



Background paper for ‘Policy Forum on cross-compliance in the CAP’

to be held at Hotel Mercure, 250 rue Royale, Brussels on 1 December 2004

The Policy Forum is the concluding meeting in a series of activities of a Concerted Action on ‘EU Cross-compliance’ that is being funded by the European Commission’s RTD programme, Quality of Life and Management of Living Resources, for the period January 2003 - January 2005. As part of this Concerted Action a series of five pan-European meetings have been held and four issues of a newsletter have been produced. All outputs from the project 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 Concerted Action is being 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 University (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 has been 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. It is intended to inform and stimulate discussions at the Policy Forum which is intended for practitioners, policy makers and the research community. It draws together topics discussed at previous meetings arranged during the project and focuses on the following issues:

- the varying approaches to developing environmental standards and cross-compliance across the EU;
- the link between cross-compliance measures and market approaches;
- the future potential for cross-compliance measures and further linkages to other agri-environment measures;
- the socio-economic and environmental impacts of cross-compliance measures;
- the implications of cross-compliance implementation for Central and Eastern European Countries; and
- the place for cross-compliance in future agriculture policy.

On the basis of feedback and discussions at the Policy Forum a list of recommendations for ways of improving cross-compliance policy in the CAP to deliver environmental benefits will be compiled. It is hoped that recommendations will be relevant for decision-makers at EU, national and regional level and the organisations responsible for monitoring and enforcing cross-compliance conditions.

Contents

| | | |
|----------|--|-----------|
| 1 | The Purpose of Cross-compliance | 1 |
| 1.1 | Preamble | 1 |
| 1.2 | The development of environmental cross-compliance as a policy instrument | 1 |
| 2 | Strengths and weaknesses of cross-compliance as a tool of agri-environmental policy | 3 |
| 2.1 | Preamble | 3 |
| 2.2 | Baseline and clarity | 4 |
| 2.3 | Addressing land abandonment | 5 |
| 2.4 | Incentives for enforcement of environmental legislation | 5 |
| 2.5 | Coverage and environmental targeting | 6 |
| 2.6 | Areas without payment rights | 6 |
| 2.7 | Opting out | 7 |
| 2.8 | Ownership of payment rights | 7 |
| 2.9 | Proportionality and equality | 7 |
| 2.10 | Future prospects | 8 |
| 3 | The relationship of cross-compliance with other policy tools or measures | 8 |
| 3.1 | Preamble | 8 |
| 3.2 | The relationship between cross-compliance and agri-environment incentives | 9 |
| 3.3 | The relationship between cross-compliance and private assurance schemes | 10 |
| 4 | Implementation issues | 13 |
| 4.1 | Preamble | 13 |
| 4.2 | Definition of standards and verifiable control indicators | 14 |
| 4.3 | Does GAEC need further explanation and definition? | 16 |
| 4.4 | Permanent pasture | 16 |
| 4.5 | Appropriate controls/risk assessments | 16 |
| 4.6 | Administrative capacity | 17 |
| 4.7 | Sanctions | 18 |
| 4.8 | Information, advice and incentives for co-operation | 18 |
| 4.9 | Monitoring, evaluation and information exchange | 19 |
| 5 | The way forward | 19 |
| 5.1 | Preamble | 19 |
| 5.2 | Mid term evaluation | 21 |
| 5.3 | Beyond 2013 | 21 |
| 5.4 | Some key questions | 22 |
| 5.5 | Post script | 23 |
| | References | 24 |

1 The Purpose of Cross-compliance

1.1 Preamble

In the context of pressure to integrate environmental concerns into agriculture, the policy instrument ‘cross-compliance’ is increasingly being used to improve the environmental impacts of farm management. Cross-compliance in 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 significant feature, applying to all direct payments. Member States must now set farming standards in relation to 18 EU regulations and directives, define Good Agricultural and Environmental Conditions (GAECs) and ensure compliance with those standards on farms in receipt of CAP subsidies.

1.2 The development of environmental cross-compliance as a policy instrument

A discussion about the relevance of cross-compliance to European agricultural policy emerged during the 1990s, along with a growing commitment within the EC to integrate environmental considerations into agricultural policy. Cross-compliance can conceptually be divided into three types, as described in the box below.

Box 1 A basic classification of environmental conditions and incentives

Environmental integration in the First and Second Pillar through environmental standards or incentives can be classified into three types (Baldock and Mitchell 1995). The mandatory approach requiring eligibility for certain agricultural support benefits to be contingent upon a farmer meeting certain environmental standards has been labelled the ‘Red Ticket’ approach. This is synonymous with cross-compliance with environmental conditions on direct payments. Introducing a direct linkage between mandatory obligations and voluntary incentives to gain environmental benefits, for instance requiring farmers to enter an otherwise voluntary incentive scheme with environmental objectives to be eligible for a payment, is known as the ‘Orange Ticket’ approach. This approach was used to combat overgrazing in Ireland, for instance, where recipients of the Sheep Annual Premium in Natura 2000 sites have had to enter the agri-environment scheme ‘REPS¹’. The ‘Green Ticket’ approach covers voluntary incentives for environmental management (eg agri-environment schemes) where support payments are offered to farmers complying with specific environmental standards going beyond the general baseline. Agri-environment schemes have been compulsory in Member States since 1992.

The introduction of ‘direct payments’ for some Common Market Regimes was a major element of the 1992 ‘MacSharry’ reforms of the CAP. A debate was prompted on the wider purpose of agricultural support policies and the importance of farmers meeting their environmental, farm animal welfare and other responsibilities. The MacSharry reforms introduced a modest measure of environmental cross-compliance

¹ Rural Environmental Protection Scheme.

on certain elements of the CAP, such as the management of compulsory set-aside in arable cropping, and gave Member States scope to apply conditions to direct payments in certain Common Market Regimes. Under the First Pillar of the CAP Member States have had the option to attach environmental conditions to beef and suckler cow premia since 1993 and sheep and goat premia since 1994.

The 'Agenda 2000' reform of the CAP established the concept of Pillar One and Pillar Two and introduced significant further options for the application of cross-compliance to CAP payments. Direct payments could be subject to cross-compliance under Article 3 of the Common Rules Regulation (1259/1999). Implementation of voluntary cross-compliance by Member States has tended to focus on relatively specific farm management activities. In the Netherlands, for example, cross-compliance has applied only to pesticide use in starch potato crops and maize. In France farmers claiming premia for irrigated maize have been obliged to obtain appropriate permits in relation to water abstraction. In Denmark an explicit link was made between eligibility for certain direct payments and compliance with a pollution control measure requiring appropriate field management along the banks of streams and rivers (Petersen and Shaw 2000). There are, however, examples of countries that included a wider range of environmental conditions, such as Greece.

Since 2000 'usual good farming practice' (GFP) under the Second Pillar of the CAP has been compulsory on the whole farm for recipients of agri-environment and Less Favoured Area (LFA) payments. All Member States have a formal obligation to define GFP and specify verifiable standards in their Rural Development Plans. In 2001 the Small Farmers' Scheme (Regulation 1244/2001) introduced the concept of 'Good Agricultural Condition' (GAC), and required farmers receiving decoupled payments under this scheme to keep their entire holding in GAC, to be defined at Member State level.

The twelve pre-accession Member States had to define GFP in their rural development plans for 2000-2006 for funding under the Special Accession Programme for Agriculture and Rural Development ('SAPARD', Regulation 1268/1999) by 2000. The ten Member States that joined the EU in 2004 have had to ensure land benefiting from First Pillar payments through the Single Area Payment Scheme (Regulation 583/2004) is 'maintained in good agricultural condition compatible with the protection of the environment' (Accession Treaty, 23.9.2003, Article 47).

The 2003 Mid Term Review of the CAP made cross-compliance both for the environment and other issues a compulsory for part of the direct payments system in the First Pillar through the Single Farm Payment, applicable to all 15 'old' Member States. Cross-compliance was linked to the staged implementation of 18 regulations and directives (set out in Regulation 1782/2003, Annex III) from which Statutory Management Requirements (SMRs) are drawn, and four themes to be defined as Good Agricultural and Environmental Conditions (GAECs, set out in Annex IV) by Member States. Member States are also obliged to ensure land under permanent pasture in 2003 is maintained, although some derogations and trading is allowed (Article 5). If the 18 SMRs, GAECs and permanent pasture rules are not properly enforced on farms receiving direct payments Member States risk disallowance of CAP funds. Commission proposals for a new Rural Development Regulation (European Agricultural Fund for Rural Development,

EAFRD) after 2007 extend the application of cross-compliance according to Annexes III and IV to also be conditions for certain payments in the Second Pillar for all Member States.

The three bases of cross-compliance can be characterised as follows.

- Annex III: national legislation arising from a list of 18 EU Directives and Regulations covering the environment; public, animal and plant health; identification and registration of animals; animal welfare and notification of diseases. This is an attempt to select a number of legal measures of particular relevance to agriculture, which are enforced with varying efforts in Member States, and introduce them into the CAP legislative corpus, aiming to reinforce compliance.
- Annex IV: GAEC of farmland is defined by Member States in order to protect soils and ensure a minimum level of maintenance and avoid the deterioration of habitats. The second requirement is to be achieved by means such as setting minimum livestock stocking rates or/and appropriate regimes; retention of landscape features; and avoiding the encroachment of unwanted vegetation on agricultural land.
- Protection of permanent pasture, through a new obligation on Member States.

As part of the new system of cross-compliance Member States must also establish an advisory system for farmers on land and farm management before 1 January 2007. The advisory service should cover at least the SMRs and rules for GAEC. Participation by farmers will be voluntary. Member States are required to prioritise advice for farmers that receive more than €15,000 in direct payment per year (Articles 13-16).

Regulation 1782/2003 and the associated Implementing Regulation 796/2004 require penalties for breaches of cross-compliance to be proportionate to the severity, extent, permanence and repetition of the non-compliance by the farmer. In cases of negligence it specifies that the percentage of reduction in the Single Farm Payment should not exceed five per cent or in cases of repeated non-compliance 15 per cent. In cases of intentional non-compliance it specifies that the percentage reduction can range from 15 to 100 per cent of the Single Farm Payment and may go as far as total exclusion from the aid scheme for one or more calendar years.

2 Strengths and weaknesses of cross-compliance as a tool of agri-environmental policy

2.1 Preamble

Cross-compliance is expected to strengthen the application and enforcement of environmental standards in agriculture due to potentially significant penalties and thus contribute to a further integration of environmental objectives into the CAP. The history of compliance with EU environmental legislation at farm level suggests that it

has been a serious problem in large parts of the EU over a considerable period. 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, potential exclusion of important sectors or areas and the uneven impact of penalties.

Table 1 A summary and analysis of Annexes III and IV

| | Annex III: Statutory Management Requirements | Annex IV: Good Agricultural and Environmental Conditions |
|------------------------------------|---|--|
| Objective | <i>Instrument for improved compliance with existing legal standards based on EU legislation (e.g. in the areas of water pollution, especially nitrates; sewage sludge; plant protection; NATURA 2000).</i> | <i>Ensure a minimum level of land maintenance, especially for non-cultivated land; avoid the deterioration of landscape elements, maintain grassland area and protect soils.</i> |
| Environmental policy impact | Improved implementation and compliance due to more systematic control and potentially greater and more widely applied sanctions for non-compliance. | Introduction of new standards not previously required by the EU. Significant capacity to prevent abandonment and improve soil management. These new standards could restrict the scope for voluntary agri-environmental schemes. |
| Income effect | In principle no additional effects. Compliance costs should have been factored in already. Higher sanctions for non-compliance are risked. | Highly ambitious standards could substantially diminish the income benefits of direct payments. |
| Possible limitations | Only a few clear EU standards at farm level and no clear demarcation between EU requirements (relevant for cross-compliance) and additional standards of Member States. Payment agencies need close administrative co-operation with different specialist agencies which themselves may use different control systems. Incentives exist for Member States to define <i>indirect</i> indicators for control which are weakly connected to potential environmental impacts. | Land without direct payments and not registered in the base period is not reached. Grassland protection is limited due to insufficient registers, in some countries incentives to plough (before restrictions at farm level are introduced) and possibilities to substitute grassland areas. Incentives exist for Member States to define less ambitious standards that are easy to control, do not constitute severe new restrictions and leave scope for agri-environmental schemes. |

2.2 Baseline and clarity

Annexes III and IV have provided a welcome common baseline for of cross-compliance at EU level for the first time. The Annexes have also contributed to clarity of the aims and scope of cross-compliance. Considerable scope remains, however, for its interpretation by Member States and implementation is likely to differ widely. Only a few concrete farm level SMRs have been legally defined at EU level. GAEC according to Annex IV leaves considerable scope for variation in national definitions, especially regarding soil protection and management requirements for uncultivated land.

2.3 Addressing land abandonment

Production-related payments will have been operating in all ‘old’ Member States and some ‘new’ Member States before the Single Payment Scheme is introduced in 2005 (or 2009 for new Member States) on some farms. Decoupling the First Pillar payments will take away the incentive for production, but by simultaneously introducing Annex IV incentives will remain for land management. Although the aims of GAECs will be interpreted differently at Member State and regional level they will undoubtedly contribute to avoiding land abandonment, which is a threat to many valuable semi-natural habitats and particularly widespread in Central and Eastern Europe (Petersen et al 2004).

2.4 Incentives for enforcement of environmental legislation

Through SMRs the European Commission (EC) has provided an incentive for the better implementation and enforcement of EU legislation in Member States. Enforcement has been patchy until now, as shown in the table below. Within the agriculture sector implementation has been particularly weak; as illustrated by the Nitrates Directive.

Table 2 Cases of non-conformity with EU environmental legislation in Member States at 31.12.2003

| | BE | DK | DE | EL | ES | FR | IE | IT | LU | NL | AT | PT | FI | SE | UK | | |
|---------------------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-----|--------|
| Air | 0 | 1 | 1 | 1 | 1 | 1 | 0 | 0 | 1 | 1 | 2 | 0 | 0 | 1 | 0 | 10 | 8.5% |
| Chemicals & Biotechnology | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 1 | 0 | 3 | 1 | 0 | 0 | 0 | 0 | 8 | 6.8% |
| Impact | 2 | 0 | 1 | 0 | 4 | 1 | 2 | 1 | 1 | 0 | 1 | 0 | 1 | 1 | 3 | 18 | 15.3% |
| Nature | 0 | 1 | 2 | 1 | 1 | 8 | 2 | 1 | 1 | 0 | 2 | 1 | 3 | 0 | 1 | 24 | 20.3% |
| Others | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 1.7% |
| Waste | 1 | 1 | 2 | 1 | 1 | 2 | 0 | 11 | 2 | 2 | 2 | 1 | 1 | 1 | 3 | 31 | 26.3% |
| Water | 3 | 1 | 2 | 1 | 2 | 3 | 3 | 2 | 2 | 2 | 0 | 1 | 0 | 1 | 2 | 25 | 21.2% |
| Total: | 7 | 4 | 8 | 4 | 10 | 17 | 8 | 16 | 7 | 8 | 8 | 3 | 5 | 4 | 9 | 118 | 100.0% |

Source: CEC (2003) Fifth Annual Survey on the Implementation and Enforcement of Community Environmental Law.

Cross-compliance establishes a direct connection between farm payments and the implementation of EU legislation, and insufficient enforcement can result in disallowances of EU funding at Member State level. The EC is now able to apply immediate and direct sanctions against Member States for incomplete implementation of EU legislation, but it is also likely to remain the subject of comparatively long-lasting infringement procedures before the European Court of Justice.

To minimise risks of disallowance (and to minimise control costs) Member States and regions may be tempted to set low standards and simplified indicators for control, which might have limited regulatory impact. Information gathered during the planning for introduction of cross-compliance in 2005 indicates, however, that in some Member States broad and ambitious cross-compliance standards will be introduced, some of which go beyond the requirements of Annexes III and IV (Farmer

2004 unpublished data). For instance in England cross-compliance conditions will include keeping public access routes clear, protecting landscape features and maintaining two metre uncultivated strips in arable fields. In France and Spain cross-compliance conditions will include installation of a water meter and correct maintenance of irrigation equipment.

2.5 Coverage and environmental targeting

Most farms in the EU receive direct payments and will be provided with an incentive to implement EU regulations and Directives through cross-compliance. Cross-compliance will not, however, apply in sectors without direct payments such as the vegetable, vine and fruit sector. In pig and poultry farms direct payments are less important and thus cross-compliance will remain of limited significance. However, horticulture, pig and poultry farming can cause major environmental damage. Cross-compliance effort therefore may not coincide with those farms causing the most environmental damage or those of highest nature value (Christensen and Rynestad 2000, Dwyer et al 2000, Webster and Williams 2001). A key question, therefore, is whether attaching new requirements to existing income support payments is an efficient and well-targeted policy instrument. Direct payments are allocated according to agricultural policy objectives and not according to environmental goals, so the linkage between the policies may result in conflicts and a lack of targeting from an environmental perspective (Webster and Williams 2001). Furthermore, cross relations established between different policy sectors may cause higher administrative costs and is considered by some to make the policy system unnecessarily complex.

2.6 Areas without payment rights

Cross-compliance will not reach land without premium rights if it is not part of a farm receiving direct payments. The two main models of implementing the decoupled payments, the Single Farm Payment and flat rate area payments, will have different impacts on the area with premium rights. Through premium right transfer, marginal sites, which often have higher value for biodiversity, can lose their premium rights. If the Single Farm Payment is introduced, which will be the case in eight of the 'old' Member States, farmers can be expected to try to concentrate their historical premium rights on their most productive land. Scope for the re-allocation of premium rights is given through the tradability of rights, although it is not yet clear how much land will be available for trading. No incentive is given to introduce land into the premium system which has not been registered between 2000 and 2002. In the case of regional flat rate payments, farmers have a strong incentive to increase their area of eligible land, as for each additional hectare they will receive an additional, area based premium right. Thus, in this model less area will remain without premium rights. In the 'hybrid' models to be introduced in several Member States, the premium right movement will depend on the premium per hectare, e.g. for grassland.

Some issues arise from the fact that cross-compliance is binding for the whole farm area, i.e. it applies to the entire land area of the holding, whether or not it is eligible for premium rights. This has some clear environmental benefits and avoids a two-tier control system. However, it also has the effect that voluntary schemes could in principle be unable to support basic land management, as maintenance even of land without premium rights is *de-facto* obligatory for all recipients of direct payments.

Under some systems farmers may, therefore, be likely to abandon or sell marginal land without premium rights, which would leave the land vulnerable to lack of maintenance.

2.7 Opting out

Theoretically, the receipt of direct payments is voluntary, so farms renouncing the receipt ('opting out') could avoid the cross-compliance requirements that go beyond the legal baseline (Russel and Fraser 1995). As a result cross-compliance is only effective for farms in which direct payments exceed the costs of complying with additional requirements (Christensen and Rygnestad 2000, Webster and Williams 2001). However, because of the current high economic dependency of EU agriculture on direct payments, cross-compliance requirements have for most farms similar properties as legal standards (OECD 2003). Opting out is 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 payments. 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.

2.8 Ownership of payment rights

A specific aspect of the proportionality and equality issue is the question of who benefits from premium rights. Cross-compliance sanctions are based on the full amount of direct payments received, although the economic benefit of direct payments is not necessarily realised by the farmer who will be subject to cross-compliance. In some countries decoupled payments will primarily benefit landowners and the value of the payment rights will be linked to their market (Isermeyer 2003). Farms with a high share of rented land or expanding farms which do not own sufficient premium rights will realise less income from support payments, as they will have to transfer a high share of the support to owners of land and premium rights. As a result they will suffer more from payment reductions.

2.9 Proportionality and equality

The principles of proportionality and equality are crucial for the acceptance of norms and are, therefore, the basis for the imposition of penalties under national law e.g. administrative fines. However, the definition of compliance with basic standards as eligibility criteria for public support enables the state to withdraw benefits without considering the principles of proportionality and equality. In the agricultural sector, such sanctions can be especially severe due to the high dependency on support.

Administrative fines often correspond to the severity of the breach, the damage caused, and the possible economic benefit of non-compliance, and should in principle be coherent with fines in other sectors. In cases of intentional breaches, the magnitude of payment reductions according to Regulation 796/2004, may vary between 15 and 100 per cent. This would be a harsh penalty in some cases. Cross-compliance

sanctions are enacted in addition to administrative fines, which are already meant to be proportional. This compound effect could lead to problems of acceptance and hamper co-operative approaches in some countries (Nitsch and Osterburg 2004) although the relatively high penalties could be useful to authorities since they provide a strong incentive for compliance. The legal and moral implications of this 'second' sanction in addition to fines should be considered.

2.10 Future prospects

Because the future of direct payments in the EU is insecure in the long run, cross-compliance is frequently seen only as a transitional instrument for the medium term (Christensen and Rygnestad 2000, Dwyer et al 2000). On the other hand, 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.

3 The relationship of cross-compliance with other policy tools or measures

3.1 Preamble

The protection, maintenance and enhancement of the rural environment and landscape, known as Countryside Stewardship, has received increasing attention in the last 20 years and a large number of countryside stewardship policies have been implemented at both EU and Member State level (see for example Huylenbroeck and Whitby 1999, Green 2000). Until recently policy instruments related to countryside stewardship have included land acquisition, regulatory measures, incentives, training, information and advice, with the main focus on regulation and incentives. Since the late 1980s increasing focus has been put on the principle of integration of environmental concern in sectoral policies, as emphasised in the Amsterdam Treaty of the EU and subsequent Treaty changes. Within the CAP cross-compliance may be seen as a new instrument to advance the integration of environmental concerns into agricultural policy.

A central question in relation to the introduction of cross-compliance is how it relates to other policy tools and related market measures such as private assurance schemes which increasingly include environmental concerns. Both issues will be dealt with in the following.

3.2 The relationship between cross-compliance and agri-environment incentives

The environmental impacts of agriculture can, from society's point of view, be divided into environmental costs and environmental benefits. *Environmental costs* refer either to impacts beyond what is acceptable at a general level (for example nitrate leaching beyond certain threshold values) or to impacts caused by a concrete agricultural practice which, due to the specific local conditions, are seen as unacceptable.

Environmental benefits associated with agriculture can be defined as environmental impacts considered by society to be positive beyond general and specific reference levels. Organic farming, restorations of former wetlands and reduction of nitrogen leaching beyond stated reference levels are examples of such benefits. In order to distinguish between environmental costs and benefits a reference level has to be defined. Where the reference level should be placed is, however, essentially a political choice. The reference level may change over time due to changes in political attitudes towards land use rights, which in turn are influenced by a range of economic and social conditions (Hodge 2000).

It is generally accepted that in cases of environmental costs the solution should be sought through application of the 'Polluter Pays Principle' embodied in EU policy, whereas in the case of environmental benefits a 'Provider Gets Principle' should to be applied (Hodge 2000). These principles are usually considered a good foundation for designing public policies such as regulatory measures and incentive schemes respectively.

Looking at the three dimensions of countryside stewardship - protection, maintenance and enhancement - it is obvious that protection of the environment can be perceived as an environmental cost and the enhancement of the countryside as a benefit. However, it is less clear where to place the maintenance dimension. This lack of clarity means that the maintenance dimension is sometimes addressed through regulatory measures in other places and at other times (more often) through incentives.

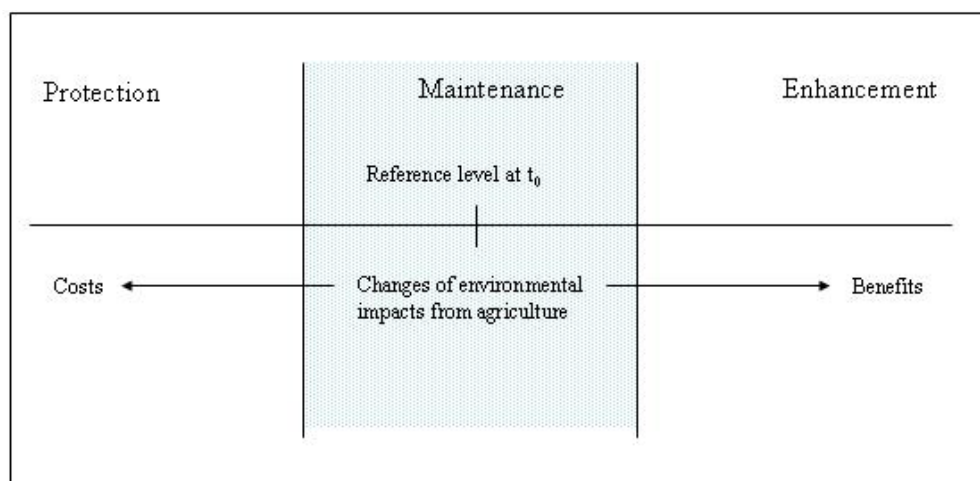
Regarding the cross-compliance measures included in the 2003 CAP reform it is obvious that they refer to environmental costs when requiring compliance with a number of EU environmental directives and regulations (the SMRs) and through these address the protection of the countryside. When it comes to the demands of GAEC, focussing on the maintenance dimension, it is less clear to what degree these include environmental benefits.

This raises the question about where to draw the line between cross-compliance and agri-environmental policies in the maintenance situation. And to what degree the new GAEC demands are moving the baseline and affecting payments under agri-environmental schemes. It may be argued that the baseline for agri-environmental policies will be moved for two reasons. First, and most importantly, the reference point for costs and benefits (for example for permanent grassland conditions) will be moved because few countries so far have regulations concerning the maintenance of permanent grassland. The cross-compliance requirement in this case will in effect raise the reference level and therefore some obligations paid for in agri-environment

schemes will no longer be needed or possible. Secondly the new demands of GAEC may reduce the ‘cost calculation’ of agri-environmental schemes. Since agri-environment payments are based on either income forgone due to restrictions (beyond the reference level) or payments for extra work, the payments may be reduced if the farmers already have to do some of the obligations as part of cross-compliance requirements.

However, as opposed to protection and enhancement, it is by no means a straightforward task to identify the exact reference level in the maintenance situation (see Figure 1). This is because the maintenance of certain landscape features is dependent on a type of management practice, which is left to the Member States to define and which may or may not be a part of the existing agricultural practice. As a consequence of this some Member States may show an interest in moving the reference level in order to let direct payments solve the maintenance problems. Such considerations by the Member States will affect the existing payment rates for permanent grasslands as well as the specific maintenance requirements. The maintenance dimension needs, therefore, a further clarification in order to draw the line between cost and benefits.

Figure 1 The three dimensions of countryside stewardship in the context of a status quo reference level (from Kristensen and Primdahl 2004)



One way to deal with the problem of maintenance may be, in specific target areas, to couple the receipt of direct payments with the demand of taking part in otherwise voluntary agri-environmental schemes (the ‘Orange Ticket’ approach). 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.

3.3 The relationship between cross-compliance and private assurance schemes

Private certification and assurance schemes are expanding and attracting an increasing market share. Schemes have been developed for different markets: regional, national, European and global. Governments, agricultural organisations, food processing

industries and retailers are involved in the development of schemes. For example the Euro Retailer Produce Working Group (EUREPGAP²) is being developed by a group of leading retailers in the food market in the EU. Most schemes are product-based but there are also schemes based on a whole-farm approach. Most of the schemes include standards on environmental issues such as soil management, crop nutrition and crop protection. Some private sector schemes have been running for many years. Given this development it is important to examine the relationship between cross-compliance and private assurance schemes.

The first issue is how experiences gained from private certification and assurance schemes can help in the development of cross-compliance in the EU. Lessons can be learned from the way that verifiable standards have been developed, how they are controlled and how the private sector works with farm advice, inspection and sanctions.

- Standard development in the private sector is based on criteria such as statutory standards, available inspection staff and controllability. Often all relevant stakeholders are involved in the decision making process.
- With regard to control procedures the 'internal farm audit' may be a particularly interesting option for statutory cross-compliance. The private sector has been developing 'internal farm audits' as a basis for compliance with standards. The internal farm audit is a checklist of verifiable standards that farmers have to comply with and are required to complete before an inspector visits the farm. An 'internal farm audit' could also be used for risk assessment purposes.
- Private schemes often work with instruction manuals to increase the level of understanding amongst farmers. Most private systems work with sanctions such as warnings and loss of the certificate (temporarily or permanently). Some schemes base the loss of certification on surpassing a ceiling of penalty points. This system of penalty points may be useful for the design of sanctions applied in the case of non-compliance with statutory standards.

The second issue is what opportunities there are for public-private co-operation. At present, co-operation between the public and the private sector exists only in terms of the relationship between private sector standards and public law, and various types of co-operation with public bodies (see below). Most private schemes are based on legal standards and include some additional private standards beyond the relevant legislation. The additional private standards provide a distinctive quality in the market and often include obligations and recommendations.

Private certification schemes co-operate with public bodies in different ways, for example by requiring advice from public bodies or having representatives from public bodies in an advisory committee or board. In case the certification scheme wishes to be recognised by the state it has to co-operate with a national accreditation council that judges the trustworthiness of certification systems, which are often based on EN 45011³. It should be noted that not all private assurance schemes are officially

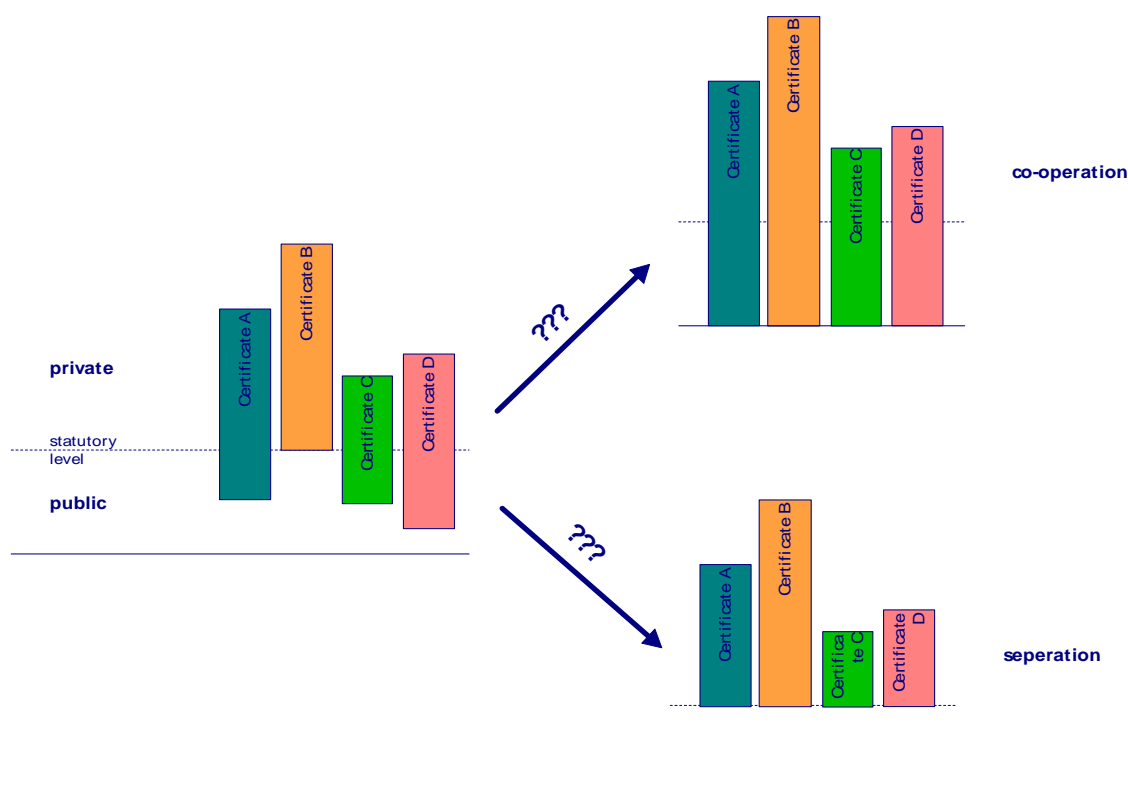
² For more information see www.eurep.org.

³ A set of general requirements for certification bodies. The equivalent rule at international level is Standard ISO 65.

accredited. Some forms of financial co-operation also exist. For instance, public bodies occasionally co-finance the development of some private schemes.

At least two models for future co-operation between the public and private sector on standard setting and enforcement can be envisaged: co-operation or separation. A co-operation model is likely if private certificates continue to include standards at statutory level and additional private standards. A separation model is likely if private certificates concentrate entirely on standards beyond the statutory level. The following figure illustrates the two models.

Figure 2 Diagram showing potential co-operation or separation between public and private certification schemes



Source: Hans Brand (pers comm 2003).

The most basic form of further public/private co-operation on standard setting and enforcement would be mutual learning, with the aim to be more efficient and effective in both the public and private sector. Options for mutual learning are, for example, in the field of development of control procedures (analysis of risk factors, definition of critical issues for inspection, and development of effective inspection methods). Co-operation could go further, however, as farmers in certification schemes and dependent on direct payments do not want to risk financial sanctions (public) or damage to the buyers' trust in their private schemes. There is an opportunity for more co-operation on the integration of statutory standards in private schemes and harmonisation of verifiable standards at statutory level. There is also an opportunity to

allow farms in accredited certification schemes exemptions from compliance checking.

A potential problem for co-operation is the large number and increasing diversity of certification and farm assurance schemes. A way of overcoming this would be to establish an EU baseline for private schemes that are suitable for public-private co-operation. The French initiative of ‘Agriculture raisonnée’⁴, together with other initiatives in other Member States or regions, can be seen as an attempt for such a baseline that could be taken up the EU level. At EU level the baseline could be based on the legislation for environmental claims (eco labels) in the non-food sector. Or perhaps ISO 14000⁵ or EMAS⁶ could be used as the baseline. In Germany, a whole farm scheme (OKO audit) has been developed based on EMAS that is compatible for cross compliance.

4 Implementation issues

4.1 Preamble

There is relatively little experience of implementing cross-compliance at either the national or regional level in the EU. Few Member States have used this policy tool on any scale under the existing legal structure and many of the measures picked out for inclusion in Annex III have been poorly implemented within the agricultural sector. The new approach to cross-compliance under the MTR is more ambitious than what has gone before and will raise considerable challenges for administrators throughout the Union.

In the course of the project, the proposals for the new cross-compliance system, including the more detailed rules in the implementing regulation, were agreed. A number of questions, both theoretical and practical emerged during 2004 as the implications of the new regulations became clearer. Representatives of several Member States raised similar questions during project meetings, internal debates have started in several countries, and it is becoming possible to identify some of the most important issues likely to arise in the current system and perhaps in the longer term. A number of these issues and some of the potential ways of addressing them are discussed.

⁴ Precision farming, similar to Integrated Crop Management, but initiated by food processing and agrochemical companies.

⁵ ISO stands for the International Organisation for Standardisation, located in Geneva, Switzerland. ISO promotes the development and implementation of voluntary international standards, both for particular products and for environmental management issues. ISO 14000 refers to a series of voluntary standards in the environmental field under development by ISO. Included in the ISO 14000 series are the ISO 14001 EMS Standard and other standards in fields such as environmental auditing, environmental performance evaluation, environmental labelling, and life-cycle assessment. All the ISO standards are developed through a voluntary, consensus-based approach amongst member countries.

⁶ EMAS is the Eco-Management and Audit Scheme, a voluntary initiative designed to improve companies’ environmental performance. It was initially established by European Regulation 1836/93, although this has been replaced by Council Regulation 761/01.

As well as the immediate challenges, a longer term perspective is needed. A far-sighted agri-environmental strategy could use the administrative changes induced by the introduction of cross-compliance to establish an improved, more transparent and coherent system of control and enforcement. This would need to be accompanied by improved information, technical advice and incentives for co-operation. Such a system could be built up in the future even if direct payments were phased out.

4.2 Definition of standards and verifiable control indicators

An effective system of cross-compliance depends on an ability to specify the obligations on the farmer as clearly as possible and a means of verifying whether the compliance is taking place which is not too cumbersome, slow, expensive or open to question. Both the specification of standards and their verification have emerged as important and closely linked issues. Standards which are not readily verified are not attractive either in administrative terms or to the farmer, who is exposed to considerable uncertainty. Meaningful and verifiable indicators are a crucial element of implementation strategies.

Most of the EU regulatory measures listed in Annex III impose obligations on Member States, not all of which translate into specific requirements at farm level. Consequently, translation of more general requirements into clear rules at the farm level has caused considerable anxiety in many Member States, particularly for the Birds, Habitats and Nitrates Directives. Although these measures already apply to farms, few authorities have focussed on practical implementation and enforcement previously. Cross-compliance has changed the position. Many member states asked the commission to provide a list of 'indicators' which would specify more precisely rules which would be subject to enforcement at farm level. Understandably, the commission was reluctant to do this; it would risk an unsound interpretation of legal measures which apply more generally and could be a technical challenge given the wide range of conditions on the ground.

However, many Member States feel insufficiently prepared to specify the full range of standards – where possible in an easily verifiable form. They must walk a line between picking too few rules or indicators, therefore failing to implement SMRs in an adequate way and specifying too many, creating an administratively unworkable system. There is a further dilemma, involving a choice between:

- 'hard' standards that are easy to verify, unambiguous and unlikely to cause disputes and appeals but may fail to capture the emotional purpose of the SMR; and
- 'soft' measures, more related to environmental outcomes and perhaps more flexible but more difficult to verify on the ground without appropriate expertise,, data and effort. Farmers may prefer measures that make environmental sense but be wary of ambiguity.

Member States have had little formal guidance from the Commission on these potentially difficult choices, although many have interpreted some underlying messages as meaning that they should avoid too many obligations that would be burdensome for farmers. It is clear that Member States would have benefited from a more extensive preparation process, allowing dialogue between countries, with the

Commission and with other stakeholders and experts. The fruits of experience in some of the countries more advanced in the process could have been passed on to others. Workshops on implementing the more 'difficult' Directives would still be useful and almost certainly relevant to the next stages of cross-compliance, beyond the environmental directives.

At present, it seems likely that Member States will vary considerably in the choice of their measures. This may generate a useful spectrum of experience, not least in GAEC, where approaches vary markedly, for example in relation to scrub control and the need for grazing. Excessive variation, particularly in the choice of verifiable standards for SMRs, could however, lead to an unreasonable departure from consistent implementation and the level playing field. There is also a danger that too many Member States will opt for convenient 'hard' indicators (such as inspection of field sprayer servicing certificates or documentation of fertiliser applications) that may be easier to control especially if they are time independent but fail to capture land management on the ground.

For measures implementing GAEC, where Member States have more discretion, one of the key debates has been on how far the standards required, particularly for soil and habitat management, should go beyond those specified in national and regional law.

Few Member States have binding standards on soil management, although many acknowledge that management needs considerable improvement, irrespective of Annex IV. The cross compliance initiative has proved a powerful lever for putting this issue on the agenda in several instances. Further work on the best means of monitoring soil management and implementing effective standards is still needed. For example, there are arguments both for 'hard' standards e.g. no ploughing on slopes of more than x degrees of slope and for softer measures, such as the development of soil management plans for farms.

Through GAEC there is an opportunity to strengthen the protection of habitat and landscape features and semi-natural grassland, the future of which is uncertain in a rapidly changing policy climate. By incorporating the protection of features within the cross-compliance regime, considerable environmental benefits could be secured, provided that standards are not so demanding as to undermine farm viability and reduce the scope for agri-environment payments to a low level. It is too early to say how far this opportunity has been taken.

From our initial review of implementation it seems that some Member States have not fully considered the disallowance risk if they continue to use inappropriate or ineffective systems of control and enforcement. It is clear that many Member States do not yet have adequate control systems in place. In some cases new GAEC standards have been developed that appear difficult to control and enforce. Some Member States, on the other hand, have been so cautious that their verifiable standards are unlikely to deliver any environmental benefits. A clearer picture will arise over the next few months.

In the long run, additional cross-compliance standards going beyond existing legislation could be substantially weakened if the importance of direct payments diminishes and it becomes more economically attractive for whole farms to opt out of the system. The EU and Member States should, therefore, begin to discuss which

elements of GAEC should be part of legally binding standards in future, in order to ensure a more sustainable policy approach. The Soil Thematic Strategy, due in 2005, will provide one basis for such a discussion.

4.3 Does GAEC need further explanation and definition?

The inclusion of good agricultural condition as well as good environmental condition in Annex IV raises questions in the short and longer term. There is no longer a need to plan for a specific level of production in the EU. If cross-compliance aims to deliver environmental benefits it should remain focused. It should be noted that in Central and Eastern Europe the issue of marginalisation and land abandonment is so serious that some cross-compliance conditions formulated under GAEC aim almost exclusively at the improvement of agricultural conditions. In some cases the two conditions may not be compatible (eg where high water tables or considerable density of shrubs or trees may be desirable). The inclusion of requirements to keep land in good agricultural condition has created confusion and in some cases Member States have found good agricultural and environmental condition to be incompatible. For instance maintaining good agricultural condition in some cases has been interpreted as requiring clearance of irrigation channels and reducing high water tables.

4.4 Permanent pasture

The system established for monitoring the area of permanent pasture should prevent large scale conversion to arable land, but does not provide secure protection for species rich grassland, one of the most important habitats on European farmland. Conversion of up to ten per cent in relation to arable land is allowed. Furthermore, there is a lack of complete grassland registers, varying definitions of permanent pasture and replacement of ploughed grassland is allowed, thus no site-specific maintenance of grassland is guaranteed. In some Member States the Regulation provides an incentive for ploughing up grassland before the regional minimum level is reached and individual farm restrictions are applied. On the other hand, the requirement to maintain landscape and habitat elements offers the Member States more scope to define and protect these elements, no flexibility mechanisms for removal and substitution are provided at the farm level.

4.5 Appropriate controls/risk assessments

The most effective strategy for identifying farms for control has been another key issue. Regulation 796/2004, Article 45, requires a risk assessment for targeting cross-compliance controls based on previously selected farms for regular IACS controls (according to Articles 26 and 27). There is considerable scope for interpreting this requirement. Some Member States will focus their controls on farms with the highest levels of direct payments. This is a valid risk factor, however, from an environmental perspective it must be emphasised that several of the problems targeted by cross-compliance are not correlated to the scale of the farm. Risk assessments need to take account of potential environmental impact. It has been suggested that targeting farms most at risk of non-compliance based on suspicion or complaints is an effective targeting mechanism (Bergschmidt et al 2003).

Although more data processing might be required, there are strong arguments for risk assessment procedures independent from regular IACS payment and area controls, especially for standards under Annex III. More flexibility and independence from IACS could increase control efficiency. Nevertheless, the data compiled for IACS, complemented with data on farms without direct payments, e.g. the fruit and vegetable sector, can create a valuable basis for a targeted control system. Carefully considered specific risk assessments can avoid inefficient allocation of scarce administrative capacity. One lesson to emerge from the debate is that instead of an entirely regular pre-programmed sequence of controls within a fixed space of time, more focus should be given to controls arising from suspicion or complaints, and on controls at the appropriate time, e.g. during the time when fertiliser applications are banned.

For Annex IV, there is also a role for risk assessment, for example in areas with vulnerable soils and inappropriate cropping practices. At the same time site-specific national or regional standards (e.g. for grassland protection) may be better enforced as a result of applying IACS area controls. With regard to farmland area monitoring and control, cross-compliance could facilitate the use of IACS data for multiple land management issues.

4.6 Administrative capacity

Several aspects of implementation create demands on national or regional administrations. These include the following.

- The development of proposals, including stakeholder consultation.
- Communication the requirements to farmers, backed up by additional information and advice as necessary. Many of the SMR obligations will be seen as new, even if they already apply in legal terms.
- Investing in a risk assessment procedure and possibly new data sets.
- Preparing one or more agencies to undertake the inspections.
- Co-ordination of agencies, since many will be involved in several countries.
- Applying penalties and dealing with appeals if presented.
- Co-ordination with the overall management of direct payments and the CAP budget.
- Monitoring of the system.
- Subsequent improvements in advice, support, training etc arising from weaknesses revealed by the new system and greater expectations of farmers.

Many Member States have found it difficult to allocate sufficient resources to policy development and stakeholder consultation during 2004. Where the costs of implementation have been considered, the burden on the administration has been a significant factor, alongside costs at farm level, which are difficult to estimate. Yet informal discussions with Member States suggest that most do not expect additional staff to be available, centrally or within agencies, to apply the new system. Under resourcing of a substantial policy initiative seems to be a serious risk. While new tools, including GIS, can help to improve aspects of monitoring and enforcement, core administrative tasks require an adequate level of staff, training and data.

There are advantages in using a single agency for all cross-compliance inspections in terms of efficiency and reduced need for co-ordination. However, few agencies have staff with sufficient training and experience to cover the full range of issues arising under cross-compliance. Usually a range of specialist agencies is involved in implementing and enforcing specific measures under existing national legislation and it seems likely that many Member States will adopt a multi-agency approach to cross-compliance.

4.7 Sanctions

Cross-compliance sanctions should depend on the severity, extent, permanence and repetition of infringements. After several repetitions and an official warning, further non-compliance is considered intentional, and higher sanctions are applied. In practice it may be difficult to define severity, extent and permanence in a quantitative way, and much scope remains for individual judgement. However, in order to provide some transparency, Member States should as far as possible provide clear definitions. It is desirable that sanctions should consider the actual environmental impact of an infringement, especially when indirect indicators of compliance are used. This applies to the severity, extent and permanence of an event.

The scope for Member States to determine the level of payment reductions is limited by general minimum rates defined in Regulation 796/2004, Articles 66 and 67. In applying penalties, the purpose of the measure needs to be borne in mind. Applied insensitively, a standardised and inflexible approach to payment reductions based on percentage rates could lead to imbalances and a loss of focus on the environment. Some cases are difficult to evaluate, e.g. if non-compliance is detected on a very small proportion of farm area. Member State administrations should avoid heavy penalties in such cases, and avoid penalties for entirely trivial cases.

Another issue is how Member States will handle the parallel system of enforcement of national law and administrative fines alongside cross-compliance. It would not be appropriate to scale back national fines, which appear low already in many Member States, especially since some of the more polluting holdings, such as intensive livestock farms, will remain outside the system. In order to assess lateral effects on other enforcement tools, the potential for handling combined sanctions (fines and payment reductions) in the Member States should be evaluated.

4.8 Information, advice and incentives for co-operation

Compliance with standards relies not only on control and sanctions but also on awareness of the requirements amongst farmers. Information and technical advice, therefore, have to be provided. In general, information and technical advice are offered on a voluntary basis, but it could be expected that there will be more interest in the farming community after cross-compliance is introduced. Member States may choose to incorporate technical advice into GAECs e.g. soil conservation plans supported by technical advisors in the farming community. It has been suggested that obligatory advice instead of payment reductions could be given after detection of a first breach of conditions. Currently payment reductions must be executed even for the first breach, which limits opportunities for a more co-operative approach. This could be a significant change but might fit some cases particularly well. Finally,

incentives to encourage the use of farm audits and self-reporting by farmers could be given by using a bonus system whereby sanctions would be reduced if farmers provide reports on their initial environmental performance. Legal compliance checks and self-declarations are used, for example, in EMAS auditing under Regulation 761/2001 (see end of section 3.3). Greater farmer engagement could be encouraged by positive incentives of this kind, alongside the penalties. New support measures in the Second Pillar of the CAP, in particular the support of farm advisory services, could help to introduce new approaches of this kind.

4.9 Monitoring, evaluation and information exchange

Cross-compliance is a relatively new policy instrument in the EU and it calls for more regular monitoring of how Member States define, implement and enforce standards and their environmental effects. A shortcoming of the existing regulations is that transparency is rather low and there are no comprehensive reporting duties for Member States. Thus, evaluation of cross-compliance and judgement on its effects is 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.

Annual progress reports by Member States on the implementation of general mandatory requirements and cross-compliance according to the old 'horizontal' Regulation 1257/1999, prescribed in the implementing Regulation 963/2001, were not readily available to the public, and a summary report is still due by the end of 2004 although national or regional reports were submitted to the EC at January 2003. Regulation 796/2004, Article 76, establishes rules for reports to the Commission on reductions and exclusions from the single payment and other area-related aid schemes by 31 March each year. This will also contain certain information on cross-compliance implementation regarding the competent control bodies and the results of checks carried out, indicating the reductions and exclusions applied. However, information on verifiable standards and risk analysis is not specifically required, so the lack of information about evaluation and the development of best practice will remain. Reporting requirements should, therefore, be improved, and reports should be made available to the public and for scientific analysis.

5 The way forward

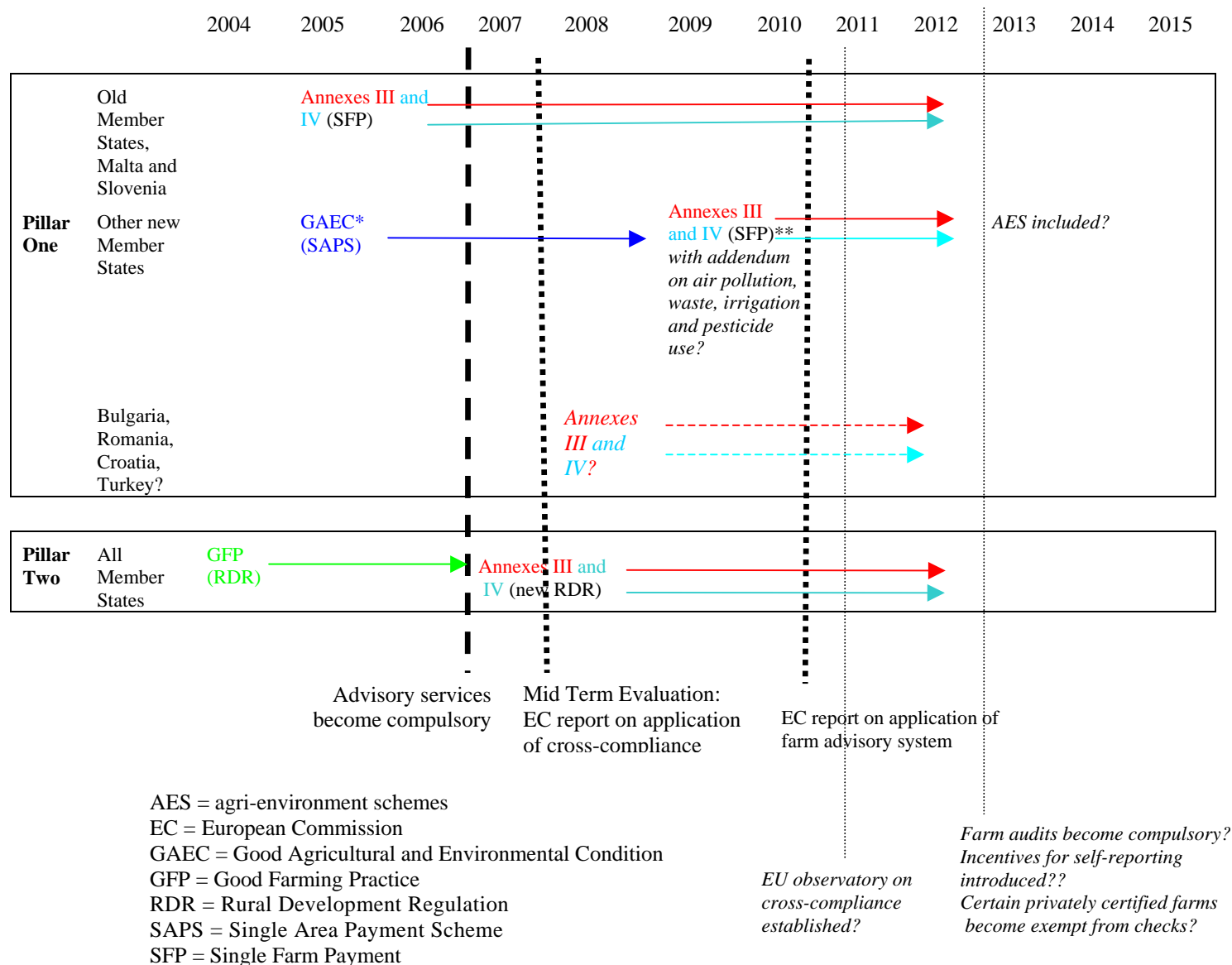
5.1 Preamble

Cross-compliance at the enhanced level within the MTR goes hand in hand with decoupling 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 figure below provides an overview of the evolution of cross-compliance in the First and Second Pillars 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 discussed in this paper.

Figure 3 An overview of environmental cross-compliance conditions in the EU on the First and Second Pillars and proposals for the future (*in italics*)



* No explicit link to Annex IV of 1782/2003

** Must be introduced by 2009 but could be earlier

5.2 Mid term evaluation

Regulation 1782/2003, Article 8, prescribes a Commission report on the application of the system of cross-compliance by 31 December 2007 at the latest, accompanied, if necessary, by appropriate proposals notably with the view of amending the list of SMRs set out in Annex III. Some new EU environmental regulations relevant to agriculture are likely to be added to Annex III as they come into force. One item of legislation which may be included is the Water Framework Directive. If so, it will require Member States to formulate farm level standards or voluntary incentive instruments. After this evaluation some refinements to the system are likely to be proposed. Furthermore, pursuant to Article 16 the Commission has to submit a report on the application of the farm advisory system by 31 December 2010 at the latest. If necessary, this is to be accompanied by appropriate proposals with a view of rendering it compulsory.

Experience with implementation in the Member States is likely to reveal certain legal difficulties with regard to proving that land managers have failed to comply with verifiable standards. This in turn can be expected to lead to refinements in policy at the regional/national or EU level. If there is great diversity between Member States competitiveness issues may also be revealed after the first period of implementation, so increased co-ordination and greater consistency, particularly of Annex III standards may become desirable.

5.3 Beyond 2013

It is difficult to forecast how policy will develop, but at least two strands will be considered here: one on the First Pillar and the other on cross-compliance as a baseline and condition for Second Pillar rural development payments. Currently cross-compliance is seen as having the most influence through the First Pillar, although this may cease to be the core of the CAP in the longer term. In one scenario the funding priority may be transferred to rural development measures in the Second Pillar. Depending on the development of direct payments there are at least two options of how cross-compliance in Pillar One might develop.

1. Cross-compliance could be expanded into an instrument that reaches further than setting minimum standards. Cross-compliance could be combined with agri-environment measures, as in Switzerland. Under this approach the requirements of voluntary agri-environment measures become quasi-obligatory, as they have to be observed in order to receive direct payments; entry into a relevant scheme is a condition of eligibility. With this 'Orange Ticket' approach (see Box 1) regionally based standards which lead to great differences in compliance costs can be better incorporated into cross-compliance by using additional agri-environmental payments as compensation.
2. 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 under a version of Pillar One would be linked more closely to the demands placed on farmers. When considering direct payments to farmers in the future this option should be kept in mind.

In the long run it appears, however, that cross-compliance could not provide a total substitute for agri-environmental schemes, but could supplement them. Nor could it substitute good environmental legislation.

5.4 Some key questions

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. Cross-compliance is a comparatively blunt instrument, focussing on the enforcement of horizontal baseline conditions, but applies to a large proportion for farmland, irrespective of funding for Pillar Two. The question remains which objectives would best be addressed by which instrument.

Should cross-compliance in Pillar One be more demanding?

Many Member States are tempted to define very light standards for cross-compliance with hardly any regulatory impact to minimise administrative costs and disallowance risks. 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 get to 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 to farmers.

Is there potential for using farm planning tools more in future?

Could the use and development of soil management plans and nature management plans have a future in the framework of cross-compliance? Environmental management systems and environmental audits could be incorporated in a complimentary way in agri-environmental measures.

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 the 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 EC the Member State may choose to focus on recipients of direct payments for compliance checks.

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 they depend

considerably on the number of staff employed in practice. 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 private assurance schemes were more widespread?

Administrative efforts could be reduced if experience with the design of verifiable standards and compliance checking was shared with private assurance schemes. Since many schemes involve the checking of SMRs there could also be an opportunity to share responsibility for compliance checking, or farmers could be given an exemption from annual cross-compliance checking if they were certified by one of a selection of farm assurance schemes. There is a question, however, over whether such private initiatives should provide 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. There is often more emphasis on food safety as opposed to the environment in such schemes, reflecting higher consumer concerns in their area.

Should more environmental issues be covered?

At present GAEC has a heavy focus on soils. While some important environmental issues are not covered, there is a strong case for water and irrigation issues to be incorporated, since there is no appropriate legislation that could be included in Annex III apart from 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). Currently there is a requirement in the proposed EAFRD for 2007-2013 in Article 37: 'farmers and other land managers undertaking agri-environment commitments shall respect minimum requirements for fertiliser and plant protection product use to be identified in the programme'. This was included to ensure that some issues that were covered by Good Farming Practice would not be lost after transferring cross-compliance conditions to Pillar Two. This requirement could also usefully apply to Pillar One payments.

5.5 Post script

Cross-compliance policy has already had an impact on the agri-environment stage in Europe. Even if it was ended today some benefits from its introduction would persist. Cross-compliance has helped to raise awareness amongst public administrations of environmental integration in agriculture, and amongst farmers about environmental standards. Implementation of cross-compliance and communication about the resulting experiences is likely to lead to improved control and documentation procedures. Planning for cross-compliance has created a reason for further co-operation between stakeholders in agriculture and the environment. In this sense it has been a fast acting instrument for integration.

References

Bergschmidt, A., Nitsch, H., and Osterburg, B. (editors) (2003). *Good Farming Practice – definitions, implementation, experiences*. Report on a seminar on 2-3 June 2003 in Braunschweig ‘Developing cross-compliance in the EU – background, lessons and opportunities’. www.ieep.org.uk/research/Cross%20Compliance/Project%20timetable%20and%20available%20documents.htm

Baldock, D. and Mitchell, K. (1995) *Cross-compliance within the Common Agricultural Policy: A Review of Options for Landscape and Nature Conservation*. IEEP: London.

Christensen, T. and Rygnestad, H. (2000). *Environmental Cross-compliance: Topics for future research*. Danish Institute of Agricultural and Fisheries Economics. SJFI - Working Paper no. 1/2000.

Claassen, R., Breneman, V., Bucholtz, S., Cattaneo, A., Johansson, R. and Morehart, M. (2004). *Environmental Compliance in U.S. Agricultural Policy, Past Performance and Future Potential*. Economic Research Service Agricultural Economic Report Number 832.

Defra (2004) *Rolling out the Single Payment Scheme: Land grazed by horses; orchards; national reserve; and two metre borders* www.defra.gov.uk/news/2004/041102e.htm

Dwyer, J., Baldock, D. and Einschütz, S. (2000). *Cross-compliance under the Common Agricultural Policy*. Institute of European Environmental Policy (IEEP) A Report to the Department of the Environment, Transport and the Regions, UK.

Green, B. (2000). Policy, Planning & Management Initiatives in European Cultural Landscape Conservation. In Klijn, J.A. and Vos, W. (eds.): *From Landscape Ecology to Landscape Science*, pp. 57-71. Kluwer Academic Publishers, Dordrecht

Hodge, I. (2000). Current Policy Instruments: Rationale, Strengths and Weaknesses. In *Valuing Rural Amenities*. OECD proceedings, OECD, Paris, 2000

Huylenbroeck, G.V. and Whitby, M. (1999). *Countryside Stewardship: Farmers, Policies and Markets*. Pergamon, Amsterdam.

Isermeyer, F. (2003). *Umsetzung des Luxemburger Beschlusses zur EU-Agrarreform in Deutschland - eine erste Einschätzung* (Translating the Luxembourg agreement on the CAP reform for Germany – a preliminary assessment). FAL, Arbeitsber. Inst. Betriebswirtsch. Agrarstruktur ländl. Räume 03/2003.

Kristensen, L. and Primdahl, J. (2004). *Potential for environmental cross-compliance to advance agri-environmental objectives*. Danish Centre for Forest, Landscape and Planning, The Royal Veterinary and Agricultural University, Denmark

Lehmann, B. (2001) *Das Beispiel Schweiz: Agrarumweltprogramme und Cross-compliance*. Landbauforschung Völkenrode SH 231: 111-117

Nitsch, H. and Osterburg, B. (2004). *Cross-compliance als Instrument der Agrarumweltpolitik*. Landbauforschung Völkenrode 3/2004 (54): 171-185.

OECD (2003). *Agri-Environmental policy measures: Overview of developments*. Paris.

Petersen, J.-E. and Shaw, K. (2000) *Environmental Standards in Agriculture*. Proceedings of a pan-European Conference 5-7 October 2000, Madrid. WWF/IEEP: London.

Petersen et al (2004) *High nature value farmland: characteristics, trends and policy challenges*. EEA: Copenhagen.

Russell, N. P. and Fraser, M. (1995). The potential impact of environmental cross-compliance on arable farming. *Journal of Agricultural Economics* 46 (1) (1995): 70-79.

Varela-Ortega, C. (2004) *Cross-compliance in irrigated agriculture and wetland area*. Paper at seminar 'Evaluation of cross-compliance' in Granada 19-20 April 2004.

Webster, P. and Williams, N. (2001). *Environmental Cross-compliance – Panacea or Placebo?* 13th International IFMA Congress of Farm Management, 8-13 July 2001

www.ifma.nl/files/papersandposters/PDF/Papers/Webster%20&%20Williams.pdf

T