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Warsaw Agricultural University



WFD and Agriculture Linkages at the EU Level

Final Report about Cross Compliance and the WFD

22/05/2006
Final Version

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The Water Directors endorsed the report during their meeting in Salzburg on 1-2 June 2006.

Foreword

As a result of a process of more than five years of discussions and negotiations between a wide range of experts, stakeholders and policy makers, the Water Framework Directive (or the Directive 2000/60/EC) of the European Parliament and of the Council established a framework for European Community action in the field of water policy. The Directive, which entered into force on the 22nd of December 2000, sets a framework for the protection of all community waters with the aim of reaching “good status” for all waters by 2015.

The latest reform of the EU Common Agricultural Policy (CAP) in 2003 increased the opportunities for the implementation of the Water Framework Directive (WFD). A working document prepared by the Environment Directorate General of the European Commission highlighted a number of opportunities where the CAP can help achieve the WFD objectives (European Commission, DG Environment, 2003). However, achieving these objectives remains a challenge. Acknowledging this, the Water Directors, who are the representatives of the EU Member States administrations with overall responsibility on water policy, agreed in June 2004 to take action in the context of a Common Implementation Strategy (CIS)¹. To this aim they established an EU Strategic Steering Group (SSG) to address the issues of interrelations between CAP and WFD. The timeframe for the SSG work is short, given the tight WFD timetable (developing draft River Basin Management Plans by 2008, achieving the ecological status objectives by 2015) and the timing of CAP developments, notably the new European Rural Development Regulation which is to cover the period from 2007 to 2013.

The Strategic Steering Group (SSG) on WFD and Agriculture is led by the UK and the Environment Directorate-General of the European Commission with technical support from the Directorate-General for Agriculture and Rural Development. The aim of the group's work, which met for the first time in April 2005, is to identify the issues relating to agriculture which affect a Member State's ability to meet WFD objectives. The group will also put forward suggestions on how best to manage the risk of not meeting these objectives, taking into account the opportunities of the reformed CAP. There is also a role for the group to consider the potential impacts achieving the WFD objectives may have upon agriculture, and the effects this would have on policy development and decisions.

As one of its first tasks, the SSG is focussing on preparing a report which deals with the opportunities available under the Cross Compliance Regulation to support the aims of the WFD. Ecologic and Warsaw Agricultural University (WAU) have been commissioned to prepare this report in the context of the 6th Framework Programme, for the research project “WFD meets CAP – Opportunities for the future”². This report focuses on Cross Compliance and uses information from the following sources:

- the outputs of the SSG on WFD and Agriculture, activities and discussions that have taken place since April 2005;
- the replies to the Commission questionnaire on WFD and Programs of Measures distributed to the relevant actors in the EU Member States; and

¹ The main aim of this strategy is to allow a coherent and harmonious implementation of the WFD. The focus is on methodological questions related to a common understanding of the technical and scientific implications of the WFD.

² EC Contract no.: SSP-CT-2005-006618 CAP&WFD.

- Defra's preparation for the UK conference on Water Framework Directive and Agriculture, held on September 20-21, 2005 in London, and the conference outcomes.
- the preparations for the Austrian technical conference on CAP & WFD – opportunities for the future, held on March 02-03, 2006 in Vienna, and the conference outcomes.

Furthermore, the report builds on the input and feedback from a wide range of experts and stakeholders that have been involved through meetings or electronic communication media.

Ecologic and Warsaw Agricultural University would like to thank all experts of DG Environment, DG Agriculture, Defra and all national experts for supporting us and providing background for this document.

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The information compiled in this paper is subject to rapid change.

The information presented is the status as of **May 2006**.

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Policy Summary

Background:

1. The purpose of the Water Framework Directive (WFD) is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater. This framework aims at preventing further deterioration and protecting and enhancing the status of aquatic ecosystems and, with regard to their water needs, terrestrial ecosystems and wetlands directly depending on the aquatic ecosystems. To achieve WFD objectives, the full implementation by Member States of existing environmental obligations which relate to water quality and resources, is required.
2. From 2005, all farmers receiving direct payments will be subject to compulsory Cross-Compliance (Council Regulation No 1782/2003 and Commission Regulation No. 796/2004). Cross compliance establishes a link between the implementation of EU legislation in the fields of environment; public, animal and plant health, food safety and animal welfare and the payments received by most farmers as well as many landowners in the EU. The main aim of Cross Compliance is to help enforce compliance with existing regulations.
3. Farmers must observe Cross Compliance (CC) standards in two ways:
 - First they have to respect the statutory management requirements (SMRs) set-up in accordance with 19 EU Directives and Regulations, listed in Annex III of Regulation N° 1782/2003.
 - Secondly they have to comply with specific criteria in the fields of soil erosion, soil structure, soil organic matter and minimum levels of maintenance, which together make up the so called “Good agricultural and environmental conditions” (GAEC).
4. The cross-compliance scheme provides a tool to enforce compliance with existing standards.

Links between CC and WFD:

5. The WFD incorporates a number of previous directives including some of those listed as statutory management requirements (SMRs) under the Cross Compliance regime (e.g. Nitrate Directive). This means that the enforcement mechanism provided by Cross Compliance can directly contribute to achieving WFD aims. The reinforcement of the directives relating to the environment under cross-compliance, should help to achieve WFD objectives.
6. The GAEC conditions in several countries, aim primarily at soil preservation issues which should positively impact water quality due to reduced run-off and erosion, enhanced buffer and filter functions and the protection of permanent meadows and pastures.
7. The SMRs in particular are not new and parts of GAEC are often covered by Good Farming Practice. Cross compliance however, introduces a way of helping to ensure that farmers comply with these requirements. For it to become a successful instrument, advice services to farmers on appropriate management practices as well as control measures, must be properly put in place by member states.
8. There are differences between how Member States are implementing Cross Compliance. While generally SMRs are implemented in a fairly similar manner across

Europe, GAEC and the standards to define it, vary greatly between the Member States. There are differences in the number of standards used as well as their focus.

9. Advisory services will have a significant role to play in order to reach higher environmental standards on the farm level and thereby contributing to the WFD implementation

Limitations:

10. Despite all these potentially positive links between CC and WFD, the instrument itself has its limitations:
11. CC is not relevant to all farmers, just those that receive direct payments.
12. There is no direct link between CC and the WFD. Only a few of the 19 directives Cross Compliance refers to, have a direct link to water quality (e.g. Groundwater Directive, Nitrate Directive). GAEC criteria, depending on the national embodiment can support the WFD implementation, but there is no requirement for them to do so.
13. Hydrological or hydro-morphological pressures to the water bodies are poorly addressed under CC.
14. The reference point for the control of CC is the farm holding and is therefore at a different scale to the river basin approach of the WFD.

Future perspectives

15. The existing CC standards, offer an opportunity to contribute to achievement of the WFD objectives, but even if the full compliance of all European farmers is achieved with CC standards, this alone will not guarantee reaching all WFD objectives as CC standards were never primarily intended to achieve these.
16. Amongst the different potential options for future development are (i) Sound implementation and better enforcement of the current CC scheme, (ii) amendment/replacement of directives under current SMRs towards more water relevant aspects, (iii) integration of additional directives (e.g. WFD) into the current SMRs, (iv) further development of GAECs by introducing additional water criteria or enhancing of current criteria. However, reinforcement of existing (i) and new (ii, iii, iv) legislative mandatory instruments has limitations in enhancing water quality and might lack support of farmers. Therefore this approach should be seen in perspective of the potential of other instruments that contribute to the WFD objectives.
17. If exploring the future possibilities of CC to contribute to the WFD objectives, a stepwise approach should be chosen as it allows farmers more easily to adapt. This should comprise a first review of the present CC system before deciding whether there is value in, or a need for, further development of SMRs and GAECs. The immediate priority should be a proper implementation of the current CC, i.e. the setting up of farm advisory systems and efficient control mechanisms for on-the-spot-checks.

1 Introduction

The Common Agricultural Policy (CAP) is one of the most important European policies. Since the establishment of the CAP, its main objectives have been to increase agricultural productivity, to ensure a fair standard of living for the agricultural community, to stabilize markets and to assure the availability of supplies and that supplies reach consumers at reasonable prices. Environmental aims were not among those originally listed and 50 years ago the environmental impact of farming was considerably less than today. In order to achieve the main objectives, the EC pursued a price and market support policy, which stimulated the intensification of agricultural production and contributed to rising environmental problems.

Water pollution has become recognised as one of the main environmental problems caused by agriculture. Pollution of water destined for human consumption was the initial concern of the EC and it was first tackled through the Drinking Water Directive. Later Directives, such as the Nitrate Directive placed an increased emphasis on the environmental effects of excess nitrogen, in particular eutrophication. In general the Directives established at this time, subdivided the aquatic eco-systems into individually protected attributes (e.g. groundwater, bathing water etc.) and defined quality targets which had to be achieved through certain measures (Holtmeier, 1997).

A communication of the European Commission on the water policy of the Community in February 1996, marked the start of a new wave in European water policy (European Commission 1996). In this document the European Commission concluded that a Water Framework Directive should be drawn up in order to concentrate, rationalise and standardise, as well as improve the efficiency of European water protection legislation. Previous approaches would be combined to form a coherent overall concept³. The new Water Framework Directive (WFD) was adopted and finally entered into force in December 2000 (European Parliament and the Council, 2000).

In parallel with Agenda 2000, the CAP started its move towards "sustainable" agriculture. The aim was to increase the competitiveness of European agriculture at the same time as making it more environmentally sustainable. A fundamental step was taken towards integrating environmental concerns with the latest reform of the Common Agricultural Policy (CAP), adopted by the EU farm ministers on 26 June 2003. With the introduction of a compulsory Cross-Compliance Scheme, environmental and nature conservation conditions have been attached to the direct payments received by farmers under the CAP.

This paper aims to determine to what extent the current Cross-Compliance scheme supports the implementation of WFD objectives as well as how the WFD influence the compliance with existing environmental legislation that were ignored in the past. What options for alterations could be considered and what aspects of the WFD may be integrated into a future Cross-Compliance scheme?

³After the implementation, there will only be the following Directives in the European Community left, which contribute to the goal of having clean water in sufficient quantity become a reality all over Europe: Urban Waste Water Treatment Directive (91/271/EEC); parts of the Discharges of Dangerous Substances Directive (76/464/EEC) and the Priority Substances under the Water Framework Directive; Nitrates Directive (91/676/EEC); Bathing Water Quality Directive (Council Directive 76/160/EEC concerning the quality of bathing water) and its proposed revision; Drinking Water Directive (98/83/EC). For further information see <http://europa.eu.int/scadplus/leg/en/lvb/l28002b.htm>.

2 Cross Compliance and WFD implementation – Background information

The agricultural sector is, besides residential and industrial needs, one of the major reasons for water degradation and often impedes the achievement of the primary goal of the WFD, which is to achieve “good status” of all waters. On the other hand, agricultural production depends strongly on the availability of sufficient quantity and quality of water.

With the aim of establishing a common approach and developing a common language between both policy sectors, a short overview of the key elements of both policies will be given in this section⁴. Special attention will be paid to the Cross Compliance regime under the CAP as it provides an obvious link to WFD requirements

2.1 The Common Agricultural Policy

The Common Agricultural Policy was set up in 1957 by the Treaties establishing the European Economic Community (EEC)⁵. A fundamental reform of the Common Agricultural Policy was adopted in 2003. Subsidies are to be paid independently from the volume of production and are linked to environmental aims using Cross Compliance. A single farm payment scheme has been introduced, replacing the previous different support schemes i.e. Arable Area Payments Scheme (AAPS), Beef Special Premium Scheme (BSPS), Extensification Payment Scheme (EPS) etc. The de-coupling of direct payments from the volumes of goods produced is expected to have the most significant impacts on the environment, although some member states excluded some commodities from de-coupling (partial de-coupling).

Currently only a few studies on the environmental effects from decoupling of direct payments are available and further research is needed⁶. Nevertheless the following rough picture can be drawn: Overall, it is likely that the CAP reforms will result in changes in farming practice that will help to reduce levels of environmental pollution. These reductions may vary across a broad range of magnitudes and are expected to be greatest in less favoured areas. Nevertheless, in some regions and within specific catchments the CAP reform will probably lead to more intensive practices (e.g. increases the use of fertilisers) (GFA-RACE and IEEP, 2004; Schmid and Sinabell, 2004; Ganzert et al., 2003).

Beside the effects from decoupling, further environmental effects can be expected due to the new Cross Compliance framework, as described below.

2.2 Cross compliance

From 2005, all farmers receiving direct payments will be subject to compulsory cross-compliance (Council Regulation No 1782/2003⁷ and Commission Regulation No 796/2004). They must respect Cross Compliance standards in two ways: First they have to respect the statutory management requirements set-up in accordance with 19 EU Directives and Regulations, listed in Annex III of Regulation N° 1782/2003 (amended by Reg 21/2004). The standards relate to the protection of the environment; public, animal and plant health, food

⁴ A more detailed assessment of both policies can be found at Herbke et al. (2006).

⁵ For more information on the history and the mechanism of the CAP please see Herbke et al. (2006).

⁶ In 2004 the EC set up a research project called GENEDEC (FP 6- Proposal/contract no: 502184). It has been designed to assess the socio-economic and environmental impacts of the decoupling of direct payments decided in the framework of the Luxembourg agreement on the CAP reform. First results can be expected by 2007. For further information please see <http://www.grignon.inra.fr/economie-publique/genedec/eng/home.htm>

⁷ Amended by EU Regulation 21/2004 that sets out rules on identification and registration of ovines and caprines.

safety and animal welfare. The main aim of the Cross Compliance regulation is to reinforce the compliance with existing regulations (here: 19 EU directives). The expected outputs are a rise in the level of compliance due to the change of farmer behaviour (abolishment/reduction of harmful practices) resulting in benefits for the environment; public, animal and plant health, food safety and animal welfare. Farmers will be sanctioned in the case of non-compliance (partial or complete reduction of direct support). Even so the target group of Cross Compliance are only those farmers that receive direct payments. The behaviour of farmers not applying for direct payments, is not affected directly.

The second part of Cross Compliance is the requirement that all agricultural land for farmers claiming payment should be kept in **good agricultural and environmental condition** (GAEC). It is up to the individual Member States to define minimum GAEC requirements and they may differ according to the specific characteristics of different areas. The Commission provides a basic framework in Annex IV of Regulation 1782/2003, which specifies that conditions must relate to soil erosion, soil organic matter content, soil structure and a more general minimum level of maintenance. GAEC conditions are mainly meant to ensure that the introduction of the SFP does not lead to abandonment of agricultural land. A further requirement provided by the regulation is that land under permanent pasture must be maintained as such or at least the total area of permanent pasture within a member state must not decrease.

Member States have developed standards in varying ways. Most set up working groups between the agricultural, environmental, forestry and water management government departments and farm advisory services to discuss the options available. Around half the Member States also consulted environmental groups or held a public consultation. Since there was no fixed approach to developing standards, there are large differences between the way Member States have defined them in part reflecting a wide spread of agri-industrial activities and the diversity of socio-economic and geographical environments of Member States.

Cross Compliance establishes a link between the implementation of EU legislation and the payments received by most farms in the EU. Cross Compliance will not apply to sectors without direct payments such as some of the vegetable, vine and fruit sector and for the pig and poultry sectors where payments are generally less important. These are sectors however which may cause large amounts of environmental damage. Nevertheless the Directives under Cross Compliance (e.g. the Nitrate Directive) have to be respected by these farmers as well as they are basic legal requirements (see section 2.2.1).

2.2.1 Cross-compliance in general context of environmental quality standards

The setting of environmental quality standards (EQS) is a common approach of the environmental policy. EQS vary a lot concerning the way they are set, the objectives they tackle, the level of detail, level of (juridical) liability and not at least in the instruments chosen to implement them.

EQS underlying the environmental focused directives of the Cross compliance regulation can be considered as basic legal requirements. They are aiming to prevent natural resources including water from harm and deterioration and negative effects of land use. They reflect basically legal minimum standards with which a land user has to comply. The standards are mainly restrictive and not set in pro-active manner with the intention to pro-actively improve the current environmental conditions. Therefore the Cross Compliance regulation can be seen as a tool to enhance compliance with existing legal requirements and as setting a baseline. They are not regarded as tools that focus *per se* on the improvement of specific environmental conditions, which are generally considered to be the role of Agri-environment schemes. The directive speaks about “basic standards for the environment”. Cross compliance works as some kind of “safety net” in this respective, although adherence to standards is not guaranteed

as only 1% are likely to be inspected in any one year. Concerning the compliance with CC and with the underlying standards 3 situations are possible (see Figure 1).



Figure 1: Cross-compliance in context of environmental quality standards

In principle the following basic situations can appear (compliance and non-compliance).The following consequences can arise from each of the situations:

- Farmer 1 will be prosecuted for non compliance with legal requirement according national legislation and may be subject to reduction of direct payments because of non-compliance with SMRs and/or GAECs.
- Farmer 2 can be prosecuted for non compliance with legal requirement according national legislation too but is still eligible for full direct payments as he complies with EU-wide SMR and GAECs.
- Farmer 3 is eligible for direct payments and complies with national regulations concerning environmental standards.

2.3 Water Framework Directive

The Water Framework Directive entered into force in December 2000. The WFD has the following main objectives and principles:

- Expanding the scope of water protection to all aquatic systems, surface waters, groundwater and coastal waters. Land eco-systems depending on groundwater are also included in the protection of the quantity and quality of groundwater;
- To achieve the “good status” of all waters in the Community by 2015 and ensure that there is no deterioration in the status (Art. 4);
- Water management based on river basins across national boundaries, choosing an integrated approach within river catchment areas;

- "Combined approach" of emission limit values and quality standards, plus the phasing out of priority hazardous substances;
- Introduction of incentive water pricing policies to help achieve objectives and the polluter pays principle;
- Involving the public more closely in water issues, allowing interested parties the opportunity to participate;
- Streamlining water legislation;
- Establishing a coherent management framework for all water-related legislation (e.g. energy, transport, agriculture, fisheries, regional policy, tourism), thus allowing for consistency in planning.

Following from these objectives, river basin management plans including summaries of programmes of measures should be drawn up to reach the main goal of the "good status" of all waters. The programmes of measures can be considered as the principal mechanism for the implementation of the environmental objectives of the WFD, and must be developed for each river basin district (Hansen et al., 2004). These programmes have to be established by 2009 and made operational by 2012 (Art. 11 WFD) and should be based on a risk assessment (Art. 5 WFD). The first risk assessment analyses under the programmes of measures had to be completed by the end of 2004 and should have assessed the risks of failing to achieve WFD objectives by carrying out pressure and impacts analyses.

As a result of this analyses the agricultural sectors (besides the industrial and household sectors) poses a significant pressure on both surface and groundwaters in terms of quality and quantity. For example, extensive abstraction of water for agricultural purposes, especially in the southern EU Member States, increases the risk of over-exploitation of the available water resources. In addition, hydro-morphological changes due to agricultural activities such as drainage and land reclamation pose significant pressures on surface water bodies. The possible negative impacts of some agricultural practices on water include not only environmental problems but also potential risks for both human health and life (floods, water and food contamination, etc.). The structure and scope of all these problems vary widely between the different regions in Europe but appear in many places (Herbke et al., 2005).

The WFD programs of measures distinguishes between **basic measures** (minimum requirements) and **supplementary measures**. Basic measures include, according to Annex VI (Part A), the implementation of a number of environmental directives that directly or indirectly assist in the protection of water. Most relevant for the CAP are the following directives because they are part of the Cross-Compliance regime:

- Nitrates Directive (91/676/EEC);
- The Birds Directive (79/409/EEC);
- The Habitats Directive (92/43/EEC);
- The Sewage Sludge Directive (86/278/EEC).

If the basic measures are not sufficient for achieving the environmental objectives, **supplementary measures** shall be taken (Annex VI Part B WFD). The Directive provides a non-exclusive list of such measures, which are aimed at either reinforcing the provisions of the directives or setting up new ones. Included are economic and fiscal instruments (Interwies et al., 2006), negotiated environmental agreements, codes of good practice⁸, voluntary

⁸ Such codes of good practice could also be established under the GEAC.

agreements, demand management measures, efficiency and re-use measures, rehabilitation projects, research and development⁹ and demonstration projects.

The WFD requires that the most cost-effective combination of measures should be identified and set up within the programs of measures. Programmes of measures may also contain activities which are not exclusively water-based, including measures regarding land-use activities, which require changes in land-use and management (e.g. the development of low-input farming systems, changing from arable to grassland, afforestation, and, in extreme cases, taking land out of agricultural activity). This could put pressure on the agricultural sector with regards to income development, and may lead to further discussions on the necessity of compensating farmers.

2.4 Timetable of CAP modifications and WFD implementation

Currently there is only one direct link between the CAP and the WFD. This link has been established under the Rural Development regime (pillar 2) by providing funds to compensate for costs incurred and income foregone resulting from disadvantages in the areas related to the implementation the WFD (Dworak et al., 2005).

Under pillar 1 no direct link has been established but might be needed in the future. Therefore the timetables of both policies have to be recognised in order to identify windows of opportunities. Table 1 shows a comparison of the timetables of the CAP modifications and the WFD implementation.

Table 1: Timetable between CAP and WFD

Year	Common Agricultural Policy	Water Framework Directive
2000	Approval of Rural Development Programmes under Agenda 2000	Adoption and coming into force of the WFD
2003	CAP-Reform (incl. decoupling, cross-compliance, modulation, strengthened rural development policy)	
2004		Analysis of the characteristics, pressures and impacts in river basins (according to Art. 5)
2005	Cross-compliance measures relating to the environment, public and animal health and identification and registration of animals become compulsory.	
2006	End of 2000 – 2006 Rural Development programming period Final approval of EU strategic guidelines Cross compliance measures relating to public, animal and plant health and notification of diseases become compulsory	Monitoring network must be established (according to Art. 8) Public consultation of timetable and working programme for the production of a river basin management plans (according to Art. 14)
2007	Start of new Rural Development Programmes Cross compliance measures relating to animal welfare become compulsory. Commission report on cross-compliance	Interim report of significant water management issues (according to Art. 14)
2008	Review of 2003 CAP Reforms	Public consultation on the river basin management plans (according to Art. 14)
2009		River basin management plans (according to Art. 13)
2013	End of 2007 – 2013 Rural Development programming period	
2015		Achievement of good status (according to Art. 4)

⁹ See e.g.: EU Life-project, TOPPS (<http://www.topps-life.org/>) initiated by ECPA. This will provide a lot of valuable information on the codes of Good Agricultural Practice and stewardship for plant protection products as well as valuable information of the CAP reform in 2008 and the River Basin Management Plans in 2009.

When looking at both timetables it comes clear there mismatch, but also a window of opportunities. Member States have until 22.12.2009 to establish programme of measures in order to achieve the environmental objectives of the WFD within each river basin district. The draft River Basin Management Plan(s) has/have to be finalised on 22.12.2008. This does not fully coincide with either the Commission report on Cross Compliance in 2007 or the 2008 Midterm Review which provide an opportunity to assess the effectiveness of the application of Cross Compliance and to consider the scope for amending the existing CC scheme and to develop the bridge to the WFD. Such an amendment could directly support the measures set out in the programs of measures to be operational by 2009.

2.5 Key messages

- Water protection is an important objective of European policy. To achieve this goal, the European Union introduced the WFD in the year 2000. Its aim is to achieve the “good status” of all waters in the Community by 2015.
- Due to the various uses of land and water, several different pressures influence overall water quality and quantity of surface waters. While agriculture is the most prominent sector, it is clear that other sectors such as the chemical industry, transport, health and urban wastewater treatment, will have to contribute to the implementation of the WFD too.
- In several areas, agriculture constitutes a significant risk for the state of water resources. Across much of the EU, tackling the pressures on water caused by agriculture constitutes one of the main challenges to achieve the WFD objectives, as shown in the review of the national syntheses of the Article 5 Reports and EEA and JRC investigations (Herbke et al., 2005).
- The recent reform of the Common Agricultural Policy and the resulting instruments offers limited opportunities for synergies between CAP instruments like Cross Compliance and Rural Development and WFD. Wide implementation of the Cross Compliance standards constitutes a possible opportunity for achieving this objective.
- The 2003 CAP reform will result in changes in farming practice and should help to reduce levels of environmental pollution. These reductions vary in a broad range and are most likely expected in production areas with moderate or unfavourable natural preconditions for production. Nevertheless on regional / local basis a further intensification of production (e.g. increases the use of fertilisers and pesticides) may be expected in some areas.
- To achieve the implementation of WFD objectives, the full implementation of existing environmental obligations connected with water quality and resources by Member States is required. These include mainly directives that are already in force in the Member States (e.g. the Nitrates Directive, the Sewage Sludge Directive). For the first time the Cross Compliance scheme provides a tool to enhance compliance with existing standards or – in case of non compliance – serves as an instrument to withhold subsidies in form of direct payments.
- Cross Compliance may work towards achieving the aims of the Water Framework Directive by helping to enforce other legislation related to waters. Its effectiveness in doing so depends on how much it changes farmer behaviour and the timescale that this can be effected, as well as how stringently it is implemented and enforced in the member states.
- Maintenance of land in good agricultural and environmental condition as one corner stone of what consist Cross Compliance may be significant for reducing water pollution from

rural areas. Each of the member states, taking into account local conditions and environmental protection priorities, can define detailed GAEC standards [within the framework set out in Annex IV of the Regulation]. From the point of view of WFD requirements in Europe, it is important that the EU framework for setting the standards refers also to the needs of water resources protection.

- The currently existing windows of opportunity in 2007 and 2008 have to be used to better link Cross Compliance and the WFD. The WFD Art. 5 reports give a clear picture of the main pressures resulting from agriculture at the river basin scale, and this information needs to be available in discussions on the future development of the Cross Compliance regime.

3 Interactions between Cross Compliance and WFD implementation?

As described in the previous section, the current Cross-Compliance scheme and the WFD have several aspects in common. The following chapter focuses on the interactions between the policy areas. Figure 2 displays these interactions on a general level:

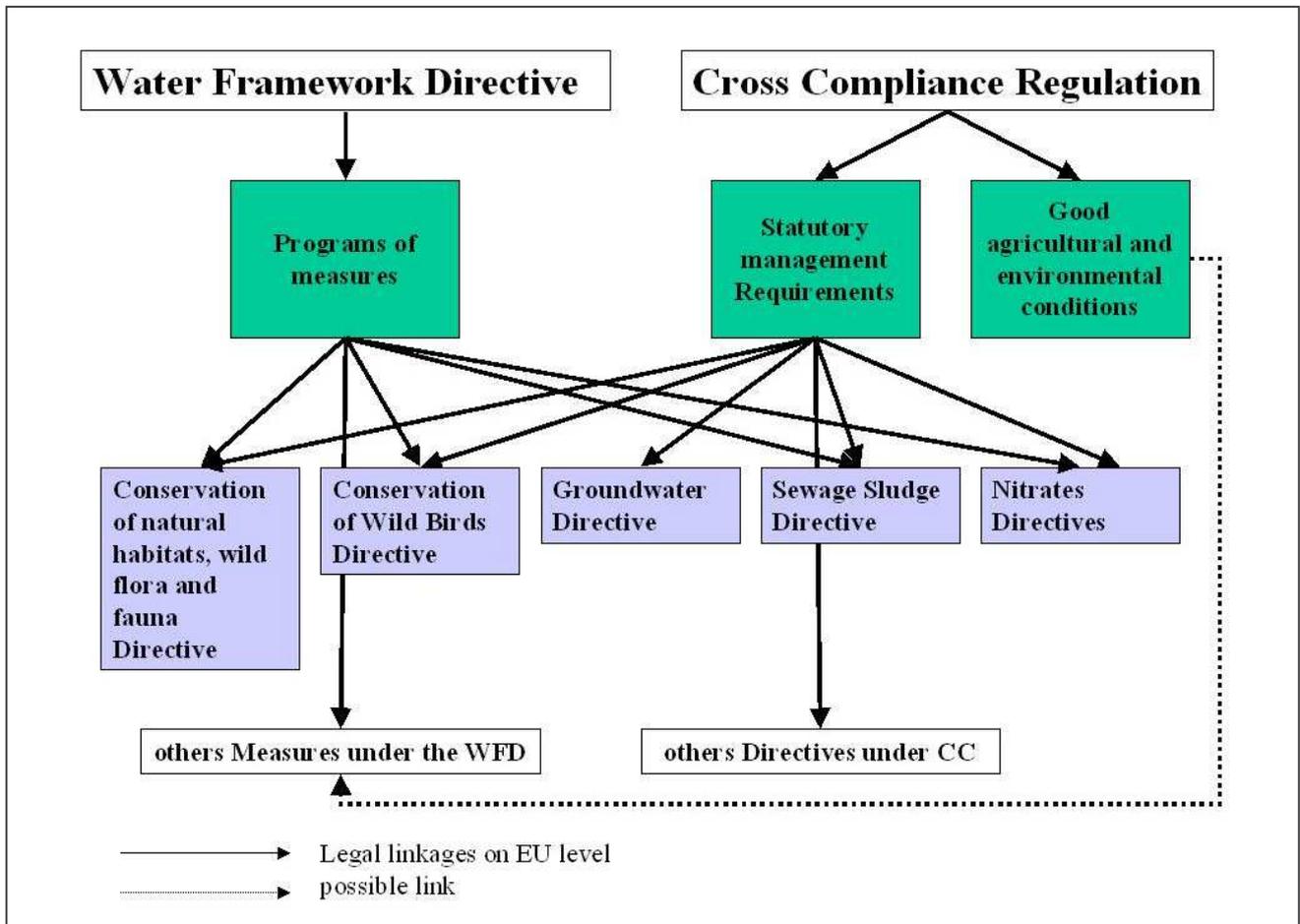


Figure 2: Interlinkages between the Cross-Compliance Framework and the WFD

3.1 How Cross Compliance can support the WFD implementation

In general the Cross Compliance regime offers two ways by which WFD implementation may be supported, these are the Statutory Management Requirements (SMR) and the good agricultural and environmental conditions (GAEC).

3.1.1 Statutory Management Requirements (SMRs) (Annex III) directly or indirectly linked to the objectives of the WFD

While the WFD is not one of the SMRs and this possibility requires careful consideration opportunity, some other SMRs have no relation to it's objectives. However the implementation of the directives relating to the environment, should help to achieve WFD objectives. In particular

- the Groundwater Directive, Article 3;
- the Sewage Sludge Directive, Article 3;

- the Nitrates Directive, Articles 4 and 5;
- the Conservation of Wild Birds, Articles 3, 4 (1), (2), (4), 5, 7 and 8;
- the Conservation of natural habitats, wild flora and fauna, Articles 6, 13, 15, and 22(b).

are pertinent.

Further, while the statutory management requirements relating to animal health and welfare are unlikely to have direct effects on implementation of the WFD, it is possible that they could have indirect positive effects e.g. the placing of plant protection products on the market (Council Directive 91/414/EEC of 15 July 1991) may indirectly impact water quality by providing a stronger control over which pesticides and fertilizers are used and directives relating to animal welfare / housing (Council Directive 91/630/EEC of 19 November 1991, Council Directive 98/58/EC of 20 July 1998) may mean that fewer animals are housed together decreasing the risk of excessive discharging of organic animal waste.

3.1.1.1 Groundwater Directive

Article 1 of the WFD states that one of its purposes is to protect groundwater and to “ensure the progressive reduction of pollution of groundwater and prevent its further pollution” (Article 1 (d)) and an objective of the directive is to achieve good groundwater status. The two articles included in Cross Compliance from the Groundwater directive relate to disposing of certain substances in such a way that they do not pose a risk to ground water resources. The direct discharge of substances in list 1 (organophosphorus compounds; organotin compounds; substances which possess carcinogenic, mutagenic or teratogenic properties in or via the aquatic environment; mercury and cadmium and their compounds; mineral oils or cyanides) must be prevented. Organophosphates account for 26% of all pesticides used in Europe¹⁰ and overexposure is known to cause acute and chronic affects in humans. The discharge of substances in list 2 must be limited (certain metals and their compounds; other biocides and their derivatives; substances which negatively affect the taste or odour of water; toxic or persistent organic compounds of silicon; phosphorous and its inorganic compounds; fluorides, ammonia and nitrites).

National implementation of SMRs includes not disposing of dangerous compounds directly or indirectly to groundwater and some Member States listed the dangerous substances included in guidance material. Another common requirement for this SMR is to ensure storage facilities are leak free and adequately sited. Some countries also require permits for the disposal of dangerous substances.

3.1.1.2 Sewage Sludge Directive

The measures required under the Sewage Sludge Directive are to be incorporated into the WFD programme of measures therefore that these are covered also by Cross Compliance will directly contribute to the achievement of WFD aims. Using sludge on agricultural land is an economic way to dispose of the increasing amounts of sewage generated in Europe. It is a widely used method of disposal for example in the UK 520,000 tonnes dried sewage sludge applied to agricultural land per year (50% of the sludge produced)¹¹. Possible benefits of the use of sludge (depending on the local conditions) are an increased supply of plant nutrients (particularly N and P) and micronutrients and improvement of the soil physical structure.

¹⁰ Debate Issue Briefs: Organophosphates. [http://www.politics.co.uk/issues/organophosphates-\\$2413537.htm](http://www.politics.co.uk/issues/organophosphates-$2413537.htm)

¹¹ In regions with an animal manure surplus, the nutrient content of sludge might become problematic.

However there is also a risk of the transmission of pathogenic organisms to food, accumulation of nitrates in ground water and soil, contamination of water by toxic organic constituents of sludge and the accumulation of heavy metals in soil, water and crops.

The aim of the Sewage Sludge Directive is to promote the safe use of sewage sludge, reduce the risks associated with its use and to get rid of disparities between the way different Member States permit its use. Article 3 states that sludge may only be used in accordance with the directive. This includes prohibition of the use of untreated sludge unless it is injected into the ground, prohibition of its use in soils where fruit and vegetables are growing, time limits for its application to land to be grazed and rules for the sampling and analysis of soils.

Common standards under this SMRs defined by Member States include assessing how suitable the ground is for sludge spreading by conduction soil analysis, restrictions on the cases in which sludge can be used and in some countries sludge use must be subject to nutrient budget planning. The standard on sewage sludge defines the maximum quantity to be spread per hectare (in some countries ton/ha in other N/ha).

Water quality should benefit from increased restrictions on sludge use because pollution from nitrogen, heavy metals and pathogens should be reduced. However, it must also be borne in mind that where sludge use is reduced, it may be replaced by mineral fertilizer and the nitrogen loss to water may remain the same.

3.1.1.3 Nitrates Directive

The Nitrate Directive was the first European Directive aiming to tackle diffuse pollution from agriculture. It is a key-stone of the bridge between agriculture and water protection. The Directive is designed both to safeguard current and future drinking water resources and to prevent the wider ecological damage caused by eutrophication Therefore the Directive was also incorporated into the WFD.

The directive requires Member States to establish codes of good agricultural practice in regards to the appropriate timing of fertiliser application, and the condition of the ground to which it should be applied, how it should be stored and applied to the ground (Article 4). It is also the responsibility of the member state to train and inform farmers about the code of good practice where necessary. Member States must also establish action programmes for Nitrate Vulnerable Zones (NVZs) in areas which are particularly polluted by nitrates or in which the effects of pollution would be particularly harmful. The area of the country designated as NVZs varies widely between Member States¹². Action programmes should relate to periods when the land application of certain type of fertiliser is prohibited; the capacity of storage vessels for livestock manure; limitation of the land application of fertilisers. Measures should ensure that the amount of livestock manure applied to the land each year does not exceed 170 kg N (Article 5), unless there is a derogation request by member states that is accepted by the Commission (e.g. The Netherlands).

While the Nitrates Directive has been in force for over ten years, there have been serious problems with its implementation (Goodchild, 1998). In many cases the implementation has been unsatisfactory and that the Commission has started legal proceedings against some Member States¹³. By including the Directive as a the SMR and as part of the WFD, farmers will have more incentive to comply. One of the reasons Member States may not be regarded as reaching full implementation is the lack of surveys and controls at field level (including checking of fertilisation plans and records, manure storage and handling, soil analysis, natural buffer strips, etc.) (see also chapter 4.2).

¹² For more details see European Commission (2002).

¹³ For more details see European Commission (2002).

3.1.1.4 Habitats and Birds Directive

Article 6 of the habitats directive states that Special Areas of Conservation (SACs) must be managed or utilised in a manner to prevent the deterioration of the natural habitat and the disturbance of the species for which the area was designated. The habitats referred to are listed in Annex I of the directive and include coastal habitats, freshwater habitats and raised bogs, mires and fens. These together with Special Protected Areas (SPAs) designated by article 3 of the Birds directive form the Natura 2000 network¹⁴. The directives demands that any activities on designated sites must not have an adverse affect on them – including its water bodies. The protection of these areas also includes the protection of the water within them from pollution, drainage or any other practice that would have a negative impact on the habitat¹⁵. Article 4 of the bird directive specifies that wetlands must receive particular attention due to their importance to migratory birds and their importance for the Bonn and Ramsar conventions.

3.1.2 Good agricultural and environmental conditions (GAEC) (Annex IV)

In theory, Member States have little discretion as to how they apply the SMRs as their requirements are laid out in the relevant directives. As GAEC conditions are defined by the member state, these vary far more. Some countries may be proactive and take WFD fostering requirements into account while others will be more restrictive in their approach and focus on only a few criteria. The intention to include GAEC criteria in the CC regulation is based in part on the fear that large parts of formerly agricultural land will fall abandoned after the decoupling. Abandonment of farmland on a large scale is considered to be counterproductive for the objectives of several directives (e.g. habitat directive), although the environmental impact, both positive and negative, is likely to be quite variable.

GAEC conditions may also help to achieve WFD objectives, in particular, in reducing runoff and soil erosion.

The most common measures adopted by Member States are the establishment of green cover, restrictions on burning of vegetation, control of the encroachment of unwanted vegetation and restrictions of machinery use on waterlogged land.

3.2 The Cross Compliance regime and its relation to agricultural pressures

In order to estimate the potential resulting from the current CC regime there is a need to establish a relation to agricultural pressures on water. Table 2 gives an overview of how SMRs could help tackle the various agricultural pressures on water.

¹⁴ In Europe as a whole, the Natura 2000 network covers around 20% of the land surface, see http://europa.eu.int/comm/environment/nature/nature_conservation/useful_info/barometer/barometer.htm

¹⁵ Please see EU CIS Working Group B, (2003) on the role of wetland under the WFD for further details.

Table 2: How the SMRs could support to tackle various agricultural pressures on water

	Pollution			Alterations of hydrologic regimes	Hydro-morphological modification ¹⁶	Soil erosion
	Nitrates	Phosphorous	Pesticides			
Groundwater Directive, Article 3		++	++			
Sewage Sludge Directive, Article 3	+++	+++				
Nitrates Directives, Articles 4 and 5	+++	+			+	+
Conservation of Wild Birds, Articles 3, 4 (1), (2), (4), 5, 7 and 8	+	+	+		++	
Conservation of natural habitats, wild flora and fauna, Articles 6, 13, 15, and 22(b)	+	+	+	++	++	+

+++ very relevant (positive) ++ relevant (positive) + indirect linkage (positive)

Table 3 gives an overview on the GAECs set out in Annex IV of Regulation 1782/2003 and their possible contribution to WFD implementation.

Table 3: GAEC and their potential for supporting WFD implementation

Issue	Standard	Pollution			Alterations of hydrologic regimes	Hydro-morphological modification	Soil erosion
		Nitrates	Phosphorus	Pesticides			
Soil Erosion	minimum soil cover	+++	+++				+++
	minimum land management				+		+
	retain terraces	++	++	+	++		+++
Soil organic matter	standards for crop rotation	+	+	+			++
	arable stubble management	+	+	+			+++
Soil structure	appropriate machinery use	+	+	+			++
Minimum level of maintenance	minimum or maximum livestock stocking rates						++
	protection of permanent pasture	++	++	+	+++		++
	retention of landscape features	++	++	++		++	++
	avoiding encroachment of unwanted vegetation				++		

+++ very relevant (positive) ++ relevant (positive) + indirect linkage (positive)

¹⁶ Hydro-morphological modification of surface water means the physical modification of a surface water body e.g. loss of wetlands and floodplains, straightening of rivers due to e.g.: drainage, intensification of farming practices and inappropriate grazing regimes, reclamation of land, storage of water for irrigation.

When looking on both tables it comes clear that Cross compliance standards and GAECs are focusing on pollution and soil erosion issues but there are few opportunities for altering hydro-logical regimes. Hydromorphological issues are poorly taken into account.

3.3 Key messages

- There are a number of mechanisms provided by Cross Compliance which may help to achieve Water Framework Directive aims. The WFD incorporates a number of previous directives including many of those included as the Statutory Management Regulations for Cross Compliance. This means that the enforcement mechanism provided by Cross Compliance might directly contribute to achieving WFD aims.
- The sewage sludge, nitrates and groundwater directives all have fairly obvious links to water quality and the reduction of pollution to water from agriculture. Member States are likely to require stricter controls on how fertilisers and pesticides are used, stored and disposed of.
- The birds and habitats directives may also help achieve Water Framework Directive aims by ensuring the protection of habitats like water bodies, wetlands and forests under the NATURA 2000 network.
- The Good Agricultural and Environmental Conditions in several countries are mainly aiming at soil preservation issues which should positively impact water quality due to reduced run-off and erosion, enhanced buffer and filter functions and the protection of permanent meadows and pastures. As the standards for GAECs are set on a national level they could be used to resolve specific problems on the catchment level.
- The Statutory Management Requirements in particular are not new and GAEC is often covered in part by previous Good Farming Practice. Cross Compliance however, introduces a way of ensuring farmers comply with requirements. For it to be successful therefore, mechanisms to give advice to farmers on appropriate management practices as well as control measures must be put fully in place by member states. To do this, the bodies controlling different sections of Cross Compliance must be defined and verifiable standards put developed so that non-compliance is easily recognised. A balance must be reached between enforcing compliance and creating trust with farmers.
- The Cross Compliance regime is another step to protect European Waters on a broader scale, but even assuming full compliance of all European farmers, this alone will not guarantee reaching WFD objectives. Cross Compliance standards and GAECs are focusing on pollution and soil erosion issues and there are few opportunities for altering hydro-logical regimes; hydromorphological issues are poorly taken into account. Here alternative instruments to deal with this problems have to be found.

4 Implementing Cross- Compliance – lessons learned from the MS

An IEEP study (Farmer and Swales, 2004) examined the different ways in which Cross Compliance has been implemented in different countries. Based on this study and information available from other countries by documents and oral information, the following chapter tries to give an overview about the stage of implementation. The focus lies in particular on differences in implementation and its effects. The results are preliminary, due to the fact that several Member States only recently finalised the criteria for e.g. GAEC and others haven't finalised their implementation procedure, including control mechanisms completely.

4.1 SMR and GAEC

The implementation of the SMRs in most EU 15 Member States has been fairly similar, following the relatively stringent requirements laid out in the directives Cross Compliance refers to. However, differences were observed in the standards farmers need to comply with (difference between EU-15, Slovenia and Malta and new member states) and in particular what criteria have been in use to define the GAEC. Several Member States have difficulties to defining verifiable and controllable standards to monitor and control compliance with SMRs and GAEC as well as to assign the responsible authorities / organisations to perform the controls. Very critical in this respect is the supply of sufficient and adequately trained resources (see also chapter 4.2). The way farmers have to comply with SMRs and / or GAECs differs between Member States as well as the way those have been implemented.

On 1 May 2004 new EU Member States started to implement CAP measures, including direct payments under the First Pillar of the CAP. A majority of these countries – except for Malta and Slovenia – chose to receive the payments under the Single Area Payment Scheme¹⁷. This meant that the new Member States became responsible for ensuring that farmers obtaining direct payments maintain their farmland, especially if it is not used for production purposes, in good agricultural and environmental condition (GAEC) too. This requirement differs substantially from the standards that have to be fulfilled by farmers from the EU 15 as well as Slovenia and Malta, which not only have to maintain their farmland in good environmental and agricultural condition but also are obliged to meet the CC requirements and SMR.

By the end of 2009, the new Member States will have to change from the Single Area Payment Scheme to the Single Farm Payment Scheme applied in the EU 15 as well as in Slovenia and Malta. Therefore, it would seem sensible for these Member States already begin to specify implementation rules for CC and SMR. In several of these countries the preparation activities are only in the initial stage.

This particular situation for the new Member States does not mean, however, that farmers managing their land in new Member States do not have to comply with environmental standards. They have to observe the commonly binding environmental protection provisions, including those that are similar to or even the same as the CC and/or SMR requirements. Nevertheless, the scope of responsibility differs. If farmers in new Member States do not meet their obligations in this respect they can be juristically prosecuted by administrative, civil or criminal law just like their farming colleagues in the other member states., but this will not

¹⁷ There were several reasons behind that decision, but one of the main ones was lower level of payments that farmers from the new member states received when compared to the payments for farmers of the EU 15. The payments in the new member states in 2004 varied between 20.7 EUR/ha (Latvia) and 80.8 EUR/ha (Cyprus). In the majority of the countries, the minimum size of the plot which has to be cultivated in order to be eligible for payments equals 1 ha (for Cyprus 0.3 ha). In order to compensate for lower payment rates, the European Commission agreed that the governments of the new member states increase the amount of payments from their own financial resources (until 2006 a part of funds from the budget of the Second Pillar can be allocated for this purpose). Direct payments rates should become equal before the end of 2013.

have any impact on the size or possibility of obtaining direct payments. The example provided in Annex 1 gives a more detailed description of this issue.

Measures by which Member States have chosen to implement GAECs vary much more widely than the way the SMRs are implemented. While some countries defined relatively few criteria to define GAEC, (e.g. The Netherlands 3, Sweden 4) others in particular Britain and Ireland used between 10-14 criteria²¹. While the sheer number of criteria to define GAEC is only a quantitative indicator Annex 1 gives an overview of the concrete standards selected (state 2005)¹⁸.

The implementation process of GAEC requirements started for new Member States in 2003, and should be finalised by the end of 2005. To date there is lack of full information on the GAEC requirements that have been implemented in the individual new member states. A preliminary analysis shows, however, that some of the States (old as well as New Member States) tried to limit the scope of requirements that have to be fulfilled by farmers in order to be eligible for direct payments. There are two main reasons behind the decision to define GAEC in a less ambitious way. Firstly standards that go beyond current legislation might compete with requirements for agri-environmental schemes and secondly the necessary efforts to control the standards might raise due to higher numbers of standards to control and their complexity.

4.2 Control mechanism

The control of Statutory Management Requirements (SMR) is a central element of the cross-compliance instrument. Controls should be carried out by specialised control bodies though Member States may decide controls should be carried out by the paying agent. The control authority should carry out on the spot checks with a minimum of 1% of all farmers submitting applications. For this purpose the controlling agents use check lists for indicators or direct measurements of particular requirements resulting from the standards. Not all requirements resulting from SMRs and GAEC can be controlled, but in practice the control criteria reflect a subset of the first, e.g. in Germany not all defined standards under the respective articles in the regulations of Annex III are subject to on spot checks.

If individual farmers do not comply then their payments in that year may be reduced by an amount which depends upon the severity of the non-compliance and whether it was “intentional” or “negligent”. The regulation states that the penalty must not exceed a 5% reduction of the SFP for a case of negligence (15% for a repeat case) and for deliberate non-compliance, must be greater than 20% and may go as far as total exclusion from one or more payment schemes in the year of the offence or for a longer time period.

While penalties for non-compliance are described in the regulations, individual Member States have to set up their own inspecting bodies and there may be differences between how stringently penalties are applied and what is defined as a “negligent” or an “intentional” non-compliance.

There are also differences with which government bodies have been made responsible for monitoring compliance. Decentralised countries such as Germany put a greater emphasis on regional authorities, giving responsibility for selecting farms to be sampled etc. to the Länder (Deimel, 2005). This differs from the Netherlands where most inspections are carried out by the General Inspection Service (AID) of the Ministry of Agriculture, Nature and Food Quality. Controls are normally carried out by specialised control agencies and the number and province of those involved may vary between member states. In England the Rural Payments Agency (RPA) was solely responsible for implementation in 2005, with two new CCAs

¹⁸ A more detailed list of GAECs in the different Member States can be found at http://www.ewindows.eu.org/cifas/fo1099648/GAEC_DetailsPerState_FINAL200511-8.xls

(Competent Control Authorities) being added for 2006. However, previously there were up to some 12 specialist agencies responsible for elements of the 19 SMRs. Some countries may also choose for the controls to be carried out by the paying agencies or private enterprises.

Implementing controls could imply a considerable administrative burden and at the end of the controls a control report has to be compiled on national level¹⁹. In particular design of verifiable conditions seems to be problematic. Only if the standards are verifiable does it make sense to implement control measures. While direct measurements and control are the most efficient way to control standards in the *Public, animal and plant health; the Identification and registration of animals* and the *animal welfare* areas, the situation is different for some of the standards relating to the environment.

This also addressed in the Commission report on the first year of implementation of the cross-compliance, problems related to the administrative checks are limited several problems related to the “on-the-spot checks” are mentioned. Concerning water quality the most prominent problems are:

- It is often impossible to check all the requirements and conditions during only one control visit. Where resources are scarce, decisions need to be made for example whether to spend more money on inspections or on farmer advice and education (see below) (European Commission, 2006).
- Certain elements are objectively difficult to check (e.g. prohibition of the substances of Annex I of the Directive 80/68/EEC "groundwaters", slope rate, etc.) Due to the complexity of agricultural ecosystems and the interrelations involved, there is often no direct, easily measurable link between agricultural practices and environmental qualities. In particular when it comes to diffuse pollution issues, cumulative effects or effects that can only be measured on a landscape level rather than at farm level are difficult to measure directly (European Commission, 2006).
- In the case that within a catchment only a number of farmers are contributing to a single WFD problem it is often impossible to identify those farmers not complying with the EU legislation.

Based on the experiences from the first year of controls of CC some farmers commented that the system of reduction/exclusion has not been very clear because of the number and of the variety of the elements to be taken into account. Furthermore several groups (farmers as well as special interest groups) see in a possible reduction of direct payments in addition to legal prosecution some kind of “double punishment” or “double jeopardy”. Independently from the ongoing juridical discussions if this is indeed the case or not, at least this might influence the farmers’ and possibly even the wider public’s attitude towards the acceptance of the instrument as such.

4.3 The role of advisory systems

Controls of compliance should be complemented by an effective farm advisory system. The implementation of the cross-compliance requirements and standards is a challenging task that needs to be supported via farm advisory systems, as defined in Articles 13 to 16 of Reg. 1782/2003. Member States have to set up these advisory systems by 1 January 2007. According to Article 13.2, the “*advisory activity shall cover at least the statutory management requirements and the good agricultural and environmental conditions*”.

¹⁹ Control reports containing in particular any detected non-compliance and an assessment of its severity, extent, permanence and repetition. Application of reductions strictly follows the provisions of Commission Regulation No 796/2004.

Advice will play a key part in helping farmers to comply with regulations and also to appreciate the reasons behind their implementation. Communication and dissemination are important elements of farm advisory systems.

Information transfer and in particular advice about the legal requirements set out in the national SMRs / GAEC and consequences of non-compliance is crucial for the farmers. Lack of knowledge and lack of understanding about the procedures in cross-compliance could be a potential constraint on meeting the target of getting a higher level of compliance with standards. Adequate information is a precondition not only for the acceptance of the requirements by farmers, but as well for their willingness to comply with the standards. The farm advisory systems will help raise acceptance of farmers for the instrument itself as well as for specific requirements²⁰.

For this purpose and due to its central role in implementing CC, the farm advisory systems have to develop and test different tools in the context of cross-compliance. Different models (e.g. public/private responsibilities) and tools (e.g. indicator systems) are currently being discussed²¹. Experiences from Member States have shown that cross-compliance advice will be more efficient and/or acceptable if integrated into existing advisory systems. It should be part of, or linked to, general advice provision in agriculture, not at least for cost efficiency reasons.

Most countries that have farm advisory systems running, developed certification systems for advisers that appear to be quite similar across EU Member States. The advisers' certification is usually based on the lengths of the experience as adviser (typically 2 years), education (agricultural education) and a minimum of specific training (attending course), among other issues.²² Cross compliance will lead to a need for advanced education for farm advisors as well.

While some of the Member States already set up farm advisory systems most states are just in the phase of setting up those. Based on Article 21a of Council Regulation (EC) No 1257/1999 on support for rural development, specific support may be provided to help farmers to use farm advisory systems, as provided for in Regulation 1782/2003. Moreover, under Article 33 of Regulation 1257/1999, support may also be granted for the setting up of farm advisory systems referred to in Regulation 1782/2003.

Providing support for the building of farm level advisory systems concerning cross-compliance is quite a complex task. This needs to take into account the different geographical and social conditions in EU Member States and the needs of stakeholders.

Farm advisory systems and control system will build up the management system of CC.

²⁰ see CIFAS (2005a).

²¹ For an overview of current discussions and examples please see: CIFAS (2005b).

²² see CIFAS (2005a).

4.4 Key messages

- There are differences between how Member States are implementing Cross Compliance based in some cases on how much experience they have with the issue. Voluntary Cross Compliance was introduced by Agenda 2000 and its implementation was differently taken up by several Member States.
- Generally Statutory Management Regulations are fairly similar between Member States though there may be small differences in the ways they have been transposed into national law. Larger differences may be seen between the verifiable standards which are defined in order to check whether farmers are complying with the SMRs. Some MS have defined a large number of verifiable standards while others have minimised them. This will affect how the SMRs are enforced between Member States.
- GAEC and the standards to define it vary greatly between the Member States. There are differences in the number of standards used as well as their focus.
- Effective advisory system may play a key part in helping farmers to comply with regulations and also to appreciate the reasons behind their implementation.

5 Options to use the CC-schemes in the mid/long term perspective to contribute more effectively to the WFD objective

As stated before, more efforts will be needed to tackle agricultural pressures in order to comply with the WFD objectives. One option amongst others, (e.g. use of Rural development mechanism, water pricing) is the use of the current CC-scheme and the possibility of developing it under the next CAP mid term review in 2008 to afford better water protection.

In order for this to be successful, the following issues have to be carefully considered:

- Currently Cross Compliance operates at a national or regional level but the WFD will require a variety of responses across different regions due to its River Basin approach. This has to be kept in mind as one of the concepts behind CC is that the standards should not impose significantly different constraints/costs on farmers in different areas.
- There is a need to discuss the different options for further CC development in the context of a cost effectiveness assessment (CEA) as required under Article 11 of the WFD but also with respect to how the costs are shared (e.g. farmers, administration). This requires a discussion of the cost effectiveness of the CC regime versus other WFD measures tackling agricultural pressures (e.g. taxes, technical measures) but also a discussion on the most cost effective way to improve the current system. A cost effectiveness assessment must focus in particular on the administration, the control elements and the advisory system as these strongly influence both the costs and the effectiveness. Basis for all this have to be an ex-ante analysis related to the environmental effects of CC and how it has or has not significantly changed the level of compliance with existing standards. There is a need to better understand to what extent the current CC scheme has contributed to the achievement of the WFD objectives.
- The effects of the proposed development on the farm sector but also on other sectors have to be considered carefully in future work. The pros and cons of the different options for improvement have to be discussed, not only from a water perspective but also in the general view of further developing the CAP. This will require more detailed information on each of the options as well as a better understanding of the effects of the current Cross Compliance regime as a tool to enhance compliance with standards.
- In order to secure a fruitful discussion and to get farmers on board, there is a need to involving them early in the process (Dworak et al., 2006) and to sell to them the whole concept of the proposed approach.

5.1 Options for a further development

From a practical point of view, there are four main options for further development of the Cross Compliance scheme. Not all are equally likely or feasible but the basic options are highlighted in the following paragraphs.

Option 1: Sound implementation and better enforcement of the current CC scheme

In order to ensure that the Cross Compliance mechanism is effective in water protection, a sound implementation of the CC regime; the directives under Annex III and GAECs is needed. Therefore it is crucial that controls and penalties should be balanced in a manner aiming to create trust and co-operation amongst farmers.

In order to overcome the current problems (as described in chapter 4) and for implementation to be effective, both aspects (control systems and advisory systems) should be considered:

1) Further development of the existing control system: Such a system should take into account the different conditions existing in respective Member States resulting from farm structure (number, average size, density), the education level of farmers (this will influence amongst other things, the practicality of implementing self-control systems), preparation and effectiveness of public services involved in control procedures, etc. Further, a proper balance between the effectiveness and appropriateness of the controls on the one hand and the associated operational costs (personal costs, documentation and data services costs) and necessary resources to implement it on the other hand have to be considered.

A further development of the existing control system could include:

- Development and introduction of clear indices that are easy to measure and that allow verification of whether a particular farmer fulfils the SMR and GAEC obligations. Such indices should make controls much less problematic, although it has to be confessed that not for all SMRs indicators are feasible.
- Development and introduction of indices that can be applied by farmers themselves. Self-control could allow farmers to modify their activities according to environmental protection issues that arise. Such a system should also facilitate farmers' access to advisory services which they may consult if they identify irregularities that they cannot solve by themselves. If a farmer informs an advisory unit and initiates activities for removing irregularities, he or she should not be penalised (at least for the first occurrence) by reduced payment rates.
- Another option is to develop a system where farmers themselves would be obliged to run internal controls of their farms and submit the results from the control to authorised administrative bodies. This will change the mandatory control system to a mandatory certification system. Only if the farmer has this certification, he is eligible for direct payments. In such a case, the role of administrative bodies would be limited mostly to verifying if internal audits were conducted correctly
- By establishing co-operations between inspection bodies and using data collected for other controls e.g. under the WFD (see Article 8 on monitoring) it may be possible to reduce costs of control.

2) Advisory services: As mentioned before, advisory services will have a significant role to play in order to reach higher environmental standards. In order to address these issues properly, a two-year (2005-2006) study is currently being carried out by the European Environment Agency (EEA)²³. The study aims to assist with the setting up of and running future farm advisory systems that Member States have to establish by 1st January 2007. The study should contribute to the development of suitable advisory tools, and particularly 'farm level indicators' related to cross-compliance requirements and standards in the field of the environment. The advisory tools to be developed should also facilitate an assessment of the level of achievement of environmental cross-compliance requirements and standards applicable to the farmer concerned, and the identification of farm practices that can help to achieve the aims of cross-compliance. The results of this project could feed into the midterm review of the CAP by 2008.

Option 2: Amendment/replacement of directives under current SMRs towards more water relevant aspects

The second option focuses on the amendment of existing Directives by introducing higher Environmental Quality Standards and the inclusion of these amendments in the CC scheme. This option has to be considered very carefully as an amendment/replacement of directives

²³ For more information, please see <http://www.ewindows.eu.org/cifas/>

will have wide-ranging effects on other sectors as well. Further, such a process requires a lot of time and is driven by various other concerns.

Currently, there are two amendments/replacements with relation to the CC regime in progress:

- Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market: More than ten years of experience of implementing the provisions of the Directive have demonstrated certain shortcomings in both its scope and transparency. Based on an extensive report on the functioning of the Directive (European Commission, 2001), the Council and the Parliament called on the Commission to present a proposal to amend the Directive. The Commission tabled its first ideas in April 2005 but the adverse reaction of interest groups to an impact assessment of the plans has forced it to repeat the exercise.
- New Groundwater Directive (COM(2003)550): As Art 17 of the WFD requires implementation of measures to prevent and control groundwater pollution, the Commission published a proposal for a new directive concerning the protection of groundwater against pollution in September 2003. This proposal contains the following main elements
 - number of pollutants where existing Community standards prevail;
 - criteria for assessing the chemical status of groundwater based on environmental quality standards, which have to be established by Member States at the appropriate level (national, river basin or groundwater body), depending on the variations in natural groundwater conditions, identified pressures and related chemical substances;
 - criteria for identifying significant upward trends in pollutant concentrations in groundwater and defining starting points for reversing these trends;
 - measures for preventing or limiting direct and indirect inputs of pollutants into groundwater.

In autumn 2006, the second reading of the Directive in the EU parliament is expected.

Option 3: Integration of additional directives (e.g. WFD) into the current SMRs

During the development of the current CC scheme, several hundred European Directives were examined in order to assess the possibilities of including them in the proposed scheme. A first proposal listed 38 directives, 7 relating to the environment (although these did not include the WFD). During the following negotiation process, the list was shortened to the 19 included in the current scheme.

Under the 2007 Commission report on Cross Compliance and 2008 CAP mid-term review, a revision of the CC-scheme is envisaged. One potential output could be an extension of the list of directives under CC, although this would need a decision of the Council. This process could be used to include parts of the WFD (see Table 4), more especially, to establish a link with the programmes of measures. Such a link could build on Articles 11 (3) and 11 (4) which give Member States the opportunity to set up basic and supplementary measures within each river basin district. Currently only an indirect link has been established as several directives under Article 11(3a) are also part of the CC regime (see chapter 3).

Table 4: Possible linkages between the WFD and the SMR

WFD	Measures to	comment
Article 11 (3c)	secure efficient and sustainable water use	Measures to promote an efficient and sustainable water use in order to avoid compromising the achievement of the objectives of the WFD e.g. measures regarding irrigation
Article 11 (3d)	protect drinking water	Member States may establish safeguard zones for those bodies of water in accordance with article 7 WFD.
Article 11 (3h)	prevent or control the input of pollutants from diffuse sources liable to cause pollution.	Controls may take the form of a requirement for prior regulation, such as a prohibition on the entry of pollutants into water, prior authorisation or registration based on general binding rules where such a requirement is not otherwise provided for under Community legislation.
Article 11 (3i)	ensure that the hydromorphological conditions of the bodies of water are consistent with the achievement of the required ecological status	e.g. measures to create and maintain wetlands
Article 11(3j)	prevent from direct discharges of pollutants into groundwater	Can be relevant for wastes like pesticides packagings
Article 11(k)	eliminate/reduce the discharge of priority substances	e.g. measures that limit the use of certain farming products containing priority substances.
Article 11(l)	prevent significant losses of pollutants from technical installations	e.g. measures tackling pollution from the storage of fertiliser or farm runoffs
Article 11 (4)	Additional targets	Allows Member States the opportunity to implement supplementary measures designed and implemented in addition to the basic measures under article 11 (3) WFD. Annex VI part B WFD provides such a non exclusive list of such measures.

Member States have not homogeneously implemented these articles in a way that sets explicit standards for farmers or would allow them to do so. Even so as the programmes of measures will be established on a river basin level, there is a clear need to consider the effects on the competitiveness of farmers in different river basins due to differing standards and codes. Lessons learned from implementing the Nitrates or Habitats Directives - which also include “programs of measures”- should be considered.

Further, it should be noted that if this option is chosen, there is a need to consider the detailed rules for WFD payments under the next rural development programming period (2007-2013) (Dworak et al., 2005). Further work might be required to explore this option, but this should start not before a proper evaluation of CC as instrument of the CAP as a whole, that is to be expected in 2007.

Option 4: Further development of GAECs (additional water criteria or enhancement of current criteria)

As stated before, the GAECs established under the CAP 2003 reform focus mainly on soil issues. A future extension of the GAECs could include 2-4 criteria related to water on which basis MS are able to propose local standards (e.g. limits on the establishment of new drainage systems). Such an approach would allow tailor-made solutions for each Member States. This could be particularly beneficial for implementing the WFD as future programs of measures have to reflect the specific situation within a river basin, as the introduction of GAECs allows “regional standards”.

5.2 Pros and Cons of the different options for improving Cross Compliance

When discussing the four options for changes under the CAP midterm review after the cost effectiveness assessment, there is a need to look at the pros and cons for each option. Table 5 gives a first overview.

Table 5: The different options to further develop CC and their related pros and cons

Option	Pros	Cons
Sound implementation and better enforcement of the CC scheme	No additional burdens to farmers regarding SMR and GAECs Sound baseline for the WFD programmes of measures	Not all farmers are covered, just those that receive direct payments, exemptions defined by Member States Hydro-morphological and alterations of hydrological regimes are not sufficiently covered under the current CC regulation. Higher costs and administrative burdens for farmers and public authorities.
Amendment of directives under current SMRs towards more water relevant aspects	No need to introduce new standards under the SMR	Time consuming process due to complex decision-making process
Integration of additional directives (incl. WFD) into the current SMRS	Offers a unique chance to link water protection (especially the WFD) directly to the payment mechanism of the CAP.	Time consuming process due to complex decision-making process Higher costs and administrative burdens for farmers and public authorities.
Further development of GAECs	Allows tailor made solutions at regional level, which will enhance the environmental effectiveness.	Higher costs and administrative burdens for farmers and public authorities.

5.3 Key messages

- The existing CC standards offer important opportunities to achieving WFD objectives but even if full compliance of all European farmers is achieved, this alone will not guarantee reaching WFD objectives. Therefore possible future options for further development within and outside the CAP must be assessed.
- At least 4 different options to further develop the existing CC regime are obvious: (i) sound implementation, (ii) amendment/revision of current directives, (iii) integration of WFD directive or other water related directives into the SMRs, (iv) further development of GAEC towards water protection.
- There is a need to discuss the different options to further CC development in the context of a cost effectiveness assessment (CEA) as required under Article 11 of the WFD.
- There is a clear need to assess the effects of the different options for improving the CC-scheme on the farm sector but also on other sectors. Therefore more detailed information on each of the options as well as a better understanding of the effects of the current Cross Compliance regime is required.
- The early involvement of farmers in this discussion process is crucial for success.
- The costs and administrative burdens associated with each of the proposed options and especially for a future inspection and enforcement regime have to be considered carefully.

6 Conclusions

The Common Agricultural Policy (CAP) and the Water Framework Directive (WFD) are two of the major policies in Europe with a strong influence on environmental issues. The WFD establishes a framework for the protection of all waters, including inland and coastal waters, with the aim of reaching "good status" in all waters by 2015. The WFD implementation is based on a River Basin District (RBD) approach. For each RBD, the competent authorities have to set ecological targets which have to be reached by the implementation of programmes of measures. In some areas, these measures are likely to have a significant impact on agricultural production patterns and land-management methods.

Due to the various uses of land and water in agriculture, several different pressures influence the overall quality and quantity of surface waters. Since some agricultural practices hamper successful implementation of the WFD objectives, there is a strong need to identify opportunities where the CAP can help achieve WFD objectives and possible areas in which the two policies do not work so well together.

Nevertheless it should be recognised that there is a clear need that other sectors such as the chemical industry, transport, health and urban wastewater treatment, will also have to contribute to the implementation of the WFD.

The 2003 CAP reform puts more emphasis on the integration of environmental issues by offering various possibilities designed to achieve positive environmental effects. Wide implementation of the Cross Compliance standards constitutes an opportunity of achieving WFD objectives. Due to the decoupling of payments from production, changes in farming practices should occur. To one hand due to decoupling the incentive to produce intensively will be lowered, resulting in a reduction of environmental pollution. On the other hand in some catchments, in particular those that lie in highly productive agricultural areas, the pressure from agriculture on water-bodies might increase due to the negative effects of further intensification.

The Cross-compliance scheme may help achieve the aims of the water framework directive by providing a tool to enhance compliance with existing standards or – in case of non-compliance – an instrument by which to withhold direct payments to farmers. Its effectiveness in doing so depends on how stringently it is implemented in the member states.

There are three main ways in which cross-compliance supports the implementation of the WFD:

1. From 2005 onwards (the SMR are to be introduced between 2005-2007), all farmers must respect the statutory management requirements set-up in accordance with 19 EU Directives (e.g. the Nitrates Directive, the Sewage Sludge Directive).
2. Maintenance of farmland in good agricultural and environmental condition is the second part of Cross Compliance, that has the potential to significantly contribute to reducing water pollution. Each of the Member States can define detailed GAEC standards, taking into account local conditions and environmental protection priorities. From the point of view of WFD requirements in Europe, it is important that the criteria refer also to the needs of water resources protection.
3. Ensuring that conditions are complied with and proper advice to farmers as to how and why they ought to comply are crucial to the success of cross-compliance. Therefore, the development of and funding for adequate farmer advice as well as the implementation of proper control measures by Member States will be important. To do this, the bodies controlling different sections of Cross Compliance must be defined and verifiable standards put in place so that non-compliance can be recognised. A balance must be reached between enforcing compliance and creating trust with farmers.

The WFD incorporates a number of previous directives including many of those included as the SMR for Cross Compliance. This means that the enforcement mechanism provided by Cross Compliance can directly contribute to achieving WFD aims.

The GAEC conditions in several countries aim primarily at soil preservation issues which should positively impact water quality due to reduced run-off and erosion, enhanced buffer and filter functions and the protection of permanent meadows and pastures.

Despite all these potentially positive links between CC and WFD, the instrument itself has its limitations (e.g. it is not relevant to all farmers, just those that receive direct payments, exemptions defined by Member states, etc). The CC regime is just another step towards protecting European Waters on a broader scale, but even if full compliance of all European farmers is achieved, this alone will not guarantee reaching WFD objectives. The effects of CC standards and GAECs focus on pollution and soil erosion issues but the hydro-morphological and alterations of hydrological regimes are not sufficiently taken into account. The proper enforcement of cross-compliance is potentially an interesting instrument to achieving a proper WFD implementation, bearing in mind other important issues must also be weighed (effects on competition distortions, possible conflicts with existing legislation, administrative burden and costs...).

Therefore a further development of the CC scheme in support of WFD implementation needs to be assessed carefully. The preparation of the 2008 mid-term review will be crucial for such an assessment.

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Annex 1: Overview of the SMRs that build the basis of CC including the relevant articles

Table 6: Statutory management requirements referred to in Article 3 and 4 of Regulation (EC) No 1782/2003 (amended by Regulation (EC) No 21/2004)

SMRs	Articles
Effective from 1 January 2005	
<i>Environment</i>	
Council Directive 79/404/EEC of 2 April 1979 on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1)	Articles 3, 4 (1), (2), (4), 5, 7 and 8
Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution by certain dangerous substances (OJ L 20, 26.1.1980, p. 43.)	Articles 4 and 5
Council Directive 86/278/EEC of 12 June 1968 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture (OJ L 181, 4.7.1986, p. 6)	Article 3
Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1)	Articles 4 and 5
Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna (OJ L 206, 22.7.1992, p. 7)	Articles 6, 13, 15, and 22(b)
<i>Public and animal health; Identification and registration of animals</i>	
Council Directive 92/102/EEC of 27 November 1992 on identification and registration of animals (OJ L 355, 5.12.1992, p. 32)	Articles 3, 4 and 5
Commission Regulation (EC) No 2629/97 of 29 December 1997 laying down detailed rules for the implementation of Council Regulation (EC) No 820/97 as regards ear tags, holding registers and passports in the framework of the system for the identification and registration of bovine animals (OJ L354, 30.12.1997, p. 19)	Articles 6 and 8
Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products and repealing Council Regulation (EC) No 820(97) (OJ L 204, 11.8.2000, p. 1)	Articles 4 and 7
Council Regulation (EC) No 21/ 2004 of 17 December 2003 establishing a system for the identification and registration of ovine and caprine animals and amending Regulation (EC) No 1782/2003 and Directives 92/102/EEC and 64/432/EEC (OJ L 5, 9.1.2004, p. 8).	Articles 3,4 and 5
Effective from 1 January 2006	
<i>Public, animal and plant health</i>	
Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (OJ L 230, 19.8.1991, p. 1)	Article 3
Council Directive 96/22/EC of 29 April 1996 concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of beta-agonists, and repealing Directives 81/602/EEC, 88/146/EEC and 88/299/EEC (OJ L 125, 23.5.1996, p. 3)	Articles 3, 4, 5 and 7
Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1)	Articles 14, 15, 17(1), 18, 19 and 20
Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ L 147, 31.5.2001, p. 1)	Articles 7, 11, 12, 13 and 15

<i>Notification of diseases</i>	
Council Directive 85/511/EEC of 18 November 1985 introducing Community measures for the control of foot-and-mouth disease (OJ L 315, 26.11.1985, p. 11)	Article 3
Council Directive 92/119/EEC of 17 December 1992 introducing general Community measures for the control of certain animal diseases and specific measures relating to swine vesicular disease (OJ L 62, 15.3.1993, p. 69)	Article 3
Council Directive 2000/75/EC of 20 November 2000 laying down specific provisions for the control and eradication of bluetongue (OJ L 327, 22.12.2000, p. 74)	Article 3
Effective from 1 January 2007	
<i>Animal welfare</i>	
Council Directive 91/629/EEC of 19 November 1991 laying down minimum standards for the protection of calves (OJ L 340, 11.12.1991, p. 28)	Articles 3 and 4
Council Directive 91/630/EEC of 19 November 1991 laying down minimum standards for the protection of pigs (OJ L 340, 11.12.1991, p. 33)	Articles 3 and 4(1)
Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes (OJ L 221, 8.8.1998, p. 23)	Article 4

Annex 2: Overview of the GAEC implementation in the EU 25 (stand 2005)

Issue	Standard	BE/ FLA	BE/ WAL	CZ	DE/ BB	DE/ BW	DE/ BY	DE/ HE	DE/ HH	DE/ MV	DE/ NI	DE/ NW	DE/ RP	DE/ SH	DE/ SL	DE/ SN	DE/ ST	DE/ TH
Soil erosion	Minimum coverage				Yes													
	Minimum land management reflecting site-specific conditions	Yes																
	Retain terraces			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes
	Soil erosion: Other standards																	
Soil organic matter	Standards for crop rotations where applicable				Yes													
	Arable stubble management	Yes	Yes		Yes													
	Other standards	Yes																
Soil structure	Appropriate machinery use																	
	Others referring to Soil structure	Yes	Yes															
Minimum level of maintenance	Minimum livestock stocking rates or/and appropriate regimes																	
	Protection of permanent pasture	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Retention of landscape features, including where appropriate the prohibition of the grubbing up of olive trees			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Avoiding the encroachment of unwanted vegetation on agricultural land	Yes	Yes															
	Maintenance of olive groves in good vegetative conditions																	
	Other standards	Yes																

Issue	Standard	DK	EE	ES/ AND	ES/ ARA	ES/ AST	ES/ CAL	ES/ EXT	ES/ GALI	ES/ NAV	ES/ PAV	ES/ RIOJ	FI	IE	LT	LV	NL	SK	UK/ SC
Soil erosion	Minimum coverage	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes		Yes		Yes
	Minimum land management reflecting site-specific conditions	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes
	Retain terraces			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes							
	Other standards				Yes	Yes	Yes	Yes	Yes		Yes		Yes				Yes		
Soil organic matter	Standards for crop rotations where applicable													Yes					Yes
	Arable stubble management			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes			Yes
	Other standards			Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes						
Soil structure	Appropriate machinery use			Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes					Yes
	Other standards																		
Minimum level of maintenance			Yes											Yes		Yes			Yes
	Protection of permanent pasture	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes
	Retention of landscape features, including where appropriate the prohibition of the grubbing up of olive trees	Yes		Yes	Yes	Yes	Yes		Yes		Yes	Yes	Yes	Yes					Yes
	Avoiding the encroachment of unwanted vegetation on agricultural land	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes
	Maintenance of olive groves in good vegetative conditions		Yes	Yes	Yes		Yes	Yes		Yes	Yes	Yes							
	Other standards	Yes													Yes	Yes	Yes		

Annex 3: The implementation of CC in the New Member State – The Example of Poland

Although Poland initiated activities for implementation of CAP measures quite early – at the end of the 1990s – detailed legal requirements on direct payments were introduced only at the end of 2003, whilst GEAC standards were defined several months later. Introduction of the GEAC, its scope and implementation process were not consulted with environmental non-governmental organisations.

SMR

Requirements provided for in the Directives have been transposed to the national legislation. The Act on Fertilisers introduces an obligation to construct leak-proof containers for liquid manure with the capacity enabling its storage for four months (whilst the Code of Good Agricultural Practice stipulates that liquid manure should not be used for six months). Provisions on application of sewage sludge in agriculture comply with Community requirements, a similar situation holds for provisions on ground water. SMR requirements are of general nature, if however, farmers do not comply with them, it does not involve reducing the amount of direct payments.

GEAC

The Act of 18 December 2003 on direct payments for farmland (DU 6/2004.40) constitutes the basis for introduction of provisions on requirements regarding maintenance of farmland in good environmental condition. Detailed criteria are provided for in the Regulation of the Minister of Agriculture and Rural Development of 7 April 2004 on the minimum requirements for maintenance of farmland in good agricultural condition (DU 65/2004.60). These requirements became legally binding when Poland joined the European Union. According to these provisions, maintenance of farmland in good agricultural condition that respects environmental protection requirements involves:

- cultivating the land with plants or laying it idle – for farmland;
- cutting the plant cover and removing it at least once a year before 31 July – for meadows;
- cutting plant cover and removing it at least once a year before 30 September – for molinia meadows under agri-environmental programmes;
- animal grazing during the vegetation period for grass or cutting the plant cover and removing it at least once a year before 31 July – for pastures.

Moreover, the Regulation defines rules for protection of soil exposed to erosion, gives a more precise definition of idle land and specifies the maximum allowable period for laying land idle (5 years). It also stipulates that trees and bushes should not grow on farmland (with exceptions resulting from soil, water, nature and landscape protection needs and exceptions for plantations of willow (*Salix sp.*) and multiflora rose (*Rosa multiflora*)).

Control

Control of farms that received direct payments begun on 5 July 2004. Its main purpose was to verify whether the area of a farm eligible for a payment was measured properly. Nevertheless, the controls also covered maintenance of farmland in good condition.

The controls were conducted by both the Paying Agency – the Agency for Development and Modernisation of Agriculture, as well as external units chosen in regional tenders (at the voivodship level). Around 2400 inspectors were involved in the controls. 5.53% of farms

underwent controls; they were chosen based on random selection and by means of risk analysis method. 1.17% of applications were chosen randomly, 3.64% of applications were selected for on-site inspection by means of risk analysis, whilst 0.71% of the applications were selected on the basis of the photo methods.

An average area of the controlled farm equalled 19.56 ha. This means that an average controlled farm was larger than an average farm that have applied for direct payments (9.84 ha).

The control revealed that the level of irregularities equalled 15% and they related mainly to measurements of the size of farms eligible for payments.