



A Research Paper of the Cross Compliance Network

## Cross Compliance: An example of better regulation?

Background Paper for the Cross Compliance Seminar  
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## About the Cross Compliance Network

The Cross Compliance Network aims to develop our understanding of environmental cross compliance. A consortium of nine universities and research institutions from a range of EU Member States is consolidating research to date, undertaking new original research, identifying future research needs and fostering a network of cross compliance stakeholders.

The Cross Compliance Network is co-ordinated by the Institute for European Environmental Policy (IEEP) and consists of the following partner institutions:

Agricultural University of Athens (AUA), Greece  
Applications des Sciences de l'Actions (AScA), France  
CLM Research and Advice plc. (CLM), Netherlands  
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The Royal Veterinary and Agricultural University (KVL), Denmark

This paper, along with all those published for this project, may be found on the project's dedicated website:

<http://www.ieep.org.uk/projectMiniSites/crosscompliance/index.php>

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## Cross Compliance: An example of better regulation?

This background paper was prepared to stimulate discussion at a seminar on cross compliance held in Paris on 3 July 2006 as part of a European Commission funded research project. It is accompanied by four more detailed papers on specific issues relating to cross compliance: administrative arrangements for cross compliance; the environmental relevance of cross compliance; the relationship of cross compliance with rural development measures; and, farm advisory systems.

### 1 INTRODUCTION

The 2003 Mid Term Review (MTR) of the Common Agricultural Policy (CAP) introduced a number of adjustments to agricultural support, within what is known as Pillar I of the CAP. One of the most substantive was the introduction of a decoupled system of payments per farm - the Single Payment Scheme (SPS) - conditional on recipients meeting environmental, animal health and welfare and food safety requirements (known as cross compliance). A primary objective of this change in policy was to promote a more market orientated, sustainable agriculture, reflecting the concerns of European citizens. However, the Commission also sought to promote further simplification of agricultural legislation and its implementation; a guiding principle in its deliberations on the CAP since the Agenda 2000 reforms. In its 2002 Communication to the Council and the European Parliament<sup>1</sup>, the Commission noted:

*'...the range of mechanisms within the common market organisations continues to create many complex obligations for farmers and difficult control and monitoring responsibilities for Member States and the Commission...Simpler conditions on payments with less market related procedures would enable farmers to spend more time on making their business successful and meeting their statutory requirements. It would also allow Member States to concentrate on checking environmental, food safety and animal health and welfare requirements.'*

The desire for simplification of agricultural legislation is often overlooked as an objective of the MTR but is actually a reflection of a wider and long running EU debate regarding the regulation of business. All businesses are subject to an increasing array of European and national legislation that seeks to control or regulate their activities in one sphere or another. Such regulation has been seen by many as either unnecessary or as an undesirable burden on industry. As a result, there has been growing recognition in recent years of the need for 'better regulation' leading to the adoption by the European Commission of an 'Action Plan for Better Regulation'<sup>2</sup>. Definitions of 'better regulation' vary. Jacques Pelkmans of the College of Europe

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<sup>1</sup> Communication from the Commission to the Council and the European Parliament. Mid-Term Review of the Common Agricultural Policy. Brussels. COM (2002)

<sup>2</sup> Communication from the Commission. Action Plan 'Simplifying and improving the regulatory environment'. Brussels 5.6.2002. COM (2002) 278 final.

offered the following views to a Hearing of the European Parliament on the subject of a new regulatory framework for chemicals (REACH)<sup>3</sup>:

*'Only regulate where unavoidable and justified by important and identifiable public interest reasons, and under strict proportionality, directly related to well-defined objectives. In such a way the (public) "benefits" will justify and legitimate regulation.'*

The European Commission offered its own definition of the policy of better regulation to a UK House of Lords Select Committee on the European Union<sup>4</sup>:

*'Better regulation' may be defined as a policy which aims to ensure that (existing and future) European Union legislation is as concise and straightforward as its subject matter permits and is as light as is commensurate with the proper protection of the various public interests at stake and the burden it imposes on economic operators.'*

A further communication on simplification and better regulation in relation to the CAP has also been issued by the Commission<sup>5</sup>. From these statements, we can identify a number of key principles for better regulation, namely regulation that is:

- **relevant** – related to the issues or problems that need to be addressed and has clear objectives and purpose
- **effective** – producing or capable of producing an intended effect
- **efficient** – having the intended effect without wasting time, effort or expense
- **proportionate** - balancing the value of the public benefits derived against the burdens and costs imposed on individuals and businesses

This paper takes one significant element of the 2003 CAP Reform – cross compliance – and considers it in relation to the principles of better regulation. It asks if cross compliance, and the regulations governing its implementation, are relevant, effective, efficient and proportionate? Cross compliance came into force on 1<sup>st</sup> January 2005. Given the relative youth of the policy, the following discussion is based on what can be understood about the intentions of cross compliance (as defined in the legislation and other relevant Commission statements) and on experiences in the first 18 months of implementing the policy. The overarching question asked in this paper is 'is cross compliance an example of better regulation?'

## **2 BACKGROUND TO CROSS COMPLIANCE AND ITS POLICY CONTEXT**

The concept of cross compliance originated in the United States of America. It was used from the 1970s onwards, to refer to conditions that farmers must meet in order to

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<sup>3</sup> [www.euractiv.com/29/images/Pelkmans\\_REACH\\_19jan2005\\_tcm29-136655.doc](http://www.euractiv.com/29/images/Pelkmans_REACH_19jan2005_tcm29-136655.doc)

<sup>4</sup> (p 15) Memorandum from the European Commission to House of Lords Select Committee on the European Union Ninth Report on Ensuring Effective Regulation in the European Union. 2005

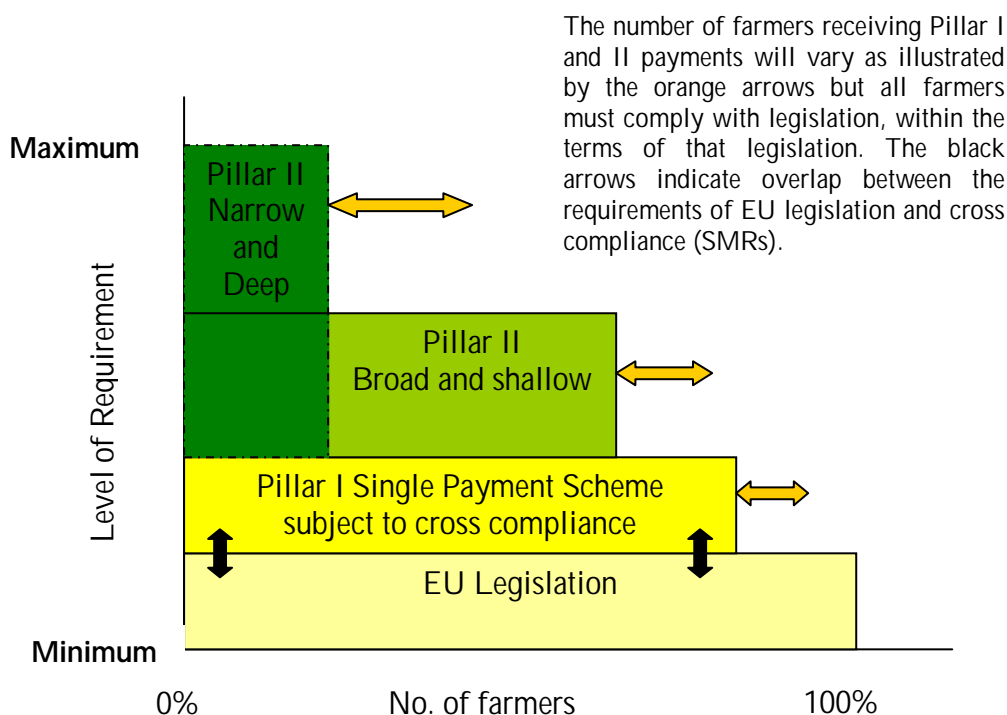
<sup>5</sup> Communication from the Commission on Simplification and Better Regulation for the Common Agricultural Policy. Brussels 19.10.2005 COM (2005) 509 Final

be eligible for assistance under government support schemes for agriculture, notably commodity 'programs'. In the US, farmers claiming support under one programme had to meet the rules of that program and certain obligations of other programs: thus making a link 'across programmes' which gave rise to the term 'cross compliance'. The use of the term has been extended since then, both within the US and elsewhere, to refer to linkages between agricultural and environmental policies.

The development of cross compliance in the EU is summarised in the Annex to this paper, since it will already be familiar to most readers. Suffice it to say here that cross compliance was first considered in the EU in the late 1980s and introduced as an optional environmental measure for Member States to adopt. In its current guise, cross compliance was introduced by the 2003 CAP reform as a compulsory measure and its scope extended from its original environmental focus to one dealing with a wider range of public concerns e.g. animal welfare. Regulation 1782/2003 now requires farmers to observe certain standards in the areas of the environment, public, animal and plant health and animal welfare in return for direct payments under the SPS. In order to achieve this cross compliance, and to avoid any reduction in the total level of direct aid received, the farmer must comply with 19 Statutory Management Requirements (SMRs) and a number of standards aimed at ensuring the 'good agricultural and environmental condition' (GAEC) of agricultural land, referred to in Annexes 3 and 4 of the Regulation respectively. The SMRs are based on pre-existing EU Directives and Regulations such as the Nitrates Directive. GAEC is a new requirement and consists of a total of eleven standards relating to the protection of soils and the maintenance of habitats. Member States must also ensure that the extent of permanent pasture (as at 2003) is maintained, on the basis of its environmental importance. Regulation 796/2004 sets down detailed rules for the implementation of cross compliance.

Before considering cross compliance further, several points of clarification need to be made. First, farmers are subject to a large body of environmental and other legislation that applies (to all farmers within the terms of the legislation) irrespective of whether they are in receipt of CAP subsidy or not. This legislation is important since it sets the baseline standards which govern farming practice. Secondly, farmers in receipt of payments under the SPS must meet cross compliance requirements or face those payments being reduced or cancelled. Not all farmers are in receipt of such payments but the vast majority are; cross compliance is therefore a means of *enforcing* mandatory standards across a large area of farmland. Thirdly, in relation to rural development payments (Pillar II of the CAP), certain payments (those relating to measures defined by Articles 36 (a) (i) to (v) and (b) (i), (iv) and (v)) can be reduced or cancelled where cross compliance requirements are not respected. In relation to agri-environment payments (Article 36 (a) (iv)), payments can only be made for commitments going *beyond* mandatory standards established by cross compliance. Hence, farmers receiving agri-environment payments are required to meet higher standards than those required by cross compliance. The number of farmers claiming Pillar II payments is likely to be less, in most cases, than the number of farmers claiming SPS. Pillar II payments can therefore be seen as more specific and targeted at achieving certain objectives. This relationship between EU legislation, and cross compliance as it relates to Pillar I and Pillar II is represented in Figure 1. 'Broad and Shallow' Pillar II measures are those which have relatively light requirements (beyond cross compliance) and are likely to apply to relatively large numbers of

farmers. 'Narrow and Deep' Pillar II measures are those which have more demanding requirements and are likely to apply to a smaller number of farmers. In some Member States, farmers must enter 'broad and shallow' measures first before they can progress to 'narrow and deep' measures while in other Member States farmers enter either 'narrow and deep' measures or 'broad and shallow'. An accompanying paper explores further the subject of cross compliance and its relationship with rural development measures.



**Figure 1: Illustration of the relationship between cross compliance, Pillar I and Pillar II measures**

### 3 WHAT IS THE RELEVANCE OF CROSS COMPLIANCE?

Today, cross compliance must be seen within the context of wider sustainable development goals. The Council of the European Union, in its conclusions from the Göteborg Council on the European Union's Strategy for Sustainable Development in 2001, stressed the need for the EU to integrate environmental objectives into its internal policies and to improve the sustainable management of natural resources. The Agriculture Council underlined these requirements by stating that:

*'Farmers have the obligation to produce in accordance with good agricultural practices and environmental legislation, thus contributing to minimise the negative effects of production.'*

The Commission's earlier cited Communication on the MTR (COM 2002) makes several direct or indirect references to cross compliance. It states that '*a number of adjustments are necessary to fully deliver Sustainable Agriculture and Rural Development*'. These include integrating food safety into the CAP through cross compliance and further steps in the field of environment to reinforce compliance, reduce negative pressures of support mechanisms, and strengthen the provision of services. It also states that animal health and welfare concerns must be fully integrated within the CAP. The clearest statement as to the purpose of cross compliance is given as follows:

*'Cross compliance will be applied as a whole farm approach with conditions attached to both used and unused agricultural land including the possibility, where Member States consider this necessary, to apply conditions to prevent the conversion of pasture land to arable land. On used and unused land, cross compliance will involve the respect of statutory management requirements and the obligation to maintain land in good agricultural condition. A whole farm approach follows directly from the logic of decoupling and will emphasise the main purpose of cross compliance: to support the implementation of environmental, food safety and animal health and welfare legislation. In the case of non-respect of cross compliance requirements, direct payments should be reduced while maintaining proportionality with respect to the risk or damage concerned.'*

Regulation 1782/2003, the legal basis for cross compliance, gives further insight into the purpose and objectives of this policy. Notable statements in the preamble are that (italics are ours):

- Cross compliance rules should serve to incorporate in the common market organisations *basic standards* for the environment, food safety, animal health and welfare and good agricultural *and environmental*<sup>6</sup> condition
- Standards should be established 'in order to *avoid the abandonment of land* and ensure that it is maintained in good agricultural and environmental condition'
- *Permanent pasture has a positive environmental effect* and so should be maintained and a massive conversion into arable land avoided.

Articles 3, 4 and 5 then proceed to further define cross compliance requirements identifying 19 pieces of legislation from which statutory management requirements must be drawn (Annex III) and the framework on which minimum requirements for good agricultural and environmental condition must be based (Annex IV).

These various statements give an indication of the purpose of cross compliance although nowhere are the objectives of this policy very clearly expressed, leaving it open to misunderstanding and confusion. We can however deduce two main purposes of cross compliance from the legislation. First, it is a means of enforcing compliance

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<sup>6</sup> Early Commission Communications referred only to 'good agricultural condition'. This was later extended to 'good agricultural *and environmental* condition' following representation by environmental bodies



with pre-existing legislation in the agriculture sector (through the Statutory Management Requirements) and, secondly, it seeks to avoid land abandonment and some aspects of land use change, such as a decline in permanent pasture (through standards for Good Agricultural and Environmental Condition). It should be noted that this second purpose relates specifically to concerns, expressed by a number of Member States during the MTR negotiations, that decoupling would result in land being taken out of production and, in some regions, completely abandoned. It is also a reflection of the desire of environmental bodies that cross compliance should ensure a degree of environmental protection as well as maintaining the agricultural condition of land.

If this is the generally understood purpose of cross compliance then, in the context of better regulation, a key question arises: 'what are the needs or problems that this legislation seeks to address?' More specifically, what is the extent of current non-compliance with existing legislation in the agricultural sector and to what degree might land abandonment or land use change occur that, in both cases, requires such a legislative response? It is here that the relevance of cross compliance becomes much less clear; the problems that cross compliance seeks to address are not clearly articulated in either the legislation itself or the documents that accompanied the MTR negotiations. The issue of relevance is more resolved in relation to non-compliance with legislation than with land abandonment/land use change. There is, for example, evidence that implementation and enforcement of key EU legislation, such as the Nitrates Directive and the Birds and Habitats Directives, has been poor in some Member States. The use of cross compliance as a policy tool to enforce compliance can therefore be justified on this basis. However, a clearer iteration of the extent of current non-compliance would be helpful in explaining the relevance of, and need for, cross compliance. It might also be helpful to clarify the reasoning behind the selection of the 19 Directives and Regulations from which SMRs are drawn, given the large body of legislation that applies to agriculture. Were these 19 selected because it is in these areas that compliance is weakest or because they relate to the most critical issues that concern EU citizens? In other words, were these 19 Directives and Regulations selected on an objective basis?

The issue of relevance is less resolved in relation to land abandonment and land use change since GAEC appears to have been introduced on the basis of changes that *might* occur in future as a result of decoupling and other aspects of the CAP reform. Until the full impacts of the CAP reforms, in terms of farmers' responses to them, are known the relevance of GAEC, as currently framed, remains uncertain. It is not clear, for example, why Annex IV is framed as it is and why the issues and standards it contains, with a strong focus on soils, were selected over other possible issues and standards. At best, GAEC can be seen as a 'precautionary approach' to problems that may or may not arise in the coming years. If the purpose of GAEC is to respond to such problems, then it is clear that research is required to ensure a much better understanding of the impacts of the reforms as they arise. GAEC itself may need revising in future to ensure that it is targeted at addressing these impacts.

One idea for ensuring the relevance of cross compliance in future may be to adopt the approach recently introduced in relation to rural development policy. Here, the purpose of the policy is defined in an EU strategy which Member States then have to reflect in their own national strategies and rural development programmes. In this

way, the objectives of the policy and the means of achieving those objectives are clearly considered and articulated. A similar approach in the field of cross compliance could yield benefits.

#### **4 WILL CROSS COMPLIANCE BE EFFECTIVE?**

In order to understand if cross compliance is likely to achieve its intended effects i.e. be an effective piece of legislation, several issues need to be considered including:

- The design of cross compliance standards – both SMRs and GAEC – by Member States, including their co-ordination with agri-environment schemes and other Pillar II measures;
- The communication of those standards to farmers (information and advisory systems);
- The inspection and control regime.

Each of these issues is considered in turn.

##### **4.1 The design of cross compliance standards**

For cross compliance standards to be effective they need to be:

- Clearly related to the objectives they are trying to achieve;
- Appropriate to the agricultural situations in which they are to be applied;
- Understood by those who have to comply with them (farmers);
- Verifiable i.e. an inspection must be able to determine if the standard has been met;
- Co-ordinated with other policies concerned with agri-environment objectives.

Early experiences of the process of designing cross compliance standards suggest that Member States are taking a range of different approaches that may have implications for the effectiveness of the policy. A study for the Royal Society for the Protection of Birds<sup>7</sup> undertaken at the time when Member States were designing cross compliance standards drew some useful conclusions on this process. In relation to SMRs, the study found that the requirements adopted by all Member States were broadly similar as they were drawn from clearly defined Directives and Regulations. However, there appears to be some variability in the number of standards farmers in different Member States have to comply with. The greatest difficulties appear to have been experienced in relation to defining verifiable and controllable standards in order to monitor compliance with SMRs and to ensure that the standards are clear and comprehensible to farmers. Particular difficulties appear to have been experienced in relation to the Birds and Habitats Directives.

In relation to GAEC, it is clear that Member States have introduced a wide range of measures to implement the standards set out in Annex IV. The majority of Member

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<sup>7</sup> Farmer, M & Swales, V (2004) The Development and Implementation of Cross Compliance in the EU 15: An Analysis. RSPB, Sandy.

States have implemented measures for some, but not, all of the Annex IV standards and these measures vary from the very basic to the rather more complex. Some Member States have chosen one simple measure to apply to an Annex IV standard, others have adopted one, more complex measure, and others have chosen several measures for one standard. The net result is a highly variable approach to Annex IV implementation across Member States. This is the case for several issues including requirements for maintaining permanent pasture. In itself, this is perhaps not surprising given that the Regulation requires GAEC standards to take into account *'the specific characteristics of the areas concerned, including soil and climatic condition, existing farming systems, land use, crop rotation, farming practices, and farm structures.'* But it may suggest a lack of clarity on the part of the Member States as to how Annex IV should be interpreted. In addition, the lack of any requirement by the Commission for Member States to justify their choice of GAEC standards would seem to undermine the relevance and effectiveness of the policy.

Who designs the standards is also likely to have a bearing on effectiveness. Research for this project indicates that, in most countries, the Ministry in charge of Agriculture has taken responsibility for the overall design of cross compliance standards with the involvement, in some cases, of the Ministry responsible for environmental matters. In some countries, with regionalised political and administrative structures, the design of standards has been decentralised. A number of countries also carried out consultations with farmers' organisations, NGOs and external experts. Experience in other policy areas suggests that stakeholder engagement and ensuring the input of relevant administrations can lead to better policy design.

#### **4.2 The communication of cross compliance standards to farmers**

The application of cross compliance standards at farm level will be critical in determining the overall effectiveness of this legislation. Various factors will influence whether or not farmers comply including: their understanding of the cross compliance requirements and of the consequences of not complying; the rigour of the enforcement regime (control and inspection); and, the cost of not complying (sanctions and penalties). By 1<sup>st</sup> January 2007, Member States must have set up a system advising farmers on land and land management. Regulation 1782/2003 states that, *'The advisory activity shall cover at least the statutory management requirements and the good agricultural and environmental condition referred to in Chapter I.'* Such an advisory system should make an important contribution to ensuring the effectiveness of cross compliance but given that cross compliance came into force in 2005, it is worth considering how effectively cross compliance has been communicated to farmers to date.

Member States appear to have used a range of methods to communicate with farmers, with cross compliance handbooks being the most common. Other methods include web based material, telephone help lines, demonstration farms, the media (press releases and articles). But there is little information to date as to how effective these different methods have been in communicating cross compliance to farmers and evaluation is needed in this area. Issues worth exploring further in this research project include the level of farmers' current understanding of the requirements and to identify whether communication has been general or targeted at particular regions, farmers or problems.

### 4.3 Inspection and control regimes

The effectiveness of cross compliance inspection and control regimes will be determined by a number of factors including:

- The bodies responsible for inspection and control and the level of co-ordination and communication between them;
- The selection of farms for inspection and the degree to which this targets those farms which pose the greatest risks;
- The timing of inspections;
- The extent to which compliance with standards can be accurately verified;
- The level of sanctions or penalties applied;
- Monitoring and evaluation of cross compliance effects and effectively feeding back results into future policy design.

Research undertaken for this project (and presented in the accompanying paper on the administration of cross compliance) suggests that increased enforcement of mandatory standards through cross compliance is likely as a result of additional systematic controls, the threat of potentially high sanctions, the acceleration of implementation of EU Directives and the increasing knowledge of farmers about the standards. As regards the systematic controls, the choice of farms is also a determining factor. Like many of the requirements for cross compliance, a systematic approach is new. As a result there is often a lack of experience, regarding which criteria to use and what weight to give them in an integrated risk-assessment. Thus, there is scope to improve the selection process in relation to more effective environmental targeting. However, these results are based only on a limited sample of Member States and examination of a small number of the cross compliance requirements. In order to fully assess the likely effectiveness of the inspection and control regimes a much greater level of information is required. Notably, more detailed information is needed about the responsibilities of different administrations in the selection of farms for inspection. Information is also required about the risk-assessment criteria used in order to assess which farms are targeted and how the individual cross compliance standards are considered. This research hopes to explore the factors listed above in greater depth and identify the most effective approaches to inspection and control.

A final point to note is that the very nature of cross compliance i.e. the way it links environmental and other obligations with receipt of the Single Payment, means the policy can only be effective as long as the SPS remains in place. Any future reduction in the Single Payment, for example, through modulation or future CAP reform, would reduce the efficacy of the policy as the main enforcement lever or sanction – the threat of reduced payments – would be weakened. There is also the possibility that some farmers may choose to forego payments in order to avoid cross compliance requirements (although they would still be subject to the requirements of EU legislation). In other cases, some farmers may decide to take the payments but not comply with cross compliance and run the risk of not being caught. While the latter will always be difficult to determine, some research into whether any farmers are foregoing SPS payments would help to judge the effectiveness of cross compliance.

## **5 WILL CROSS COMPLIANCE BE EFFICIENT?**

The efficiency of cross compliance can be judged on the basis of whether it has the intended effects without wasting time, effort or expense and when compared to alternative approaches to achieving the same effects. Early indications suggest that many Member States have found the process of implementing cross compliance to be burdensome in administrative terms. There is however little information available yet on the administrative costs associated with cross compliance. But given that Member States were already required to implement and enforce EU legislation, it is doubtful whether cross compliance will result in any additional costs in the long term. This is more likely to be the case in relation to SMRs (based on existing legislation) than GAEC where, some Member States at least, have introduced completely new measures. But overall, it might be argued that if cross compliance results in more streamlined and co-ordinated inspection and control regimes, there might be cost savings, at least after the initial start-up costs. If this proves to be the case, then cross compliance could be an example of efficient regulation.

Alternative approaches to achieving compliance with EU legislation and encouraging appropriate land use could include non-regulatory approaches such as advice and training for farmers, land management incentives or private sector measures such as certification schemes. The role of certification schemes in encouraging farmers to meet environmental and other standards will be explored in an accompanying paper. Some of the approaches mentioned above are already components of rural development policy (Pillar II of the CAP) e.g. land management incentives. A key question that arises is whether environmental and other objectives (public goods) can be met more efficiently through regulatory or non-regulatory approaches? Answering this question requires a comparison of the effectiveness of the two different approaches in producing the intended effects and an understanding of the costs associated with each approach. Further research is needed in this area of understanding the efficiency of different policy approaches. A more likely scenario may be that a combination of both regulatory and non-regulatory approaches offers the most effective and efficient way of achieving environmental and other objectives. For example, regulation may help to underpin voluntary approaches such as agri-environment payments; this is an approach adopted in Switzerland and is worthy of further exploration. This brings into question the relationship between the two approaches and consideration is needed as to how far the regulatory approach should be applied before a non-regulatory approach takes over in order to make best use of available resources. Some of these issues are explored in an accompanying paper on the relationship between cross compliance and rural development measures.

## **6 WILL CROSS COMPLIANCE BE PROPORTIONATE?**

The final principle of better regulation explored is that of proportionality. The key question here is whether the value of the public benefits derived from regulation is sufficient to warrant the burdens and costs imposed on individuals and businesses? Answering this question is, in a sense, only possible once the relevance, effectiveness and efficiency of regulation has been determined. While it is possible to apply this principle of better regulation to cross compliance, it is worth considering that, unlike other regulation, cross compliance is linked to substantive payments from the public

purse. So while cross compliance may well impose burdens and costs on individual farm businesses it might be argued that these costs are compensated by the payments farmers receive in the form of the SPS. If this argument is accepted then cross compliance will always be judged as proportionate unless it fails to deliver public benefits, in which case the regulation would be pointless.

## **7 CONCLUSIONS**

This paper began by asking the question 'is cross compliance an example of better regulation?' Better regulation has been defined as that which is relevant, effective, efficient and proportionate. Put more simply, all of us are interested in whether cross compliance will work. But our exploration of the relevance of cross compliance suggests some lack of clarity as to what cross compliance is trying to achieve. This seems to be the case more in relation to GAEC (Annex IV) than in relation to the SMRs and the enforcement of existing legislation (Annex III). Better articulation of what it is that cross compliance is trying to achieve and a more strategic approach to Annex IV in particular might be helpful.

The relative youth of the cross compliance legislation means that there is little evidence so far on which to draw to determine either its effectiveness or efficiency. Future evaluations will need to provide evidence of the actual impacts of cross compliance on environmental indicators such as water quality, biodiversity or soil quality and in terms of changes in levels of compliance with EU legislation. At this stage, we can only point to some of the key factors that are likely to determine whether the policy will work or not, including: the design of standards; the communication of these standards to farmers; inspection and control regimes; administrative costs and burdens; and, the relationship of cross compliance with other non-regulatory approaches. Early experiences suggest very varied implementation of cross compliance across the EU. It is likely that some of these approaches to implementation will prove more relevant, effective, efficient and proportionate than others. Research is needed to throw light on some of the key questions surrounding cross compliance and to understand if the policy will work or not. This research project seeks to provide some answers to many of these questions. As we learn more about the implementation of cross compliance and its effects, it should be possible to identify and promote best practice and, in due course, suggest possible revisions to the legislation. Ultimately, if cross compliance cannot demonstrate that it is an example of better regulation, its place in the lexicon of CAP legislation may not be assured.

## 8 ANNEX 1: BACKGROUND TO CROSS COMPLIANCE IN THE EU

In Europe, the discussion about the relevance of cross compliance to European agricultural policy began only in the late 1980s along with the growing commitment within the EC to integrating environmental considerations into agricultural policy. The 1992 reforms of the CAP under Commissioner MacSharry, with their greater reliance on 'direct payments', further increased the potential relevance of cross compliance. The greater transparency of these payments prompted a debate about the wider purpose of agricultural support and the possibility of requiring farmers to provide society with tangible social or environmental benefits in return for such payments. These ideas were part of an emerging view that production could no longer be the main goal of public support for agriculture and that it would increasingly have to be justified in social and environmental terms.

As part of the MacSharry reforms, elements of environmental cross compliance were introduced into the CAP. Member States were obliged to apply 'appropriate environmental conditions' to the management of compulsory set-aside in arable cropping, and were allowed to introduce environmental conditions on the direct payments offered as headage subsidies for beef cattle and sheep. The UK was one of the few Member States to apply conditions to livestock subsidies and threaten withdrawal of subsidy if the conditions were breached.

The Agenda 2000 agreement on reform of the CAP extended the use of cross compliance. Article 3 of the common rules (or 'horizontal') Regulation 1259/1999 applied to all direct payments under the European Agricultural Guidance and Guarantee Fund. It required Member States to take measures to ensure that agricultural activity within the scope of the common rules Regulation was compatible with 'environmental protection requirements'. But it gave Member States a number of options for such measures including:

- Support in return for agri-environment commitments.
- General mandatory environmental requirements.
- Specific environmental requirements constituting a condition for direct payments.

Member States were able to decide on the penalties that would be 'appropriate and proportionate to the seriousness of the ecological consequences of not observing' those measures, which could include withdrawal or cancellation of direct payments. Only a limited number of Member States set down conditions for direct payments including Denmark, France, Greece, the Netherlands and the UK.

Cross compliance was introduced on a compulsory basis by the 2003 CAP reforms. All farmers in receipt of payments under the Single Payment Scheme must adhere to cross compliance requirements or risk the reduction or withdrawal of payments.