

ALLIANCE ENVIRONNEMENT
Groupement Européen d'Intérêt Economique

**EVALUATION OF THE APPLICATION OF CROSS
COMPLIANCE AS FORSEEN UNDER REGULATION
1782/2003**

EXECUTIVE SUMMARY

FINAL

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for DG Agriculture**

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Introduction

Cross compliance was introduced as part of the 2003 reform of the Common Agricultural Policy (CAP) as a compulsory measure. As from the 1st January 2005, following Regulation 1782/2003, farmers benefiting from direct payments under the first pillar of the CAP may be subject to reduction or withdrawal of those payments in the case of non-compliance with certain standards in the areas of the environment, public, animal and plant health and animal welfare. This approach was extended from the 1st January 2007 to beneficiaries receiving aid with regard to eight measures under 'axis 2' of the second pillar of the CAP. In order to avoid any possible reduction in the total level of direct aid received under these aid schemes, farmers must comply with 19 Statutory Management Requirements (SMRs referred to in Annex III of Regulation 1782/2003)¹ and a number of minimum requirements for ensuring the 'good agricultural and environmental condition' (GAEC) of agricultural land, to be defined by the Member States on the basis of the framework given under Annex IV of Regulation 1782/2003.

The SMRs are based on pre-existing EU Directives and Regulations. Keeping agricultural land in GAEC concerns potentially new obligations that aim, inter alia, to prevent abandonment and severe under-management of land. Member States must also ensure that the extent of permanent pasture (as at a specified reference year) is maintained and that a comprehensive advisory system to support cross compliance is established (obligatory from 1st January 2007).

In short, cross compliance is a mechanism for promoting the sustainability of EU agriculture through the respect of mandatory standards by farmers receiving direct payments. It is a system of payment reductions accompanying existing obligations in Annex III rather than a new set of standards per se. Only Annex IV (those obligations not part of previous national legislation) and permanent pastures obligations are new requirements of the agriculture sector. These can be seen as safeguards to counter some potentially negative effects arising from the decoupling of payments (introduced by the 2003 CAP reform).

The evaluation study and methodology

The evaluation consists of two parts. Part I, Descriptive Report describes the implementation of cross compliance in the EU 25. Part II, Replies to Evaluation Questions, assesses the outcomes of cross compliance in the EU 25. The necessary information for the evaluation was collated by experts appointed by the evaluators in each of the 25 Member States of the EU and compiled into national reports. These reports provide the basis for the Part I and II reports.

¹ A transitional derogation (applicable until 31/12/2008) from the application of SMRs was granted to the new Member States applying the single area payment scheme (SAPS). All new Member States applying the SAPS (i.e. all new Member States except Malta and Slovenia) have made use of this derogation which applies to both the first and second pillars.

Results of the evaluation

Theme 1: Definitions of Good Agricultural and Environmental Conditions and Permanent Pasture Levels

Member States have defined wide-ranging obligations within the framework provided by Annex IV. Some Member States have considered certain Annex IV issues and standards as not relevant to national situations, and therefore have not defined corresponding obligations for farmers; others have defined additional obligations not directly drawn from Annex IV. Judging the effectiveness of cross compliance has to rely on a theoretical assessment of the appropriateness of the GAEC obligations established by Member States, since the policy has only been operational for two years. Although there is wide variation in GAEC obligations, a general conclusion can be reached (Question 1.1) that these obligations are mostly appropriate and likely to contribute to the intended effects (assuming farmers comply with them). Some Member States have made particular effort to design and target obligations to achieve real environmental benefit. However, in other cases, some obligations are considered to be so general that they are unlikely to achieve any real benefit.

A further objective of the cross compliance policy is to encourage the maintenance of existing permanent pasture because of the positive environmental benefits (Question 1.2). As a result of implementation by Member States of specific rules, the overall extent of permanent pasture at national level is likely to be maintained. The use of 'trigger levels' (levels of permanent pasture decline) to prompt remedial action is an effective approach, although in many Member States it seems unlikely that a decline is an immediate threat. This situation could change in future as a result of current higher arable crop prices or other market factors. When judging the effectiveness of the measure against the objective of providing positive environmental effects, we note that site-specific environmental considerations (such as botanical value) are not taken into account, as only the share of permanent grassland has to be maintained. Thus, the effects of the rules can be limited from a biodiversity point of view. However, permanent pasture of high environmental value can be protected through the GAEC standard 'protection of permanent pasture' (noted in many member States) or through other measures outside cross compliance, e.g. nature conservation legislation (noted in AT, DE, IT and UK(E)) and agri-environment measures.

The outcome of compliance with GAEC and permanent pasture obligations on farmers' incomes and costs of production is examined by Question 1.3. So far, in most Member States, the majority of GAEC obligations have either no, minor or moderate impacts on farm incomes and production costs. This is due to the fact that these obligations are either based on pre-existing national legislation or reflect good farming practice that is broadly complied with in practice. Where costs do arise these are mainly reported for: specific soil erosion obligations; maintenance, and especially restoration, of terraces; fire prevention and minimum land maintenance on marginal, sloping land under pressure from vegetation encroachment; or, when removal of cut vegetation is required. Costs are also reported for obligations requiring the establishment of buffer strips along watercourses or hedgerows, as these can result in the loss of cultivated land. However, the evidence base for the extent of costs is limited; few cost estimates have been carried out, with variable results.

So far, there appear to be hardly any on-farm costs for complying with the requirement to maintain the share of permanent pasture. However, in those Member

States that have imposed farm level obligations, additional to pre-existing legislation, additional costs for farmers can arise on areas with potential for cultivating arable crops.

Theme 2: Information, control and reduction system

Member States have put in place effective systems to inform farmers about their cross compliance obligations. Overall, information provision has contributed to increasing farmers' awareness about obligations with respect to SMRs, GAEC and permanent pasture (Question 2.1). However, awareness of some specific obligations could be improved in some Member States e.g. the Nitrates Directive, Birds Directive and soil erosion measures. In addition, when new obligations or modifications to the old ones have been introduced, the updating of handbooks or leaflets has proved to be incomplete or delayed in some Member States. While farmers' awareness of their obligations has been raised, their understanding of those obligations appears to be weak. This situation should be improved in the coming years through information provision and the newly introduced Farm Advisory System (FAS).

Question 2.2 examines the specific contributions of controls and reductions of direct payments to compliance by farmers with SMR, GAEC and permanent pasture obligations. All Member States have established workable systems for the control of cross compliance although some difficulties have been experienced. The organisational structure of these control systems appears to be largely an evolution of pre-existing control systems rather than the introduction of entirely new systems. The complexity of these systems varies across Member States from relatively centralised systems where the Paying Agency acts as the Competent Control Authority (CCA), predominant in the new Member States, to more decentralised systems that require co-ordination between the Paying Agency and specialised control bodies (agricultural, environmental, veterinary and food safety authorities). Cross compliance appears to have led to greater co-ordination between existing control bodies; such co-ordination would be enhanced by the establishment of protocols setting out the arrangements for controls and methods of communication between the different bodies.

The different approaches to controls have different strengths and weaknesses. Centralised systems require less co-ordination effort and are administratively less onerous but result in bundled controls and put greater onus on inspectors to be able to inspect a wide range of obligations. Some concerns have been expressed about the ability of inspectors to effectively carry out controls on what can often be wide ranging obligations. The training of inspectors appears to be of critical importance here. More decentralised systems relying more on specialised control bodies tend to ensure that specialists are responsible for inspecting obligations for which they have expertise but such systems require good communication and co-ordination between bodies and this can be administratively burdensome. The functioning of the central co-ordinating body appears to be of critical importance here. A balance needs to be struck between too few and too many CCAs, in order to deliver an effective system. The Commission has recently proposed² a number of improvements to the cross compliance system, especially in relation to controls, for example, the harmonisation

² COM (2007) 147: Report from the Commission to the Council on the application of the system of cross compliance.

of control rates, advanced notice of on-the-spot checks and improved selection of the control sample. These proposals are supported by the conclusions of this evaluation. In addition, the evaluation provides evidence of the need to improve selection of the control sample and to develop a more consistent approach to risk analysis across the Member States.

Regarding payment reductions, the majority of Member States have developed an evaluation matrix or scoring system whereby each type of non-compliance or breach, as determined by the control body, is assigned a score or rating. These scores or ratings are then used to calculate the percentage reduction of payment, with a high level of variation among Member States. While all Member States have applied payment reductions, according to the cross compliance legislation, a number have taken more lenient approaches and made use of warning letters for minor, unintentional non-compliances (an approach not currently allowed under the legislation).

Data received by the Commission from 23 Member States on controls and reductions shows that on-the-spot checks (240,898 in total) were carried out on 4.92% of farmers affected by cross compliance in 2005. Payment reductions were applied to 11.9% of farmers subject to on-the-spot checks across the EU, the total reduction amounted to €0.84 million. In Member States applying full cross compliance (SMRs and GAEC), the main non-compliances related to: the identification and registration of cattle (71% of breaches); GAEC (13% of breaches); and, the Nitrates Directive (10% of breaches). This evaluation indicates that the main GAEC non-compliances were in relation to minimum level of maintenance, followed by soil erosion, soil organic matter and then soil structure. This may reflect the fact that, in general, the majority of obligations were defined in relation to minimum level of maintenance and soil erosion. It is not yet possible to say at this stage whether controls and reductions of payments are effective in terms of improving compliance with obligations due to a lack of time series data. However, the expectation of a wide range of stakeholders is that compliance with these obligations will be high as a result of controls and the threat of payment reductions.

Theme 3: Achievement of global objectives

Question 3.1 examines the extent to which the combination of different inputs to the cross compliance system and the different outcomes has promoted sustainable agriculture, a global objective of the policy. Overall, there appears to be some evidence to indicate that the combined effects of inputs and outcomes are likely to promote sustainable agriculture. However, the specific aspects of sustainable agriculture which appear to be promoted are rather variable depending on which component of policy implementation is considered e.g. GAEC definitions or information provision. Sustainable agriculture is also not likely to be uniformly promoted across the Member States given the number of component parts of cross compliance and the variations in implementation for each of these between the Member States.

Theme 4: Efficiency analysis

The efficiency of cross compliance is considered in two ways. First, the assessment considers whether cross compliance represents the least cost approach of ensuring compliance with predefined obligations (SMRs and GAEC obligations based on pre-

existing national legislation). Since such obligations existed pre cross compliance, the only costs that can be considered here are those that arise from the cross compliance system itself i.e. costs necessary to ensure compliance with obligations, and not the costs of farm level practices required to meet the obligation. Secondly, the assessment considers the costs and benefits of GAEC and permanent pasture obligations including the additional costs and benefits of the practices required to meet the new obligations as well as any costs at farm level necessary to ensure compliance. Questions 4.1 and 4.2 assess the available evidence for determining the efficiency of cross compliance.

There is evidence to suggest that the cross compliance system is having a positive effect in terms of ensuring compliance with obligations. The initial costs of these achievements (arising only from obligations newly introduced by cross compliance), both for farmers and the authorities, have been substantial in some instances although some of these costs may be considered as start-up costs which will reduce once the system is fully up and running. Costs and benefits of using cross compliance for enforcing obligations appear to vary widely between Member States and regions, and in those cases where compliance was already high the costs of the cross compliance system (those necessary to ensure compliance) are claimed to be high relative to the benefits secured. Some, albeit limited evidence indicates that cross compliance can have certain advantages compared to legal enforcement of obligations (administrative/legal costs), agri-environment schemes (budgetary costs), and advisory/information based approaches (levels of compliance).

In general, the costs of introduction of new obligations through GAEC appear broadly proportional to the intended effects. The costs and intended effects vary widely between Member States, depending on the overall approach adopted, the type and number of obligations set, and the degree to which these are demanding for farmers. The national reports provide little evidence of cases where GAEC is seen to impose high costs at the farm level for little or no benefit. There are examples where new GAEC obligations are seen as cost effective means of meeting environmental or agronomic objectives, for example in ensuring minimum levels of maintenance. Efficiency could be improved in those cases where GAEC obligations are imposed at national level but environmental problems are localised (e.g. obligations for soil erosion in several Member States).

For permanent pasture, the rules to ensure the maintenance of such land have had little effect to date at farm level and the costs have consequently been low. The national reports suggest that, in future, the costs are likely to be proportional to the intended effects in many Member States. However, the efficiency of the rules is questioned in those Member States where the environmental value of pastures is considered low, which can trigger extra costs on farmers with limited environmental benefits.

Theme 5: Other impacts

Since cross compliance does not result in widespread new on-farm costs for farmers, there is likely to be limited or no significant impact of cross compliance on competitiveness in the internal market (Question 5.1).

Question 5.2 examines the articulation and order of magnitude of other impacts of cross compliance. As regards farmers' understanding of sustainable farming systems, anecdotal evidence suggests that while farmers' awareness of their obligations has generally improved, in many Member States, farmers' understanding of those obligations, and of sustainable agriculture more generally, is less well developed; the newly introduced Farm Advisory System is likely to have a constructive role to play in this respect. Some national reports also refer to negative attitudes of farmers towards EU policy and to those responsible for cross compliance. In some cases, cross compliance has confronted farmers with pre-existing standards they were not aware of, whereas in other cases new GAEC standards have triggered negative reactions.

Cross compliance is intended to help the enforcement of specific EU legislation and contribute to underpinning the integrity of that legislation (see Question 5.3). Following the intervention logic of the policy, it seems justified to conclude that the inputs to cross compliance as applied in many Member States are contributing to underpinning the integrity of EU legislation.

Recommendations

1. Member States should be allowed to establish GAEC issues and standards going beyond the scope of the current framework, if these are relevant to national needs and priorities;
2. Where relevant, the application of farmers' obligations to address localised problems should be limited to the respective areas;
3. Where relevant, the rules for the maintenance of permanent pastures should better reflect site-specific environmental considerations, also taking into account the role of other more specific measures outside the cross compliance policy;
4. Regular monitoring of farmers' awareness against baselines could develop a more accurate understanding of farmers' awareness of cross compliance obligations, thus supporting targeted provision of information;
5. Beyond supporting the understanding of cross compliance obligations by farmers, the Farm Advisory System should be implemented in a manner that helps to enhance farmers' understanding of the purpose and rationale of cross compliance;
6. Shared knowledge and experiences among Member States in the areas of risk analysis and scoring system could increase the level of harmonisation in the application of controls and payment reductions throughout the EU.