

**No such thing**

**as a free lunch**

*cross compliance and*

*good agricultural practice*



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This paper is made by the Netherlands Society for Nature and Environment in consultation with the EEB Agricultural Working Group

The staff of the Netherlands Society for Nature and Environment (in dutch: Stichting Natuur en Milieu, or: SNM) , counting eighty people, is working towards a sustainable society. The key objective is to lobby and influence Dutch and European decision makers towards an increased biodiversity and cleaner environment. With the means of research, expert knowledge, publicity and legal actions the Netherlands Society for Nature and Environment stimulates discussion and mobilizes public opinion.

The Netherlands Society for Nature and Environment forms a close network with 12 provincial environmental Federations and coordinates the strategic platform of around thirty nature and environmental organisations in the Netherlands.

The European Environmental Bureau (EEB) is a federation of more then 130 environmental citizens' organisations based in all EU member states and most Accesion Countries, as well in a few neighbouring countries. These organisations range from local and national, to European and international. The aim of the EEB is to protect and improve the environment of Europe and to enable the citizens of Europe to play their part in achieving that goal.

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# Introduction

The Council of Ministers reached an agreement on further reform of the Common Agricultural Policy (CAP) in June 2003. A key element of that agreement is the introduction of a compulsory form of cross compliance, coupling environment and other demands from society to income subsidies. Another important element of the CAP is the implementation of Good Agricultural Practice (GAP). GAP defines the minimum level for subsidies for environment, nature and landscapes under the Rural Development Regulation. It is obvious to link the new cross compliance for the income subsidies with Good Agricultural Practice of the Rural Development subsidies. A clear set of norms and standards should be developed, that can support agriculture to become more sustainable.

With this document The Netherlands Society for Nature and Environment wants to advise how the implementation of cross compliance can be improved on short term, and how it

should evolve in the longer term. The document describes the model that The Netherlands Society for Nature and Environment pursues, a set of standards and indicators for cross compliance and it will shortly address the potential role of certification. We give our opinion, however, we strongly ask other parties to think with us about further development of cross compliance and Good Agricultural Practice. The document is based on advice of the Centre of Environment and Agriculture (CLM, Leiden) and workshops with parties involved. The theme is part of the program of The Netherlands Society for Nature and Environment looking at the EU agricultural policies.

*Please note that the report focuses on environment, nature and landscape issues, being the focus of The Netherlands Society for Nature and Environment. Therefore, other demands from society such as public and animal health and animal welfare are not included, it does not mean they are less important.*

# Cross Compliance and Good Agricultural Practice



## **Good Agricultural Practice**

In Europe, cross-compliance in the form of environmental management conditions attached to Pillar I payments began with the McSharry reforms of 1992, but even after the 1999 'Agenda 2000' reforms, MS had no obligation to apply environmental conditions to any direct payments other than set-aside. The 1999 reforms did however introduce compulsory compliance to agri-environment and LFA payments under Pillar II, requiring farmers receiving those payments to comply with 'Good Farming Practice' on the whole of their farm, which can be seen as the Good Agricultural Practice (GAP) in the Rural Development Regulation. All 15 MS have a formal obligation to define GAP in their Rural Development Plans. The legal text of the Rural Development Regulation requires Member States to "set out verifiable standards in their Rural Development Plans. In any case these standards shall entail compliance with general mandatory environmental requirements". In practice, most definitions of GAP appear to rely heavily on compliance with national and local regulations, which vary significantly between and within countries.

EU-member states most often define Good Agricultural Practice at the level of legal norms, mainly to facilitate implementation and control. Still, the question is whether the level of Good Agricultural Practice is sufficient. Good Agricultural Practice can be seen as Corporate Social Responsibility. Companies should stick to the law, but innovative

companies will have higher demands. This is often seen as a '*licence to produce*' for the agricultural sector. Cross Compliance is a useful instrument to get in the end to the desired level of Good Agricultural Practice.

Good Agricultural Practice is only valid to get subsidies from environmental measures (less than 10% of the European agricultural subsidies). It is not valid for the other 90 % of subsidies at the moment. Up to now, farmers who break the law, will still have the right on the full amount of subsidies. In the vision of The Netherlands Society for Nature and Environment Good Agricultural Practice should be the minimum level for all agricultural subsidies. And, if the subsidies concern billions of Euros, then the Good Agricultural Practice can go further than the law. Good Agricultural Practice is *not the justification* for agricultural subsidies. The justification can be care of nature and landscape, taking care of food security, the fact that the EU has stronger requirements for animal welfare, health or the need to change from subsidized to a more liberalized sector. The respect of Good practice *is a pre-condition* for getting agricultural subsidies.

## **Cross Compliance**

European farmers and industry receive around €40 billion EU subsidies. The Mid-Term Review reform will attach environment, food security, animal welfare and animal health conditions to direct payments– otherwise known as cross compliance. The demands are defined in a list

of 18 EU Directives and a list of requirements for farmers to keep the land in Good Agricultural and Environmental Condition. Those farmers who receive income payments now and within the actual system do not comply to these requirements will be penalised. This means that they will have a reduction on their subsidies or no subsidies at all. In case of negligence they will have a reduction of 10%, in case of repeated non-compliance 20% and in case of intentional non-compliance a reduction of 30% to 100%. Member States can retain 25% of the money generated by this penalty system.

There is a wide-ranging support for the principle of cross compliance. Cross compliance is a useful tool to put the requirements of articles 2 and 6 of the Treaty of Amsterdam into practice. Those articles require that all EU policies should promote sustainable development and that environmental protection requirements must be integrated into the definition and implementation of the Community policies. However, the complaints about cross compliance differ.

Most Member States think the verification checks for cross compliance will be expensive and complex to administer. It was also inappropriate to require farmers to meet the obligations of Member States. That is why the previous proposal of Fischler of 38 Directives was reduced to 18 Directives and the list of Good Agricultural and Environmental Conditions were reduced as well after negotiations. As many disciplines are involved (from environment to health issues), several administrative bodies will be responsible for control. Co-ordinating such control with the bodies of payments to farmers will be a challenge. Farmers fear a new administrative burden and many controls. Nature and environmental organisations argue that cross compliance should cover all relevant environmental problems. At the moment it

does not cover all relevant problems. For example, the Water Framework Directive is only optional, so the problem of water over use is not always covered by cross compliance.

Political and societal acceptance of cross compliance is required to make cross compliance a success. If the system is not workable, practically difficult to implement, it will have little acceptance. Therefore the system must be easy, clear and transparent to be effective. From a nature- and environmental point of view one can conclude that the list of cross compliance-demands should be focused on farm level and clear, but certainly all relevant environmental issues should be covered. This means that not all details of the Directives involved have to be covered.

The Netherlands Society for Nature and Environment thinks that some of the requirements should go further than the level of law only. When defining so, one has to be careful that the requirements are not set too high, because then the high requirements would be part of the 'Good Agricultural Practice'. Payments under the Rural Development Regulation (Pillar 2 of the CAP) can only be done for activities that go beyond the Good Agricultural Practice. This means that it would be no longer possible to pay for these activities under the Rural Development Scheme, whilst Member States may wish to do so.

#### **Vision of The Netherlands Society for Nature and Environment: couple cross compliance and Good Agricultural Practice**

The Netherlands Society for Nature and Environment proposes that all agricultural subsidies are coupled to minimum conditions for environment, landscape, nature, animal welfare and foodsafety, at the performance level of an integral Good Agricultural Practice. The Netherlands Society for Nature and

Environment also proposes to make Good Agricultural Practice compulsory for all agricultural subsidies from 2007. Good Agricultural Practices have to cover by then all relevant aspects of agricultural production and other payments to farmers. Good Agricultural Practice is based on Directives, Good Agricultural and Environmental Conditions and some additional national conditions. Those farmers that perform above that level will have the right for additional subsidies for Rural Development (Pillar 2 of the CAP). Within the Good Agricultural and Environmental Conditions and the national conditions there are possibilities to go further than the existing legal level. The Netherlands Society for Nature and Environment sees cross compliance as the instrument to move towards such an integral Good Agricultural Practice from 2007, by focusing on those aspects which are most relevant. This concept is shown in figure 1.

The Netherlands Society for Nature and Environment proposes to define a set of relevant and measurable indicators to monitor the implementation of cross compliance. For each indicator (what) a norm (how high/low) should be defined. The indicators can be defined at European level, whereby Member States are obliged to use a minimal number of relevant indicators that cover the relevant environment problems of the region concerned. Member States should be allowed to add national requirements to the EU-requirements, because certain issues have national relevance only (for example cows using meadows in the Netherlands). The EU will define minimum levels for norms for certain indicators (for example concerning Nitrates). The advantage of such an approach is that one works towards a system that is simple, clear and easier to control. It offers the possibility to move towards Good Agricultural Practice and leaves space for Member States

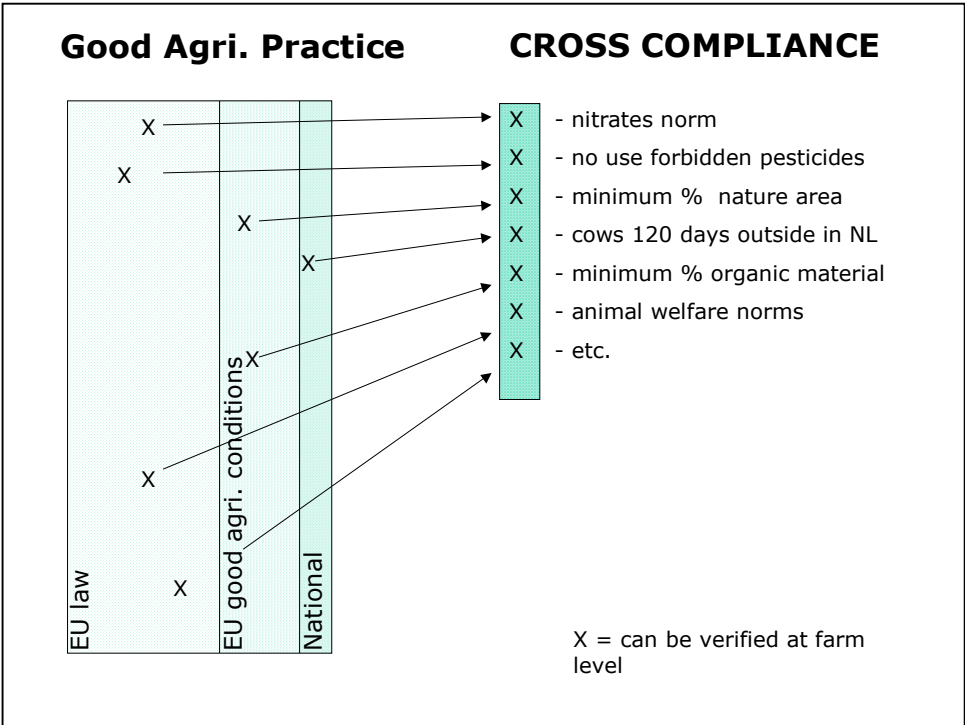


figure 1: Model according to The Netherlands Society for Nature and Environment; cross compliance takes measurable standards and norms from Good Agricultural Practice

for regional differences. It will force those regions that stay behind to have useful demands of agricultural production. The Netherlands Society for Nature and Environment recommends to align the Good Agricultural Practice with private demands like EUREP-GAP, which is the set of purchase demands of some large European supermarkets. In order to keep the proposal practical, we recommend starting by defining the priorities from environmental point of

view. Then these have to be 'translated' into criteria which are measurable (chapter 2). The Council of Ministers decided that Member States can retain 25 % of the money resulting from the application of cross compliance. This will not encourage Member States to seriously control the implementation of cross compliance. The Netherlands Society for Nature and Environment proposes that from 2007 onwards all the money should be kept in the country itself and should be spent on rural development.

# Standards, indicators and norms



Cross compliance is useful if it clearly offers value for environment and nature. Choosing a limited number of smart indicators will make cross compliance more effective, as specified in the previous chapters. Starting point must be the main environment and nature problems, then the relevant Directives are to be selected and additional requirements. Then the relevant standards and indicators have to be selected. Last but not least, the norms for each indicator and standard have to be defined per region.

We will give an overview of the main nature- and environmental problems and will give some suggestions for possible indicators and norms. The table in Annex 1 shows the main nature- and environmental problems, the relevant Directives and Good Agricultural and Environmental Conditions. The next step must be to define the relevant indicators. The box below shows examples of such indicators as proposed for the Netherlands.

## *Examples of indicators for the Netherlands (1)*

### **Degrading landscape and biodiversity**

Protection of biodiversity is crucial for The Netherlands Society for Nature and Environment. The protection of cultural landscapes are also important, as an objective in itself, but also as a way to protect biodiversity. The main EU regulations for biodiversity are the Habitats and the Birds Directives. The Good Agricultural and Environmental Conditions can also play an important role, requiring a minimum level of maintenance and to avoid the deterioration of habitats. We will give an overview of the main nature- and environmental problems and will give some suggestions for possible indicators and norms. The table in Annex 1 shows the main nature- and environmental problems, the relevant Directives and Good Agricultural and Environmental Conditions. The next step must be to define the relevant indicators. The box below shows examples of such indicators as proposed for the Netherlands.

It is hard to find a clear and measurable indicator which defines deterioration of habitats at farming level. According to The Netherlands Society for Nature and Environment there are three options. The first option is to ensure that every region makes plans to avoid deterioration of habitats. These will include specific measures that farmers should take. Adhering to these measures can be seen as a norm. Another option is to avoid deterioration of habitats more indirectly: farmers are asked to keep a minimum percentage of their area as nature. For arable crops one can start with 2 % and for dairy farms 3 %. (This is additional to existing set aside obligations). One can define what elements are considered as nature in each region. Controlling this indicator will be feasible via satellite photo's, contracts and spot checks. In Switzerland they have a similar approach for organic farming. A third option is to ask farmers to prepare an environmental inventory of their farm (i.e. a map illustrating the environmental capital on their farm)

### ***Examples of indicators for the Netherlands (2)***

A typical national requirement for the Netherlands could be to demand that cows go outside into the meadows, at least 120 days a year. Meadows with cows are a typical landscape feature for the Netherlands, and it is good from animal welfare point of view as well. This can be controlled via a journal and spot checks

#### **Soil degeneration**

The European Commission defined several requirements in the Good Agricultural and Environmental Conditions: soil erosion, soil organic matter and soil structure. These issues are very important for sustainable agriculture. A higher level of organic matter in the soil is good for agriculture in the longer term. It improves the fertility of the soil, the capacity to hold water and to reduce use of pesticides. Therefore, The Netherlands Society for Nature and Environment proposes to have a minimum percentage of organic matter in the soil. For the Netherlands this can start with 1% from 2006. Farmers with land below that percentage have to use less fertilizer. The European Commission's strategy for soil protection is being developed at the moment. Cross compliance will probably be a very important element in the strategy in order to achieve soil protection objectives.

#### **Nutrient overload and eutrophication**

The emissions of nitrates and phosphates have decreased with the introduction of the Dutch system called MINAS. Still, the norm of 50 mg nitrate per litre groundwater from the Nitrates Directive is not being met (yet). The emissions of phosphates are such that the level phosphates in surface waters are higher than 0.15 mg phosphate per litre – a minimum requirement for good ecological quality and clear water. The Netherlands Society for Nature and Environment proposes to decrease subsidies if the supply norm is exceeded or the phosphate- and nitrate loss-norms are exceeded with more than 5 respectively 15 kg/ha above the MINAS norm.

It is important to include phosphates loss-norms in cross compliance, because it can contribute to achieving the objective of the Nitrates Directive to avoid eutrophication of surface waters and (in future) the objective of the Water Framework Directive to achieve good ecological quality of surface waters in 2015.

#### **Water abstraction and use for irrigation**

The Water Framework Directive is of key importance in relation to water quantity issues. Since this issue is not addressed properly in other Directives, the Water Framework Directive must be included as soon as it is properly implemented. The Directive asks for a licence system for farmers who abstract more than 10 cubic meter a day. Such a licence is a clear standard and a verifiable requirement for cross compliance.

The Water Framework Directive also asks for permission of regional or local authorities for land drainage. A proof of permission can also be a clear and verifiable requirement.

#### **Air pollution and global warming**

The main Directive involved in air quality is the National Emissions Ceilings Directive for total air pollutants. It is hard to identify verifiable indicators on farm level directly, however one can think of the ammonia production per farm or per livestock unit. For instance, in the Netherlands the national ammonia ceiling for 2010 can only be realised if dairy farms reduce the ammonia production per cow by changing the compounds of animal feed. An indirect indicator for that could be the ureum content in milk (or the ammonia content in manure).

### ***Examples of indicators for the Netherlands (3)***

#### **Contamination**

The use of pesticides has decreased significantly in the Netherlands in the past years, however still high compared to other European regions. There are many EU Directives involved, concerning storage, application and disposal of agricultural pesticides. The Netherlands Society for Nature and Environment proposes three relevant and measurable standards.

The first is to have a reduction in subsidies if forbidden pesticides are used. Within the Netherlands there will be some exceptions, because recently a covenant has been signed between The Netherlands Society for Nature and Environment, the farmers organisation LTO and other parties. This covenant defines some temporary derogations.

The second is whether a farmer adheres to the local rules for drainage.

A third indicator is whether a farmer adheres to the Integrated Crop Management, which will be in force from 2004 or 2005 as agreed in the before mentioned Dutch covenant.

# 4

## Control and certification

The EU Member States are responsible to implement cross compliance. The IACS is the relevant tool for control, although applied differently. An IACS control rate of 5% will first apply to eligibility control and, as a basis for further risk analysis, to the cross compliance control of all beneficiaries of direct payments. Around 1 % of farmers receiving the payments are to be controlled. If it appears that a farmer does not adhere to the requirements of cross compliance, his subsidy will be reduced. Several bodies are involved to control the legal requirements of today. In many countries they do not control 1% of all farmers receiving EU subsidies yet, so extra efforts are to be expected. Also, there are no control mechanisms in place for the Good Agricultural and Environmental Conditions yet. Different bodies will control different requirements, depending on the situation of each Member State.

There are also many private initiatives of certification, like EUREP-GAP. Some of these certification bodies already control on certain EU Directives. The Netherlands Society for Nature and Environment proposes that in the longer term Member States and certification bodies will agree on co-operation to control EU requirements. This will avoid double control. A certificate could be used as proof of compliance for requirements. The development of such a system will take a while because of complex issues like 'ownership of information' and 'who pays costs of control'. In the longer term one could even think of a system as being used in Switzerland (see box below). The Government makes a list of all indicators and standards to be controlled. This list can then be controlled by public or private certification bodies.

### **Certification in Switzerland**

Nature and environmental performance are key elements in the agricultural policy of Switzerland. The Swiss government makes a direct link between payments to farmers and their activities for the environment. They also stimulate forms of agriculture which are nature, environment and animal welfare friendly. Switzerland knows two kinds of payments: general direct payments and environmental payments. Since 1999 only farmers who comply to Required Environmental Services (RES) can get direct payments. For the RES they have to show a certificate that confirms their environmental activities. The certificates are managed by one of the inspection bodies of the government. RES became a minimum standard for receiving direct payments. Applicants have to show up-to-date data for receiving the certificate. The RES-inspection is done by government.

# Summary and conclusions



The Council of Ministers agreed to attach environmental and welfare requirements to several EU subsidy payments. The Netherlands Society for Nature and Environment supports this policy. It is the vision of The Netherlands Society for Nature and Environment that all subsidy payments in future should be coupled to minimal performances for environment, nature, landscape, animal welfare and food-safety. These performances are to be defined as Good Agricultural Practice. The Netherlands Society for Nature and Environment proposes that Good Agricultural Practice will be required for all payments to farmers, following the Commission's evaluation of cross compliance in 2007. Good Agricultural Practice should by then include all relevant nature, environmental and landscape issues. For certain issues, it will be enough to require the level of law. For others it can be higher. Farmers are to receive additional payments for performances that are above the level of Good Agricultural Practice. The payments for these 'green and blue services' are to be based on the performance, not based on income missed.

Cross compliance can be the instrument to deliver Good Agricultural Practice. Good Agricultural Practice should be based on EU Directives, the Good Agricultural and Environmental Conditions as defined by the EU Commission and some additional national conditions. Cross compliance should 'translate' all these requirements into a set of measurable and clear indicators and standards. The money resulting from reductions in cross compliance should be kept within the Member States and should be used for rural development.

Political and public support is required for proper implementation of cross compliance. Therefore The Netherlands Society for Nature and Environment proposes not to control all details of all Directives and additional requirements, but to select a smart list of measurable indicators and standards. This list should cover all relevant issues from nature, landscape and environmental point of view, and must be measurable and verifiable at farm level.

Below follows a list of the main nature and environmental issues that must be covered in cross compliance, and the relevant legislation

and Good Agricultural and Environmental Conditions (GAEC):

| <b>Main environmental issues</b>  | <b>relevant EU legislation and GAEC</b>   |
|---|---|
| abandonment and neglect of farmed land  | GAEC: minimum density of livestock and/or appropriate regime  |
| deliberate destruction of habitats and landscape features                               | GAEC: - protection of permanent pasture<br>- retention of landscape features<br>- avoiding the encroachment of unwanted vegetation on agricultural land<br>Bird Directive (79/409/EEC), art 3, 4(1,2,4), 7, 8 and 9 (1)(2)<br>Habitats Directive (92/43/EEC), 13,15,16(1) and 22(b) |
|   | GAEC: - protection of permanent pasture<br>- retention of landscape features<br>- avoiding the encroachment of unwanted vegetation on agricultural land   |
| loss of permanent pasture   | GAEC: protection of permanent pasture   |
| Soil erosion  | GAEC: - minimum soil cover<br>- minimum land management reflecting site-specific conditions<br>- retain terraces  |
| degeneration soil organic matter  | GAEC: - standards for crop rotations where applicable<br>- arable stubble management  |
| degeneration soil structure   | - appropriate machinery use   |
| Soil salinisation   | -   |
| nutrient overload and eutrophication in soil and water                                  | Nitrates Directive (91/676/EEC)<br>Water Framework Directive (2000/60/EC) art 4 (1ai), prevent deterioration of ecological quality of surface water   |
| water overuse   | Water Framework Directive (2000/60/EC), art 4 (3a) proof of no environmental options before drainage, licensing of the use of water for agricultural purposes   |
| pressure on air quality   | National Emissions Ceilings Directive (2001/81/EC)<br>IPPC Directive (96/61/EC)   |
| Contamination: failures in storage, application and disposal of agricultural pesticides | Pesticide Authorisation Directive (91/414/EEC)  |

From the table can be concluded that:

1. The Water Framework Directive, Emissions Ceilings Directive and the IPPC Directives are important to cover the issues of water overuse and pressure on air quality. They should be added to 'Annex III' after 2007.
2. Future legislation on pesticides use and measures for the protection of soil should be added to the Annex III as soon as they are implemented in the Member States.
3. The Good Agricultural and Environmental Conditions are vital for total coverage of nature and environmental issues. A proper translation of these standards into measurable indicators and norms will be key for cross compliance to make an impact.
4. The Directives and standards ask for clear guidelines how they can be controlled and which indicators can be used.

The Netherlands Society for Nature and Environment has made proposals for indicators and norms in the Netherlands. We urge the European Commission to guide Member States on standards and the use of indicators to make sure that nature, landscapes and environment will benefit sufficiently from cross compliance without huge administrative burdens and higher costs for control.

**Annex 1: Main nature- and environmental problems and the relevant Directives and Good Agricultural and Environmental Conditions (GAEC)**

|   | <b>Main environmental issues</b>                          | <b>Relevant EU legislation</b>                                  | <b>Relevant because</b>   | <b>indicators / standards</b> |
|---|---|---|---|-------------------------------|
| <b>Degrading landscape and biodiversity</b> | abandonment and neglect of farmed land                    | GAEC: minimum level of maintenance                              | asking for minimum livestock stocking rate and/or appropriate regime  |                               |
|   | deliberate destruction of habitats and landscape features | GAEC: minimum level of maintenance                              | asks to avoid deterioration of habitats, specifying the four standards above and below  |                               |
|   |   | Bird Directive (79/409/EEC), art 3, 4(1,2,4), 7, 8 and 9 (1)(2) | not sure if these articles are relevant...  |                               |
|   |   | Habitats Directive (92/43/EEC), 13,15,16(1) and 22(b)           | not sure if these articles are relevant...  |                               |
|   | loss of habitat mosaics and wildlife corridors            | GAEC : minimum level of maintenance                             | - protection of permanent pasture<br>- retention of landscape features<br>- avoiding the encroachment of unwanted vegetation on agricultural land |                               |
|   | loss of permanent pasture                                 | GAEC: minimum level of maintenance                              | asks for protection of permanent pasture  |                               |
| <b>Soil degeneration</b>                    | soil erosion  | GAEC: soil erosion  | asks for soil protection through:<br>-minimum soil cover<br>- minimum land management reflecting site-specific conditions<br>- retain terraces    |                               |
|   | degeneration soil organic matter                          | GAEC: soil organic matter                                       | asks to maintain soil organic matter levels through:<br>- standards for crop rotation where applicable<br>- arable stubble management             |                               |
|   | degeneration soil structure                               | GAEC: soil structure  | asks for appropriate machinery use  |                               |
|   | soil salinisation*  | -   | -   |                               |

|   |  |   |  |  |
|---|--|---|--|--|
| <b>Nutrient overload and eutrophication</b>     | nutrient overload and eutrophication in soil and water                   | Nitrates Directive (91/676/EEC)                     | seeks to reduce or prevent pollution of water caused by the application and storage of inorganic fertiliser and manure |  |
|   |  | Water Framework Directive (2000/60/EC)*             | art 4, paragraph 1ai, prevents deterioration of ecological quality of surface water                                    |  |
| <b>Water abstraction and use for irrigation</b> |  | Water Framework Directive (2000/60/EC)*             | especially concerns farms near watercourses, may affect water abstraction.   |  |
|   |  |   | art 4, paragraph 3a, asks for proof of having no environmental options if farmers wants to drain land                  |  |
| <b>Air pollution and global warming</b>         | pressure on air quality  | National Emissions Ceilings Directive (2001/81/EC)* | sets ceilings for total air pollutants, could affect all farmers   |  |
|   |  | IPPC Directive (96/61/EC)*                          | reduce emissions to air, water and land, relevant to intensive pig and poultry farms                                   |  |
| <b>Contamination</b>                            | failures in storage, application and disposal of agricultural pesticides | Pesticide Authorisation Directive (91/414/EEC)      | seeks to control composition, marketing and use of pesticides  |  |

*\* not included in actual cross compliance proposal as defined in June 2003*