



EU CROSS-COMPLIANCE NEWSLETTER

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An Introduction to the Cross-compliance Concerted Action

The concept of cross-compliance in agriculture (setting conditions which farmers have to meet in order to be eligible for government support) has been gaining ground since the 1970s. Today it is seen as an important policy tool to help improve standards in farming and protect the environment.

A two-year Concerted Action on EU Cross-compliance began in January 2003, funded by the Fifth Framework Action Programme of the European Commission. The Institute for European Environmental Policy (IEEP) is the lead organisation. The Federal Agricultural Research Centre of Braunschweig (FAL), Universidad Politecnica de Madrid (UPM), Royal Veterinary and Agricultural University of Denmark (KVL), Institute for Structural Policy of the Czech Republic (IREAS) and CLM Research and Advice of the Netherlands are partners.

The project will provide institutions and stakeholders in Europe with up to date information on cross-compliance and a forum for discussion. The aim of the project is to realise the full potential of cross-compliance as a policy instrument and through it deliver public benefits.

More specifically, outputs will include:

- presenting ideas, models, lessons and examples of best practice to inform the view of relevant stakeholders; and
- providing expertise, information and insights to policy makers in the European Commission and in Member State and Candidate Country administrations who will be actively engaged in designing and implementing cross-compliance.

Work will include: setting up a network of experts and stakeholders; providing research bulletins on relevant issues; holding a series of pan-European seminars in Germany, Denmark, Spain, the Netherlands and the Czech Republic; and organising a concluding meeting in Brussels in December 2004.

For further information please consult the dedicated website:

www.ieep.org.uk/research/CrossCompliance/WelcomePage.htm

Or contact Harriet Bennett, the Project Officer (hbennett@ieeplondon.org.uk).

Changes to EU Cross-compliance resulting from the CAP Mid Term Review

Intense negotiations over the essential features of the Mid-Term Review (MTR) of the EU's Common Agricultural Policy (CAP) were concluded early in the morning on 26 June in Luxembourg. Agriculture Ministers accepted a 'Presidency compromise', which outlined points of agreement across a large number of issues and included thirteen annexes. Subsequently the Special Committee for Agriculture has taken responsibility for working on the more technical aspects of the main legal text.

The final agreement on the MTR included new arrangements for cross-compliance, of which there are two main requirements. In future, farmers in receipt of CAP direct payments will

be required to respect a set of statutory management requirements set out in Annex III of a new Common Rules Regulation and meet good agricultural and environmental conditions in line with a framework given in Annex IV of the same regulation. Originally 38 pieces of legislation were to act as the basis of cross-compliance, but following negotiations this was reduced to 18. This legislation will form the basis of cross-compliance in all Member States and is to be phased in between 2005 and 2007.

Legislative basis for cross-compliance

Of the 18 pieces of legislation, five are environmental and will be applicable from 1 January 2005. They comprise:

- Directive 79/409/EEC on the conservation of wild birds (Articles 3, 4 (i, ii, iv) 7, 8 & 9 (i, ii))
- Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances (Articles 4 & 5)
- 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)
- Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources (Articles 4 & 5)
- Directive 92/43/EEC on the conservation of natural habitats and of wild flora and fauna (Articles 13, 15, 16 (i) & 22 (b)).

Farmers will also be subject to other public and animal health requirements that will be applicable from 2005-7.

From 1 January 2005:

- Council Directive 92/102/EEC on identification and registration of animals (Articles 3, 4 & 5)
- Commission Regulation (EC) No 2629/97 laying down detailed rules for the implementation of Council Regulation (EC) No 820/97 as regards ear-tags, holding registers and passports in the framework of the system for the identification and registration of bovine animals (Articles 6 & 8)
- Regulation (EC) No 1760/2000 of the European Parliament and of the Council establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products (Article 4 & 7).

From 1 January 2006:

- Council Directive 91/414/EEC concerning the placing of plant protection products on the market (Article 3)
- Council Directive 96/22/EC concerning the prohibition on the use in stockfarming of certain substances having a hormonal or

thyrostatic action and of beta-agonists (Articles 3, 4, 5 & 7)

- Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law (Articles 14, 15, 17 (i), 18, 19 & 20)
- Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of transmissible spongiform encephalopathies (Articles 7, 11, 12, 13 & 15)
- Council Directive 85/511/EEC introducing Community measures for the control of foot-and-mouth disease (Article 3)
- Council Directive 92/119/EEC introducing general Community measures for the Control of certain animal diseases and specific measures relating to swine vesicular disease (Article 3)
- Council Directive 2000/75/EC laying down specific provisions for the control and eradication of bluetongue, (Article 3).

From 1 January 2007:

- Council Directive 91/629/laying down minimum standards for the protection of calves (Articles 3 and 4)
- Council Directive 91/630/EEC laying down minimum standards for the protection of pigs (Article 3 and 4 (i))
- Council Directive 98/58/EC concerning the protection of animals kept for farming purposes (Article 4).

Good agricultural and environmental condition

The framework for good agricultural and environmental condition is defined in Annex IV of the Common Rules Regulation. The main issues and associated standards which Member States must consider are:

Issue	Standard
Soil erosion Protect soil through appropriate measures	<ul style="list-style-type: none"> • Min soil cover • Min land management reflecting site-specific conditions • Retain terraces
Soil organic matter	<ul style="list-style-type: none"> • Standard for crop

Maintain soil organic matter through appropriate practices	rotations where applicable <ul style="list-style-type: none"> • Arable stubble management
Soil structure Maintain soil structure through appropriate machinery use	<ul style="list-style-type: none"> • Appropriate machinery use
Min level of maintenance Ensure a minimum level of maintenance and avoid the deterioration of habitats	<ul style="list-style-type: none"> • Min livestock stocking rates and/or appropriate regimes • Protection of permanent pasture • Retention of landscape features • Avoiding the encroachment of unwanted vegetation on agricultural land

The exact requirements are to be defined at national level. Article 5 on good agricultural and environmental condition states 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.’

Permanent pasture

Article 5(2) requires Member States to maintain the area that was under permanent pasture from 31 December 2001. It does allow derogation from this, but only in justified

circumstances and only if the Member State takes action to prevent any significant decrease in its total permanent pasture. This should allow Member States to continue to encourage conversion to arable under certain agri-environment schemes for specified environmental and/or nature conservation benefits.

National flexibility

The national discretion available to Member States on the implementation of cross-compliance is likely to result in variable policy models. Member States are required to issue farmers with a list of statutory requirements and good agricultural and environmental conditions to be respected. The framework for good agricultural and environmental condition appears to offer Member States a considerable degree of flexibility to develop farming standards that reflect the circumstances in that country. Given this flexibility and the wide range of farming systems and circumstances across Europe, it is highly likely that a diverse range of conditions will be developed as the implementation process progresses. Experience of cross-compliance implementation to date certainly suggests that Member States often opt for very different approaches to this subject. An issue for debate is whether such flexibility results in more regionally or nationally appropriate cross-compliance conditions or whether a more uniform approach across Europe would deliver better results in terms of environmental protection.

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Cross-compliance and the CAP: learning from past implementation

Experience of the application of cross-compliance within the CAP to date offers some valuable insights into the issues surrounding this policy instrument.

The Agenda 2000 CAP reform introduced two main cross-compliance options. First, Member States could, if they chose, attach conditions to First Pillar CAP payments. Secondly, Member States had to define Good Farming Practice (GFP) standards for farmers to follow before they could receive funds under the Rural Development Regulation (Reg. 1257/1999), the so-called 'Second Pillar' of the CAP.

This comparison is mainly based on information contained in Rural Development Plans (RDPs) on standards of GFP that farmers must follow to receive RDR funds and funds under the SAPARD pre-accession instrument (Reg. 1268/1999).

Information on the implementation of voluntary cross-compliance under the 'First Pillar' of the Common Agricultural Policy (CAP) according to the Common Rules Regulation (Reg. 1259/1999) was submitted by Member States to the European Commission in April 2002. However, these reports are not publicly available, although some have been obtained by the author from national ministries of agriculture in Austria, the UK and Germany. Due to lack of availability of information this comparison has been constrained to an analysis of cross-compliance for rural development funds only, although first pillar cross-compliance is considered in the discussion.

The most readily available information is on GFP applying in the Second Pillar, and through this project a comparison of GFP has been undertaken. The information was gathered as background material for the first in a series of meetings to be held during the life of the Concerted Action described on page 2 of this newsletter. The

first meeting and background papers were prepared by the Federal Agricultural Research Centre (FAL), Braunschweig, Germany. Presentations from the meeting can be downloaded from the FAL website (<http://www.bal.fal.de/en/default.htm>, go to publications/downloads). Country reports will shortly be available on the IEEP website¹.

The main issues explored by this comparison are:

- which areas or environmental problems are covered by GFP (comprehensiveness)?
- are standards based on legislation or on additional requirements?
- are standards binding at national level or in specific regions?
- how detailed are the requirements?
- which 'verifiable standards' are used for monitoring compliance?

Overview of EU Member States

Member States have chosen a variety of approaches to defining codes of GFP according to the RDR, ranging from a fairly limited selection of issues to a broad coverage of categories, and from a narrow choice of verifiable standards (control indicators) to a detailed list of requirements. In most countries, mandatory standards of GFP consist of existing EU, national and/or regional legal obligations, mainly in the field of fertiliser and pesticide use. Only a few countries define standards going beyond legislation, or covering issues of biodiversity.

Most Member States have defined verifiable standards for fertiliser and pesticide use. There is an emphasis on these aspects in Austria, Denmark, Germany, the Emilia-Romagna region (in Italy, the adaptation of general rules to

¹ www.ieep.org.uk/research/CrossCompliance/Project_timetable_and_available_documents.htm

local conditions is left to the regions), Sweden, Denmark, Germany and the Netherlands require nutrient accounting, and their control system relies heavily on records. Sweden also controls additional standards for farms in Nitrate Vulnerable Zones (NVZs). In Emilia-Romagna a fertilisation plan and a further two standards for soil protection are subject to controls.

In *Germany*, although each federal state can present its own selection of cross-compliance standards, a set of six standards in the areas of fertilisation and pesticide use is generally used. Livestock density is regulated indirectly through the maximum allowed amounts of manure. The verifiable standards represent a selection of criteria out of the broader national GFP requirements.

In the *Netherlands* all aspects of fertilisation are covered with very detailed standards for production, storage and application of fertiliser and manure. A mineral accounting system (input/output) with specific loss standards for nitrogen and phosphorous has been established, which is compulsory for all farmers. Livestock density is controlled indirectly, as farmers unable to dispose of their manure surpluses have to reduce the number of their livestock.

Austria and Denmark have included a few verifiable standards for animal husbandry, soil cover or use of sewage sludge on farmland in their rural development plans. Austria specifies standards of GFP for soil protection, such as compliance with regional and local regulations for soil protection and waste management and avoidance of erosion and soil compaction. In areas at risk, the local administration can order measures such as minimum tillage or soil cover requirements, or make recommendations to minimise pressure on the soil. Both countries define additional requirements for certain agri-environment measures.

In *Denmark*, the first seven standards are compulsory for all LFA and agri-environment measures. The majority of

these standards set out detailed requirements for fertilising. The next six standards are only compulsory for the measure 'subsidy for green account (farm audit)'. In Austria, participation in the agri-environment 'basic support measure' is dependent on compliance with additional principles above general standards of GFP.

Germany, the Netherlands and Sweden have not defined further verifiable standards in other categories, although Sweden has defined rules for soil cover in certain areas on farms with over five hectares.

England and Ireland have taken a different approach. They place emphasis on areas of biodiversity and field boundaries. Three verifiable standards have been defined for grazing alone, as overgrazing is a significant problem in many upland areas of the UK. Other definitions of GFP cover waste handling (in the case of England the disposal of sheep dip) and burning of grass and crop residues. Legislation on heritage conservation and evidence of dark smoke (from grass, crop residues or waste burning) is checked in England during inspections relating to the RDR. The only verifiable standard in the area of fertilising refers to the storage of silage and slurry, where a farmer has to notify the Environment Agency before starting to use a new storage facility.

Standards for fire protection, irrigation and erosion protection are typical of *southern European countries*. For Greece and Spain, the definition of verifiable standards remains unclear. Greece requires a limitation of the grazing period and of the grazing load. In Greece all standards of GFP are considered to be verifiable in theory. Inspections check the existence of a management plan that includes acknowledgement of all relevant rules and invoices for fertiliser purchase. In addition, laboratory analyses are carried out in Greece and Emilia-Romagna by chemical multi-residue analysis of fruit, leaves, shoots and weeds. Spain has developed a general code of GFP with

which farmers have to comply to receive agri-environment funds. Livestock density, stubble burning and anti-erosion measures are listed as verifiable standards, and further standards for fertiliser and pesticide use are mentioned. However, control and enforcement lies in the hands of the regions, and they can define their own standards according to climatic and soil conditions.

These different approaches demonstrate how Member States have taken advantage of the flexibility offered to them and developed GFP appropriate to regional or national situations. They suggest that Member States have used cross-compliance in a targeted way, focusing on issues of high importance or environmental risk.

The legislative basis of GFP in Member States

In *Denmark* most activities relating to manure handling are controlled by national legislation, and an annual fertiliser account is mandatory. The so-called 'Harmony Rule' requires a balance between the farmer's land area and the manure produced and regulates livestock density. In *Germany*, the verifiable standards are solely based on a special agricultural law on the use of fertilisers and pesticides. In *Ireland and Sweden*, the existing legislation has also been chosen to be the basis of GFP according to the RDR.

England chose another strategy, using a combination of relevant legislation and complementary verifiable standards, often going beyond legislation (eg standards for grazing or hedgerow trimming rules) as the basis for GFP.

This highlights the importance of existing national legislation; most Member States have built GFP on the basis of this.

Verification of standards in Member States

Only a few control standards are used in *Denmark* (seven, mainly written records),

Germany (six, mainly written records) and *Sweden* (four for all farms, a further six in specific areas). It appears that *Greece* is carrying out the control of GFP through only three indicators (records and laboratory analyses). *Spain* emphasises three standards, although there is a lack of information about implementation of control procedures in the regions. In *Emilia-Romagna* seven indicators have been chosen for control of GFP, including written records, chemical multi-residue analyses and direct controls in the area of manure storage and soil conservation. *England* uses eight verifiable standards for monitoring compliance.

In *Austria* a more detailed list of verifiable standards is subject to control (twelve basic standards plus a further six for basic agri-environment support).

Ireland specified in its rural development plan all the requirements with appropriate control measures, ten of which are controlled by the Department of Agriculture, Food and Rural Development (DAFRD). Another 14 standards are controlled by sections of the DAFRD and environment agencies implementing environmental legislation cross-reporting.

Verification of standards is clearly an important issue relating to administrative cost and burden.

Comparison of GFP in CEE Accession Countries

CEE Accession Countries had to define GFP in Rural Development Plans for funding under SAPARD as a baseline for pilot agri-environment schemes and payments. The ten Accession Countries that are joining the EU in 2004 have also drawn up draft Rural Development Plans for funding under the RDR after accession, but for the purposes of this comparison we have used only the SAPARD RDPs as source material, since they are all in the public domain.

CEE countries are at different stages in defining standards, and a variety of approaches have been taken. For instance, Hungary has just begun the progress of

defining standards according to the RDR, Poland has not yet selected any verifiable standards, in Lithuania the government has yet not formally approved the Code of Good Agricultural Practice. In the Czech Republic control of verifiable standards is not yet fully implemented, and in Bulgaria environmental legislation is often not enforced, with verifiable standards currently acting only as non-binding advice. Standards of GFP are generally based on environmental legislation; only the Czech Republic explicitly added standards going beyond legislation.

Bulgaria requires compliance with mandatory standards of GFP for farmers participating in agri-environment schemes. Standards cover most issues, although sometimes they are generally defined, such as storing manure without danger of soil and water pollution, applying farmyard manure on land to enhance soil fertility and not using polluted water for irrigation.

The *Czech Republic* combines legislation and some additional, verifiable standards of GFP for soil protection, grassland management and the protection of biotopes. One standard is to comply with environmental law. Some principles are not defined very clearly, such as to prevent significant sward damage through grazing, and the recommendation to undertake contour cultivations and transport along contours on steep slopes.

Estonia has defined verifiable standards as a baseline for agri-environment measures, all based on legislation, including a maximum livestock density, the requirement to keep a field record book and standards for waste handling. Most categories of GFP, except soil protection, are covered although the principles concerning the use of fertiliser only state that application on snow and frozen ground is prohibited. The Code of Good Agricultural Practice includes legislation and additional recommendations in these areas.

Latvia has detailed mandatory standards of GFP in all categories. Additional standards

for fertilising and soil protection in nitrate vulnerable zones are defined. Verifiable standards are two indicators relating to fertilising.

Lithuania has defined mandatory standards of GFP, resulting in an elaborated catalogue of standards for GFP, all covered by legislation. Additional rules apply in karst zones.

In *Poland* standards of GFP are defined in most of the categories as minimum standards for RDR measures and are based on the relevant legislation.

Discussion

GFP definitions and implementation are extremely relevant for meeting standards set out by EU environmental policy and for competitiveness in the agricultural sector. Nevertheless, GFP varies considerably between the EU Member States and regions. Reasons for this are the following.

- EU legislation provides only a framework for GFP definitions, does not cover all areas of environmental policy and often does not refer directly to the farm level. Since there are no detailed requirements for the establishment of GFP standards, no common baseline exists across the EU.
- Natural, structural and socio-economic conditions of farming as well as the main environmental problems differ between Member States, leading to different national preferences and strategies.
- Definitions of GFP adopted in Member States have often exploited the flexibility provided by EU legislation; are influenced by different national and regional political and administrative competencies; are frequently defined and implemented by several ministries or departments; are often based on existing environmental law; and often stem from various preferences and strategies of combining command and control measures with advice and financial instruments (especially

incentive driven agri-environment measures) ('policy mix').

Member States can opt to reduce the number of verifiable standards to reduce reporting obligations and the risk of disallowances. Therefore, a comparison based exclusively on GFP definitions in the framework of EU regulations does not give a comprehensive view on mandatory regulations in the EU Member States and does not provide a solid basis for judgements.

The number of verifiable standards defined by Member States and regions varies greatly. Some regions do not make it clear whether their standards are subject to control and sanctions, and little information on control, compliance and sanctions is available. As a result comparisons remain difficult.

In order to control and enforce standards, such standards must be 'verifiable' and any breaches have to be legally defensible. As a result, enforcement of codes of GFP are frequently concentrated on a few, well-defined criteria. Indirect indicators are used which are easier to control but not always closely related to the environmental problem initially addressed. An example is the control of the inspection certificate of field sprayers, which represents a technical standard for equipment, but not for management.

Controls of AEP and LFA beneficiaries are normally concentrated on high value claims, new claimants and claimants with a history of non-compliance. Beneficiaries to be controlled are mostly extensive farms, many of them situated in LFAs. Due to this type of targeting, GFP controls of the beneficiaries of RDR measures tend to show low rates of breach of environmental standards. As a result, RDR controls tend to have a low impact on environmental behaviour. In comparison, controls performed by a specialised environmental administration tend to adopt an environmental risk-based approach to the selection of farms to be controlled. Risk is defined as the probability of breach and the potential for

environmental damage. On the spot inspections through a specialised environmental administration are often performed following complaints or due to suspicion, and are focused on specific standards rather than a broader set. Thus, specific controls lead to more cases of penalties and have stronger effects on enforcement. It could be said that the mandatory, regular, on the spot control of GFP on mainly extensive farms participating in AEP and LFA results in the inefficient use of scarce administrative resources.

Co-operation between agricultural and specialised environmental administration in undertaking controls is necessary. For the risk assessment, information on the history of non-compliance is needed, and specialised on the spot checks require trained personnel. Also, existing competencies of the institutions involved have to be considered. Combined on the spot checks can reduce the frequency of inspections at the farm level, if more criteria are included, but demand well-trained personnel.

Measures according to the Horizontal Regulation (EC) 1259/1999, documented in 'Annual Reports' to the EU Commission, differ greatly between Member States. While in some countries cross-compliance is used to solve specific environmental problems, eg restrictions on irrigation in France, control of overgrazing in UK, or limited pesticide use in maize in the Netherlands; other Member States like Germany do not apply cross-compliance and report on the results of specific controls on selected environmental standards. Due to the fact that most 'Annual Reports' are not published, implementation of GFP according to the Horizontal Regulation is not transparent. GFP definitions in accordance with the Horizontal Regulation have not so far been harmonised with codes of GFP according to the RDR, and nor have control inspections. Differences in GFP standards and in the selection of farms to be controlled can result in a disadvantage for farms participating in AEP and LFA schemes.

Another crucial point is the sanctions for breaching. The calculation of payment reductions differs greatly between Member States and even between regions within the Member States. Farmers feel they are punished twice: by a normal administrative fine and by an additional reduction, or even total withdrawal, of subsidy payments.

As natural, socio-economic and political conditions differ between Member States, harmonising GFP standards at EU level seems both unlikely and impractical. However, considering impacts on competitiveness and regarding the need to implement EU environmental law, clearer definitions and requirements on how Member States should define and implement GFP standards would seem to be an issue requiring further discussion. Regarding the observed lack of transparency, reporting on GFP implementation seems to be another key issue.

GFP standards are highly likely to become an even more important element of agricultural policy in future. GFP and a number of issues arising from it deserve further analysis and discussion, including:

- the optimal design and implementation of GFP (especially verifiable standards and appropriate indicators, risk assessment for the selection of farms to be controlled, control and sanctions and integration of co-operative elements such as self-reporting on compliance);
- the desirable degree of harmonisation throughout the EU (common criteria for GFP definitions, implementation, control and reporting);
- the desirable harmonisation of GFP standards and enforcement between the 1st and the 2nd pillar of the Common Agricultural Policy;
- coherence of procedures in payment-oriented schemes of the CAP and in the specialised environmental administration, making best use of scarce administrative resources.

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Relevant meetings and publications

There will be a meeting on '*Potential for cross-compliance measures*' in Denmark in November 2003. European experiences with the use of cross-compliance measures in providing landscape and biodiversity benefits will be presented and discussed,

in addition to the legal aspect of cross-compliance and environmental standards.

Places are limited, but anyone interested in attending the seminar should contact Lone Kristensen at KVL (Lone.S.Kristensen@flec.kvl.dk).

The following have been published recently and may be of interest to readers.

OECD (2003) *Agricultural Policies in OECD Countries. Monitoring and Evaluation*. OECD: Paris.

OECD (2003) *Voluntary Approaches for Environmental Policy. Effectiveness, Efficiency and Usage in Policy Mixes*. OECD: Paris.

Primdahl J, Peco B, Schramek J, Andersen E & Onate (2003). Environmental effects of agri-environmental schemes in Western Europe. *Journal of Environmental Management*, **67**, pp129-138.



Hoopoes (*Upupa epops*) on a manure heap
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