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# Land Use and the Rural Environment: (Further) Greening European Agricultural Law

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# Running Order:

1. Development of EU Agricultural Law;
  2. Reforming European Agricultural Law;
  3. European Agricultural Law Today;
  4. Evaluating the Environmental Credentials of EU Agricultural Law;
  5. The future?
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# TFEU Article 39: The objectives of the CAP shall be:

- (a) To increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production...
  - (b) thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;
  - (c) To stabilise markets;
  - (d) to assure the availability of supplies;
  - (e) To ensure that supplies reach consumers at reasonable prices.
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# A Framework for European Agricultural Law

- Pillar One: Agricultural Production Policy
  - Pillar Two: Structural Policy:
    - Directive 72/159: Financial Assistance
    - Directive 72/160: Early Retirement
    - Directive 72/161: Advice/ Training
    - Directive 75/268: Less Favoured Areas
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# Agriculture and the Environment

- Commission, *Perspectives for the Common Agricultural Policy*, COM(1985) 333/2 final:  
“a cause- and sometimes even as the major cause- of the extinction of species of flora and fauna and of the destruction of valuable ecosystems such as wetlands, and in some cases have increased risks of ground and surface water pollution.”
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# Reforming European Agricultural Law

- 1980s: Piecemeal reforms;
  - 1992: MacSharry reform package;
  - 1999: Agenda 2000 reform package;
  - 2003: Mid Term Review reform package;
  - 2008: CAP Health Check
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# Influencing the reform of European Agricultural Law

- Bad publicity- beef mountains, wine lakes etc.
  - Budget pressures
  - GATT/WTO- 1994 Agriculture Agreement & beyond.
  - EU Enlargement
  - The Rural Economy
  - The Environment
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# Greening Production Policy

1. Price support to producer support.
  2. Single Farm payments
  3. Cross- Compliance:
    - (a) Statutory Management Requirements (SMRs)
    - (b) Good Agricultural and Environmental Condition (GAEC).
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# Greening Rural Development Policy

- Council Regulation 1698/2005- rural development policy for 2007-2013.
  - Menu of 22 potential measures divided across 4 axes:
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# Rural Development Axes

- Axis 1: Increasing the competitiveness of agriculture and forestry;
  - **Axis 2: Enhancing the environment and countryside;**
  - Axis 3: Improving the quality of life in rural areas;
  - Axis 4: Assisting local projects promoting better quality of life and economic prosperity.
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# Less Favoured Areas

- Directive 75/268 as the first environmental measure in European Agricultural Law?
- Today:
  - i) Area based payment;
  - ii) Cross compliance



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# Agri-Environment Payments

- First introduced 1985.
  - Compulsory element of national rural development plans since 1993.
  - Voluntary contract between national administrator and farmer of 5-7 years.
  - 25% of EU farmland enrolled within agri-environment scheme (2005).
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# Evaluating European Agricultural Law Today

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A lighter shade of green?

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# Is Cross Compliance an Effective Policy?

- Court of Auditors: Special Report 8/2008:
  - “Overall the Court concludes that cross compliance as currently managed by the Commission and implemented by the Member States is not yet effective. Significant efforts are still required from all parties concerned for it to reach its full potential.”
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# Cross Compliance: EU Issues

- Cross compliance lacked clear scope;
  - No Commission guidance documentation on GAEC standards;
  - No obligation to obtain Commission approval for Cross Compliance requirements;
  - Inspection regime: At least 1% of farm businesses submitting claims (25% random, 75% by risk assessment). In contrast at least 5% are inspected for eligibility.
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# Cross Compliance: Member State issues

- Adequacy of inspections?
  - Inconsistent approach to payment deductions (Commission Reg. 796/04):
    1. Negligence: 3% deduction- but may be 1% or 5% or written warning.
    2. Intentional: 20% deduction.
  - “sanctions neither depend on the extent nor consequences of the non- compliance and flat rates, typically of 1% were applied.”
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# Less Favoured Areas (or not?)

- Court of Auditors Special Report 4/2003
  - Currently 56% of agricultural land in the EU-15 is classified as agriculturally less favoured.
  - “The Commission has insufficient evidence that the LFA classification decisions are still valid....This may lead to a classification that is no longer justified...and thus to an unjustified allocation of aid.”
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# Agri-Environment Payments.

- Health Check Reforms- Member State rural development plans support EU environmental priorities in addressing climate change, promoting renewable energy, water management and protecting biodiversity.
- “In England.... For instance, cirl bunting populations increased by 82% on land where [agri-environment] agreements were targeted at managing the habitat.”  
European Commission: *Agri-Environment Measures- Overview on General Principles, Types of Measures and Application* (2005) 16.



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# Agri-Environment payments- another look?

- Agri-environmental measures fall into one of two categories:
    - reducing environmental risks;
    - preserving natural and cultivated landscapes. (European Commission, *ibid*)
  - 15-25% of EU agricultural land is of high nature value. Yet enrolment in the agri-environment is lowest in Member States with most HNV land.
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# Towards 2020

- Three Reform Objectives:
    1. Viable Food Production
    2. Sustainable Management of Natural Resources and Climate Action
    3. Achieve Balanced Territorial Development
- (European Commission, *The CAP towards 2020: Meeting the food, natural resources and territorial challenges of the future*) COM (2010) 672 final.
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# Likely Measures:

- 30% of direct payments linked to mandatory obligation to meet additional measures-
    - (a) arable land-crop diversification;
    - (b) Maintain permanent grassland;
    - (c) ecological set aside on 5% of land
  - Less Favoured Area scheme moved to pillar 1.
  - Small farmer scheme.
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