of Annex III*

The establishment of SMRs in most Member States follows the relatively stringent requirements of the Directives and hence the requirements adopted are the same, if not similar between all the Member States for which information is available. However, from the information gathered, there does seem to be some variability in the number of standards farmers in different Member States will need to comply with. Whilst Member States have had relative ease in choosing what should be included within the SMRs, they have experienced greater difficulty in defining verifiable and controllable standards in order to monitor compliance with SMRs. There has been difficulty in defining clear and comprehensible standards so that farmers can readily know whether or not they are complying with them. This is particularly the case for the development of verifiable standards for the Birds and Habitats Directives, and for Member States which have a regional structure and must develop standards which are consistent nationwide.

#### **5.4 Analysis of Annex IV Implementation**

It is clear that Member States have chosen a wide range of measures through which to implement Annex IV. These measures vary according to the number of Annex IV standards addressed and the detail in which each Annex IV standard has been addressed. The majority of Member States have implemented measures for some, but not all of, the standards in Annex IV. The measure then chosen to implement a standard varies from the very basic to the more complex. Some Member States have chosen one simple measure to apply to an Annex IV standard, others have adopted one, more complex measure, and others have chosen several measures for one standard. The level of rigour and thoroughness in approaching Annex IV is clearly variable.

The range of Member State approaches to GAEC is summarised in Table 5. The table displays which Annex IV standards each Member States has chosen to implement a cross compliance measure for. The table does not present a detailed assessment of the level of coverage or amount of ambition involved in applying any of the Annex IV standards. Indeed, some of the Annex IV standards are not viable options as the standard is irrelevant to the national context. It should be noted that the production of this table involved a level of subjective interpretation and should not be considered conclusive. Furthermore it is based on information collected during November 2004, which could have been superseded by decisions taken later as Member State finalised their cross compliance measures. In addition, it should be noted that no information could be collected for Greece or Luxembourg.

### 5.4.1 Comparative analysis of measures adopted

The Annex IV standard that has been addressed by the biggest number of Member States in the EU 15 is the standard of ‘minimum soil cover’, whereby most Member States have placed a requirement on farmers to either maintain a green cover on arable land after harvesting or on used arable land. The second most predominant standard tackled was for the ‘protection of permanent pasture’ and the third ‘avoiding the encroachment of unwanted vegetation on agricultural land’, where only Germany and the Netherlands have not designated a specific corresponding measure. The standard of ‘arable stubble management’ has been approached by nine Member States, where the prevailing requirement on farmers is not to burn crop residues.

A number of the Annex IV standards have only attracted an implementing measure in a minority of Member States. Measures for ‘standards for crop rotations where applicable’ have only been implemented in three Member States, and within one administrative region in another (this example is dealt with in greater detail below). Similarly, only five of the 13 Member States surveyed have chosen to implement a measure for ‘appropriate machinery use’. This could signify that some Member States are purposefully avoiding the implementation of measures that could be difficult to monitor and control (for example, standards for crop rotations). In contrast there are certain Annex IV standards that are not relevant to all Member States and have therefore not attracted widespread implementation. The standard for retaining terraces under soil erosion is clearly of relevance only to a minority of Member States and has been implemented in Austria, Germany, Italy, Spain and somewhat surprisingly, the Netherlands. The standard to retain landscape features, which should be relevant to all Member States, has only been rigorously endorsed by the four administrative regions within the UK, Germany, Ireland, and to a lesser extent in Finland.

There is a wide variability in the measures adopted to approach the issue of soil erosion. Some Member States have been more ambitious than others by choosing arguably more sophisticated measures to approach the issue of ‘minimum land management reflecting site specific conditions’. Management options are more straightforward, for example requesting farmers to undertake an appropriate grazing regime in order to avoid poaching through overgrazing at supplementary feeding sites (for example, Ireland), or to restrict tillage operations in the vicinity of watercourses (for example, Austria). Some Member States have committed themselves to implementing more sophisticated procedures, where the management of the land is dependant on an inspection procedure to determine and remedy any problems (England and Wales), or to implement a management method that accounts for the steepness of the farmed slope (as is the case in Italy, Netherlands and Spain). In Finland, England and France, the requirement to place uncultivated buffer strips next to watercourses, will in particular reap multiple environmental benefits. Firstly, these strips should assist in reducing soil erosion, and reduce the risk of siltation by decreasing the displacement of soil particles into watercourses. In addition, the amount of nutrient runoff entering buffered watercourses should also decline. Uncultivated strips should also provide biodiversity benefits and act as a wildlife corridor. The breadth of methods adopted across the EU 15 reflects national circumstances and the environmental outcomes are likely to be highly variable as a result.

The range of approaches to the issue of soil organic matter is similarly varied. As stated above, the most common method implemented by Member States is a requirement on farmers to abide by restrictions on burning stubble. Only in France, Germany, Ireland and in the UK, Scotland, has a measure for ‘standards for crop rotations where applicable’ been applied. However the measure is presented as optional in France and Scotland, thus weakening the potential environmental benefits that could be delivered by the measure. The limited adoption of this standard into national cross compliance measures could represent a setback environmentally. However, it is arguable that many European farmers already

practice crop rotations and will continue to do so despite the lack of the formalisation of the standard into national cross compliance rules. Germany and the region of Flanders in Belgium have adopted a measure which could be considered possibly to be beyond the scope of Annex IV. It is difficult to see how a measure to evaluate the level of soil organic matter fits in with the standards on crop rotation or the standard on arable stubble management. It would appear that Member States have exercised considerable flexibility in their interpretation of the Annex IV requirements.

It can be argued that certain cross compliance measures cover more than one Annex IV standard. As mentioned above, one example is the restriction on tillage operations next to waterways in Austria, Finland, France and England. Similarly the standards for 'minimum land management reflecting site management practices' under the issue of soil erosion and the 'minimum livestock stocking rates or/and appropriate regimes' under the issue of minimum level of maintenance have been tackled by some Member States, including the UK and Ireland, by adopting a single measure to manage livestock densities. This approach means that soil erosion problems created by, for example, high stocking densities at feeding sites, are tackled through measures to address the standard of appropriate livestock regimes. Not one Member States has decided to introduce a minimum livestock stocking rate as part of cross compliance although several refer to the need to prevent under or over grazing and the need for appropriate grazing regimes.

**Table 5: Overview of Measures Adopted by Member States in the EU 15 to Meet the Requirements of the Annex IV Standards**

ISSUE	STANDARD	AT	BE FI	BE Wa	DK	FI	FR	DE	GR	IE	IT	LU	NL	PT	ES	SE	UK				
																	EN	SC	WAL	NI	
Soil erosion:	Minimum soil cover	•	•	•	•	•	•	•		•			•	•	•	•	•	•	•	•	
Protect through appropriate measures	Minimum land management reflecting site-specific conditions	•	•	•		•	•			•	•		•	•	•			•	•	•	•
	Retain terraces	•						•			•		•		•						
Soil organic matter:	Standards for crop rotations where applicable						•	•		•									•		
Maintain soil organic matter levels through appropriate practices	Arable stubble management	•	•	•		•	•	•		•	•			•	•			•	•	•	•
Soil structure:	Appropriate machinery use	•				•				•					•			•	•	•	•
Minimum level of maintenance:	Minimum livestock stocking rates or/and appropriate regimes									•					•			•	•	•	•
Ensure a minimum level of maintenance and avoid the deterioration of habitats	Protection of permanent pasture	•	•	•	•	•	•	•		•	•			•	•	•		•	•	•	•
	Retention of landscape features	•				•		•		•								•	•	•	•
	Avoiding the encroachment of unwanted vegetation on agricultural land	•	•	•	•	•	•			•	•			•	•	•		•	•	•	•

KEY

	Insufficient information available to make a judgement.
	Measure not implemented or measure not clearly discernible from information available.
•	Measure(s) implemented. The degree, rigour and level of sophistication of the measure(s) implemented to meet the Annex IV standard varies between Member States.

A number of GAEC measures seem, despite the good intentions of the implementing authority, poorly designed, and hence could produce relatively few environmental benefits. One example is for ‘appropriate machinery use’ in Spain. Restricting farmers to not making ruts greater than 20cm deep appears difficult for the farmer to comply with and equally difficult to monitor, especially as various exceptions from the measure are permitted for farmers. In other cases, a number of standards placed on farmers appear to be vague, and the requirements that farmers need to comply with need to be refined in further communications. One example is the requirement for farmers to graze permanent pasture in Sweden in order to maintain it, but at the moment, there is no indication of the amount of livestock that need to be grazed, nor the amount of time the land should be grazed for.

There is a line of argument that certain Member States have introduced cross compliance measures which are beyond the scope of Annex IV. It is questionable whether the soil analysis measures in Germany and Flanders and those for irrigation in France and Spain are catered for by Annex IV. Denmark and France have also introduced measures to restrict the use of pesticides on certain areas of land, which are welcome from an environmental perspective. The inclusion of a measure to maintain public rights of way in England courted controversy during the consultation phase with farmers’ groups disputing whether footpaths and bridleways can be considered a landscape feature. These are further examples of Member States exercising considerable flexibility in determining appropriate standards for cross compliance.

#### **5.4.2 An Overview of what GAEC may offer for Biodiversity in the EU15**

Some of the standards listed in Annex IV have more potential to benefit biodiversity than others. Those standards that are likely to provide identifiable benefits for biodiversity, and examples of the corresponding measures chosen by Member States, are examined briefly in this section.

##### *Minimum soil cover*

This measure has been addressed by most Member States and is primarily a means to reduce soil erosion. For example, in Flanders and Denmark, plant cover must be present on agricultural land before 31 May and a green cover needs to be present on land no longer in agricultural production in Finland. Such measures can help to provide a habitat for birds and other wildlife. The requirement for an uncultivated strip of land at the bottom of slopes in Wallonia can also provide an area for wildlife and an opportunity for the growth of species diverse vegetation.

##### *Standards for crop rotations*

The encouragement of a crop rotation can primarily reduce soil erosion and improve soil fertility through reducing the amount of fertilisers and pesticides that need to be applied, thus providing benefits for biodiversity. For example, in both France and Germany farmers will need to grow three crops on their holding in one year.

##### *Minimum land management reflecting site specific conditions/ avoiding the encroachment of unwanted vegetation/ protection of permanent pasture*

These three issues have been combined because the corresponding GAEC measures are similar. A number of Member States have asked farmers to respect a designated period when cutting cannot be carried out. In Denmark the restricted period is from 1 May to 30 June, in Germany it is from 1 April to 15 July, in Italy it is from 15 February to 31 August, in England it is from 1 March to 31 July. This is a simple measure that should provide benefits for nesting birds. In contrast, no Member States have introduced a minimum livestock stocking rate although several refer to the need to prevent under or over grazing and the need for

appropriate grazing regimes. Where grazing regimes are followed, there can be benefits for biodiversity. However these benefits will depend very much on the type of pasture – species poor or species rich – and the management requirements imposed on farmers.

A number of Member States have made a requirement for farmers to leave uncultivated strips next to watercourses. This is the case in Austria, England, Finland and France. The measure primarily aims to reduce soil erosion into watercourses, but will also offer biodiversity benefits. The amount of run-off from arable land should be reduced, thus benefiting aquatic wildlife, and these strips can act as wildlife corridors and provide a source of food, as well as nesting cover and shelter.

#### *Minimum livestock stocking rates or/and appropriate regimes*

GAEC measures for this issue are primarily aimed at reducing soil erosion, which is the case for Scotland and Ireland. As referred to above, no Member State has imposed a minimum livestock density to avoid undergrazing. The measures implemented are unlikely to be targeted enough to produce any real biodiversity benefits, for example by aiming to develop a species-rich sward.

#### *Protection of landscape features*

Natural landscape features are afforded a level of protection through GAEC in the UK, Ireland and Germany. The requirement to retain hedgerows, probably one of the most biodiversity rich habitats to be found on agricultural land, is important. In England, the requirement to leave a 2m uncultivated margin next to hedgerows and restrictions on trimming in the bird breeding season will provide enhanced benefits for biodiversity.

### **5.4.3 Conclusions on the Implementation of GAEC**

In conclusion, there is a considerable variability in the designation of measures to implement GAEC in the EU 15. The benefits that GAEC will provide for biodiversity are therefore equally variable. This variability occurs due to the appropriateness of the Annex IV standards to the national context, the way in which Member States have interpreted Annex IV (as a list in which all standards must be complied with or a list from which Member States are able to choose standards most relevant to their situation), the influence of the farming and environmental lobbies in each country, political pressure within Member States to address certain standards or not, and the influence of direct discussions with the European Commission over the meaning of Annex IV. This variability underlines the need for thorough monitoring and regular analysis of the approach each Member State is taking to cross compliance, and the environmental benefits that are or are not being delivered.

### **5.5 Analysis of Approaches to Maintaining the Area of Permanent Pasture**

Most Member States appear to be closely following the requirements of the Regulation, and are introducing control measures in line with Article 3 of the implementing Regulation 796/2004. The Netherlands is the only Member State which is not, at the present time, considering introducing any controls on the conversion of permanent pasture. All other Member States will monitor the level of permanent pasture and have stated that they will implement obligations on farmers to reconvert if necessary. There is some variation in the details as to when farmers will be requested to either halt the conversion of permanent pasture to arable land or to reconvert arable land back to permanent pasture. Certain Member States will only implement remedial action when a ten per cent decline in the total area of permanent pasture is reached (for example, Austria and Ireland). Others stipulate requirements as soon as it becomes recognisable that a decline in the total area is occurring. For example in Wallonia



in Belgium, farmers will not be able to convert land from permanent pasture if the area is reduced to 95 per cent of 2003 levels. In Germany, if the area is reduced to 92 per cent of 2003 levels, farmers will be asked to re-establish permanent pasture. In Austria there are some more circumscribed restrictions on conversion whereby the conversion of certain types of alpine pastures is forbidden outright.

In terms of biodiversity, the maintenance of the overall level of permanent pasture could provide some benefits to wildlife. Although the preamble to Council Regulation 1782/2003 states that permanent pasture 'has a positive environmental effect', the actual benefits of restricting the conversion of pasture will depend on how species rich the pasture in question is. The effectiveness of maintaining the level of permanent pasture in providing benefits for biodiversity is weakened as the Regulation does not restrict which habitats, including species rich grasslands, can or cannot be ploughed up. However, in France, certain 'environmentally interesting' pastures cannot be converted, a restriction which should provide more net benefits for the environment.

### **5.6 Analysis of Member States' Intentions for the Advisory Services**

As Member States are bound by Article 13 of the Regulation to establish a farm advisory system by 1 January 2007, most Member States have made some progress. In the interim period of the first two years of cross compliance many Member States have also made progress with developing guidance material for farmers.

It has been indicated that in Wallonia and in the Netherlands, the farm advisory service may be established before the official start date. Others are showing a methodical consideration of what the farm advisory system could encompass, and in Finland, for example, a working group has been established to develop ideas. Many Member States, including Denmark, Germany and Greece have explicitly stated that they will consider using funding available through Pillar 2 of the CAP, through the Rural Development Regulation. However, the precise level of funding available is currently being discussed with Member States by the Commission as negotiations continue over whether the percentage of Gross National Income transferred from Member States to the EU should be reduced to one per cent. This could have implications on the budget available for measures financed through the Rural Development Regulation.

Most Member States have been active in disseminating information to farmers on what the cross compliance standards will be. This transfer of information is vital if Member States are to make a renewed commitment to ensuring farmers' compliance with the five environmental Directives, and for farmers to fully understand their obligations for the GAEC measures. IEEP has observed detailed draft or finalised material for Austria, Germany, Flanders, UK and understands Denmark, Finland, France, Ireland, Netherlands, Sweden will dispatch detailed information in late December 2004 or early 2005. The clarity of the information provided will be vital if farmers are to deliver environmental returns in line with the potential offered by national cross compliance measures.

### **5.7 Analysis of Member States' Intentions for the Administration and Control System**

Member States appear to have shared some common experiences when considering the development of the control system for cross compliance. Its development has pivoted on identifying verifiable standards which farmers are able to comply with and which inspectors can use as benchmarks for interpreting whether a farmer is complying or not. Precise standards are vital for justifying any sanctions against a farmer, but these have been difficult to develop at the farm level, not least for the Habitats and Birds Directives. Similarly, compliance with GAEC standards could be difficult if the standards are imprecise, and

compliance could be debatable, for example, for those Member States who have adopted measures for under and overgrazing. Further difficulties appear to have arisen in Member States, including Austria, where on-the-spot controls are dispersed to different regional authorities and in those Member States where controls are carried out at the level of the local authority, as in Denmark. Co-ordination between all the control bodies is therefore paramount, particularly in those Member States aiming to conduct all cross compliance controls in a single farm visit, as in Ireland. The sanction systems developed appear to be in line with that required by the implementing Regulation.

## 5.8 Conclusions

This final section aims to provide some conclusions on the likely environmental impacts of cross compliance in the EU 15 given the information gathered and analysed in this report. In particular, this section will attempt to provisionally determine whether a baseline of environmental protection will be created by cross compliance in each Member State.

In a recent conference held on cross compliance, a Commission official commented that cross compliance measures, in reference to Annex IV, should provide clear baselines which lack ambiguity.<sup>18</sup> A horizontal baseline of environmental protection has, arguably, been created by the implementation of cross compliance. In particular, Annex III should provide a reasonably uniform level of environmental protection throughout Europe. The five environmental Directives have generally been transposed into national legislation throughout the EU 15, and despite the various levels of implementation of the Directives, the rules are relatively rigid and Member States have adopted broadly similar SMRs. In contrast, Member States' implementation of GAEC appears to have been widely variable, and this is perhaps not surprising given the flexibility offered by Annex IV.

Thus whilst a new baseline for environmental protection has been created in each Member State, the level of the baseline varies throughout the EU 15, and is dependent on a number of variables. The primary variable is how the relevant government ministry officials interpret Annex IV, and it appears that some Member States have undertaken a more stringent interpretation than others. Indeed some confusion has emanated from Member States as to whether the standards listed by Annex IV must have corresponding GAEC measures, or whether the Annex is a menu from which Member States can choose the more relevant standards. The reason for this confusion stems from debate both internally within the Member State and externally with the European Commission. Another influence on the interpretation of Annex IV has been the influence of the farming and environmental stakeholders in each Member State, and in connection, the environmental remit of the implementing agricultural and, in some cases, environmental Ministries. Another layer of confusion has been added by the relative emphasis placed on the agricultural and environmental elements of GAEC, and how to make these two elements mutually compatible. All these factors combined have led to the adoption of a range of measures which will result in a range of environmental outcomes. It could be argued that Annex IV is too vague, and not targeted enough, resulting in cross compliance appearing, in environmental terms, to be 'a comparatively blunt instrument.'<sup>19</sup>

It is difficult, and perhaps, unwise at this point to assess what cross compliance will deliver or not deliver for the environment and biodiversity. There will undoubtedly be some benefits. The GAEC measures, in particular, are adaptable to national circumstances, and some Member States have used the GAEC standards to introduce measures which respond to national environmental issues. An example includes the management of farmed slopes in Spain to tackle the major problem of soil erosion. Other GAEC measures could result in

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<sup>18</sup> DG Env spokesperson at the Policy Forum on Cross Compliance in the CAP, Brussels, 1 December 2004.

<sup>19</sup> Bennett et al (2004) *Background paper for 'Policy Forum on Cross Compliance'* IEEP, London.

multiple environmental benefits. The introduction of an uncultivated buffer zone next to waterways in England and Finland, amongst others, is the predominant example, and should offer benefits for soil, water and biodiversity. Further still, are those measures which possibly reach beyond the scope of Annex IV of the Regulation and tackle major national problems. Examples of this include the management of irrigation systems in Spain and France, and detailed soil analyses in Germany and Wallonia in Belgium. The range of measures adopted, and their potential to deliver real environmental benefits, must be monitored and evaluated in the first two years in which cross compliance is implemented in order to assess whether GAEC does actually result in the land being maintained in not only good agricultural condition, but also good environmental condition.

It is important for GAEC to provide a platform for those farmers who wish to make the transition into more environmentally ambitious and targeted agri-environment schemes. GAEC is the building block on which to base payments for positive environmental management, and the threshold level of GAEC must be set to entice farmers to advance into more environmentally sophisticated management regimes. It is arguable that cross compliance should increase the standards required by agri-environment schemes as farmers should, for the most part, be uniformly delivering a minimum level of environmental management for their land by complying with cross compliance. Farmers may be concerned by how the variability in cross compliance standards across the EU 15 could impact on the issue of market competitiveness. It could be posited that some farmers may be able to be more competitive because they have to meet lower cross compliance standards as the actual costs of implementing cross compliance measures are lower than elsewhere. As a consequence, there is a risk that the farmer may opt not to receive the Single Farm Payment and therefore not abide by cross compliance measures. Such farmers will of course continue to be bound by national legislation which transposes European Directives and Regulations.

The success of cross compliance in delivering environmental benefits would appear to rest on a number of key issues. The first is that each measure adopted must be clear and not ambiguous, and the level of allowable subjectivity in interpreting the measure must be minimal. This is not only to benefit the farmer, so that he or she is exactly aware of what they must do in order to achieve cross compliance, but also for the inspectors, so that they know what to look for in determining the level of compliance. The farmers should also receive and digest guidance material that is prepared to a high standard and that is revisable pending the experiences learned from the implementation phase. This guidance should not only describe the minimum activity the farmer must carry out in order to achieve compliance, but also suggest best practice when there are options available to the farmer. A key example could be to direct farmers to grazing grasslands rather than to mow them. It is the view of the Commission that farmers must achieve an understanding that cross compliance is not an enemy but an asset<sup>20</sup>, and superlative communication to farmers will be a key to realising this. The development of the farm advisory system for 2007 will of course be vital. A further key issue is for Member States to monitor and evaluate the strength of the measures they have adopted versus the scope that Annex IV does offer, and to question whether the GAEC measures adopted do provide real advantages for the environment. This links with a requirement for the rigorous enforcement of cross compliance measures by the control system.

The Commission has indicated that Annex III requirements, at least, should be gradually strengthened as Member States better implement legislation in a clear and understandable way.<sup>21</sup> Article 8 of the Regulation states that, if necessary, appropriate proposals may be made

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<sup>20</sup> DG Env spokesperson at the 'Policy Forum on Cross Compliance in the CAP', Brussels, 1 December 2004.

<sup>21</sup> DG Env spokesperson at the 'Policy Forum on Cross Compliance in the CAP', Brussels, 1 December 2004.

with the view of amending the list of Annex III SMRs. This presents an opportunity to append further requirements that can tackle additional environmental problems not currently provided for. A proposal for new legislation on the Sewage Sludge Directive is forthcoming. Another likely candidate would be to integrate the Water Framework Directive which came into force in 2000 and requires all inland and coastal waters to reach a 'good status' by 2015. There is also scope for the inclusion of a measure on pesticide use, and perhaps more sophisticated and targeted measures for soils. The EC's 'Strategy for the Sustainable Use of Pesticides'<sup>22</sup> and proposals under the 'Thematic Strategy for Soil Protection' should be adopted in the course of 2005, resulting in the adoption of legislative proposals in 2006 or 2007. In particular, the latter will place a bigger emphasis on the protection of soils in the management plans for Natura 2000 areas, and the pesticides strategy should include measures for the adoption of best practice in river basin management, the protection of sensitive areas as well as improved controls on the use and distribution of pesticides. The future evolution of cross compliance should therefore not only see the implementation of the five environmental Directives that entered into force in 2005 strengthening, but also possibly the appendage of new environmental SMRs.

The implementation of cross compliance is at an early stage at the moment. At present, and as referred to in Article 8 of the Regulation, the European Commission shall submit a report on the application of the system of cross compliance by 31 December 2007. Pressure exerted by France in the Special Committee on Agriculture resulted in a Joint Declaration of the Commission and Council on cross-compliance<sup>23</sup> in December 2004. The Declaration states that the Commission will undertake 'an exchange of views' after the first year of application 'with regard to the experience gained and will, where appropriate, propose modifications'. The Commission also commits itself to providing 'recommendations and guidelines for a better application of the cross-compliance system based on the experience gained.'

At this stage it is difficult to judge whether a consistent environmental baseline has been set, although there is evidence that Member States have developed standards that account for both national and regional conditions. However, cross compliance deliverables and environmental impacts are likely to vary between Member States. At the very least, cross compliance, as a policy tool should mark a major change in the management of Europe's agricultural areas as the environmental performance of farmers is highlighted and placed under ever more scrutiny. The effective monitoring and evaluation of cross compliance will determine whether the recently reformed CAP will provide consumers and environmentalists with an increased confidence that farming is becoming more conscious of its role in sustainability. The policy of cross compliance is, in the opinion of IEEP, one that will improve through the process of 'learning by doing'. It is a substantive policy measure that will take time to become effective.

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<sup>22</sup> COM (2002) 349 01.07.02

<sup>23</sup> This Declaration can be found at <http://register.consilium.eu.int/pdf/en/04/st16/st16226.en04.pdf>

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