



Cross-compliance in the CAP

Conclusions of a Pan-European Project 2002-2005

Background

With pressure to integrate environmental concerns into agriculture, 'cross-compliance' is a policy tool increasingly being used to improve the environmental impacts of farm management. Cross-compliance in the context of the Common Agricultural Policy (CAP) sets environmental and other standards that farmers must adhere to in order to receive subsidies. The 2003 Mid Term Review (MTR) of the CAP made cross-compliance a compulsory measure, applying to all direct payments. Member States must now set farming standards in relation to 19 European Union (EU) regulations and directives (Statutory Management Requirements or SMRs), define Good Agricultural and Environmental Conditions (GAECs) and ensure compliance with those standards on farms in receipt of CAP subsidies. Conservation of permanent pasture and provision of a farm advisory service must also be carried out by Member States.

Summary of Strengths and Weaknesses

Cross-compliance is expected to strengthen the application and enforcement of environmental standards in agriculture as poor enforcement can lead to potentially significant penalties; it will thus contribute to further integration of environmental objectives into the CAP. To date, non-compliance with EU environmental

legislation at farm level has been a serious problem in large parts of the EU. However, the incentives to comply will be highest for farmers that receive the most direct payments, yet these are unevenly distributed between farms and may decrease in importance in the long run. Further limitations of cross-compliance include the potentially high administrative demands of effective implementation, the potential omission of important sectors or areas (such as vegetables, vines and fruit, and to some extent poultry and pig farming) and the uneven impact of penalties.

Some Key Questions

Should cross-compliance in Pillar One be more demanding and/or standardised?

Many Member States appear tempted to define very light standards for cross-compliance to minimise administrative costs and disallowance risks. There is particular flexibility and scope for defining standards within GAECs, and Member States have different priorities concerning agricultural and environmental conditions. As a counter measure, minimum conditions could be introduced at EU level. However, if cross-compliance in Pillar One was raised much above legal minima we could reach a position where the boundary between Pillar One and Pillar Two payments, such as agri-environment incentive schemes, became blurred, and there was little scope for making positive

payments (based on income foregone) to farmers.

Agri-environment incentive schemes or cross-compliance?

Of the policy tools currently available to deliver environmental benefits in the framework of the CAP, agri-environment schemes are especially useful since they lend themselves to being applied in a targeted way to achieve the maintenance and improvement of environmental resources. In comparison cross-compliance is a comparatively blunt instrument, focussing on the enforcement of horizontal baseline conditions, however it does apply to a large proportion of farmland giving it a potentially wide reach. The question remains which environmental objectives would be best addressed by which instrument.

Should cross-compliance become more like agri-environment schemes?

Cross-compliance attached to area-based direct payments could be developed to become more like an agri-environment measure, with different requirements according to local territorial needs. This would involve, more than is already the case, very different compliance costs for farmers. Payment levels could be linked more closely to the demands placed on farmers. Alternatively the receipt of direct payments could be linked with the demand to take part in otherwise voluntary agri-environmental schemes. This would make it possible to address specific environmental problems and to compensate farmers for the restrictions that have been put on them at the same time.

What is the best approach to setting indicators?

Member States must walk a line between picking too few requirements or indicators, (therefore failing to implement SMRs in an adequate way), and specifying too many, (creating an administratively unworkable system). Member States must also choose whether to use 'hard' standards or 'soft' measures. Hard standards (i.e. documentation) are easier to verify, unambiguous and unlikely to cause disputes and appeals but may fail to capture the real purpose of the SMR. In comparison, 'soft' measures are more related to environmental outcomes and perhaps more flexible but more difficult to verify on the

ground without appropriate expertise, data and effort. At present it seems likely that Member States will vary considerably in their approach, but excessive variation could lead to an unreasonable departure from consistent implementation and a level playing field.

Are the administrative costs of cross-compliance justified by the environmental outcomes?

The administrative demands of cross-compliance (design of verifiable conditions, compliance checking, monitoring etc.) are significant, although not yet quantified. In order to improve efficiency of controls, environmental risk assessment could become a key element, instead of the present focus on farms with high direct payment claims. Controls and penalties should be balanced with an approach aiming to create trust and co-operation amongst farmers. Such an approach would acknowledge the internal driving forces for and (local) knowledge about sustainability. If information and advice to farmers and co-operative elements in agri-environmental policy, such as agri-environmental measures and audits, are not to be neglected, this raises the question of where to spend the scarce administrative resources. More work on costs is undoubtedly needed.

What if co-operation with private assurance schemes was increased?

Further public/private co-operation on standard setting, enforcement, advice, inspection and sanctions could contribute to increased efficiency and effectiveness in both the public and private sector. Administrative efforts could be reduced if experiences and lessons learned could be shared. Since many private assurance schemes involve the checking of standards similar to those in the SMRs there could also be an opportunity to share responsibility for some compliance checking, or farmers could be given an exemption from cross-compliance checking if certified by one of a selection of farm assurance schemes. There is a question, however, over whether private initiatives should act as the 'police' for standards in agriculture. Private assurance schemes often get most of their income from their certified farming members, so it would not be in their interest to set standards that were too demanding.

What happens if farmers opt out?

Some farmers may decide that the costs of cross-compliance are too high and will choose

to forgo their direct payments in order to be freed from their obligation to meet cross-compliance standards. Even if farmers opt out they will still have to comply with EU and national legislation since this is the legal baseline and applies to all farmers, not just those receiving direct payments. Would farmers that opt-out of direct payments receive less compliance checking however? In most Member States the compliance checking authority would deny that this would happen, but in practice with the risk of disallowance of Pillar One funds from the European Commission the Member State may choose to focus on recipients of direct payments for compliance checks.

Opting out at farm level is presently not a realistic option for most farms, but could become more attractive if direct payments decrease in future. In the next few years other forms of opting out will become more crucial, such as the legal separation of different parts of the holding without direct payment rights. For instance livestock farming could be separated from the agricultural area to avoid cross-compliance conditions and single plots with additional, statutory requirements (such as uncultivated, marginal land with high management cost or Natura 2000 sites) might be abandoned.

Should more environmental issues be covered?

At present Annex IV covers selected environmental issues (such as soil) that are complementary to those covered in Annex III. There is a strong case for water and irrigation issues to be incorporated, in line with the requirements of the Water Framework Directive. Pesticide use, air pollution and waste could also be incorporated (the latter is a particular issue in Central and Eastern European Countries). The proposed European Agriculture Fund for Rural Development (EAFRD) would require recipients of certain Second Pillar payments to apply cross-compliance as set out in Annexes III and IV. It also states in Article 37 that: 'farmers and other land managers undertaking agri-environment commitments shall respect minimum requirements for fertiliser and plant protection product use'. Article 37 was included to ensure that some issues that were

previously covered by standards in the previous Rural Development Regulation ('Good Farming Practice' or GFP in Regulation 1257/1999) would not be lost. Article 37 could also usefully apply to Pillar One payments.

How could improvements be realised?

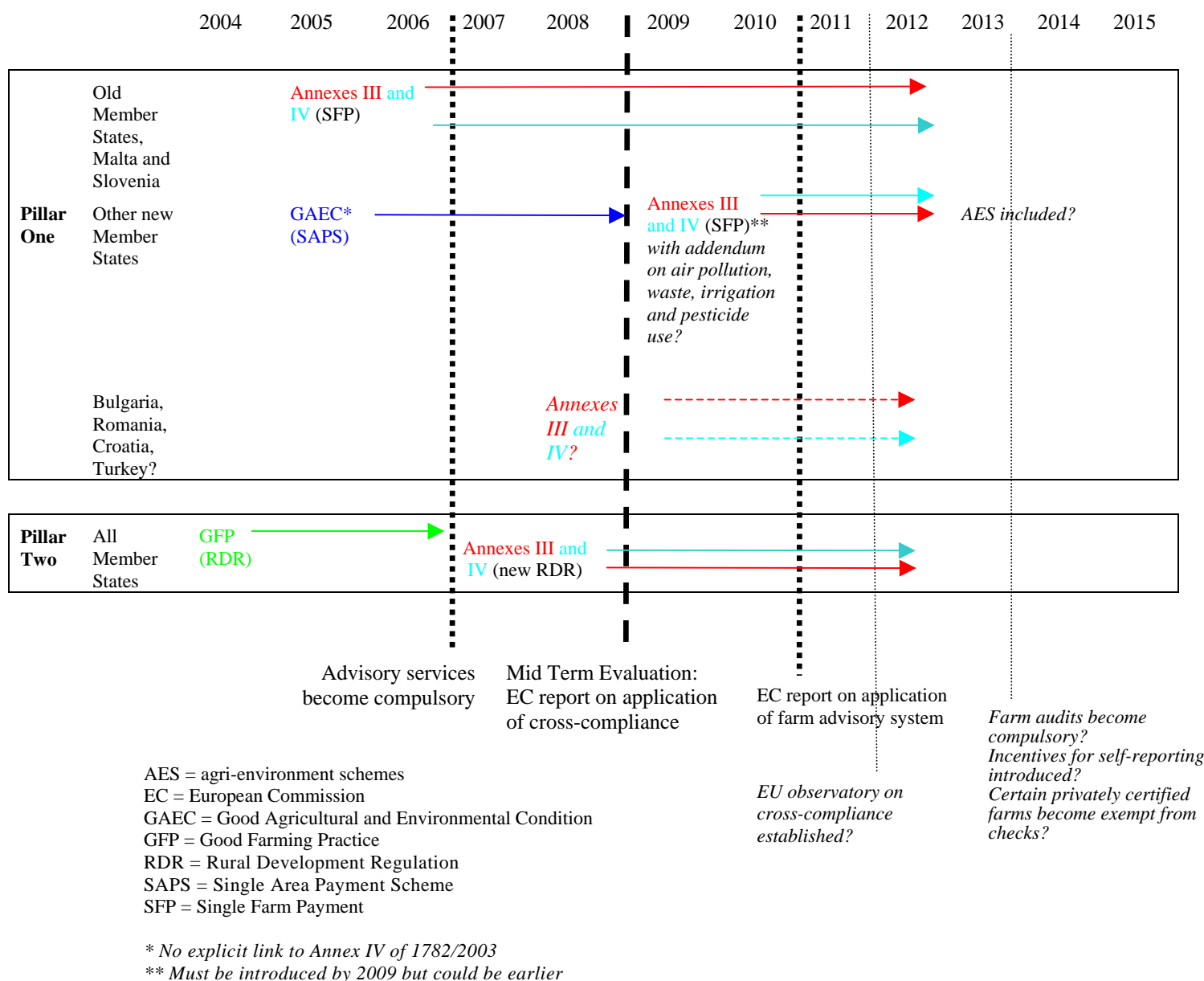
A shortcoming of the current cross-compliance arrangements is that transparency is rather low and there are no comprehensive reporting requirements on Member States. Thus, evaluation of cross-compliance and assessment of its effects will be difficult. Furthermore, information exchange about the approaches chosen in Member States and experience with implementation, although both helpful and desirable for planning further improvements, is not occurring sufficiently. Such an exchange could also help to develop 'good administrative practice' in the area of definition and enforcement of standards in agriculture.

The Way Forward

Cross-compliance at the enhanced level within the MTR goes hand in hand with de-coupling of the First Pillar. It is unlikely that it would ever be acceptable again for land managers to receive direct payments without there being conditions attached. The future for some sort of cross-compliance remains fairly secure as long as direct payments continue, although the details are open for debate, and the importance of direct payments may be reduced in future. The new legitimacy for direct payments through cross-compliance might, at least in the nearer future, hamper the reallocation of funds in favour of more targeted rural development measures, i.e. the transfer of funds from the First to Second Pillar, so called modulation. That said, the scope for increasing Second Pillar funds might also be limited in the current budgetary climate, so cross-compliance on direct payments may become an important mechanism for delivering environmental benefits in agriculture.

Figure 1 provides an overview of the evolution of cross-compliance in the First and GFP in the Second Pillar with some key milestones and sets out some suggestions for future options. It must be noted that cross-compliance will be extended beyond the environment into a series of other policy domains after 2005 and this will have implications for many of the issues raised in this paper.

Figure 1 An overview of environmental conditions on First and Second Pillar payments and proposals for the future (in italics)



These conclusions were the result of a project 'EU Cross-compliance' that was funded by the European Commission's RTD programme, Quality of Life and Management of Living Resources. The project included a series of five pan-European meetings and publication of four issues of a newsletter. All outputs can be found on the internet at [http://www.ieep.org.uk/research/Cross Compliance/Project timetable and available documents.htm](http://www.ieep.org.uk/research/Cross%20Compliance/Project%20timetable%20and%20available%20documents.htm).

The project was co-ordinated by the Institute for European Environmental Policy (IEEP), in co-operation with the German Federal Agricultural Research Centre (FAL), Dutch Centre for Agriculture and Environment (CLM), Spanish Universidad Politecnica de Madrid (UPM), Czech Institute for Structural Policy (IREAS) and Danish Royal Veterinary and Agricultural Univeristy (KVL) with input from the Agricultural University of Athens (AUA), Lithuanian Institute of Agrarian Economics (LIAE) and Italian Istituto Nazionale di Economia Agraria (INEA).

This paper was prepared by the project partners. Its content does not necessarily reflect the views of the Commission and in no way anticipates future Commission policy in this area.

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