



EC-Soil Framework Directive Draft (SFD)

- Views from Germany -

H.-Christoph von Heydebrand, Head of Division "Co-ordination of Environmental Affairs, Biological Diversity, Genetic Resources", Federal Ministry of Food, Agriculture and Consumer Protection, Germany

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Preliminary remark: the following presentation is not a complete description of all relevant provisions (highlights only)

A. Legislative Rules on Cross Compliance (CC)

New Council Regulation (EC) 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers:

*Article 4, para 1. A farmer receiving direct payments shall respect the **good agricultural and environmental condition [GAEC]** referred to in Article 6.*

*Article 6, para 1. Member States shall ensure that **all** agricultural land, especially land which is no longer used for production purposes, is maintained in **good agricultural and environmental condition**. Member States shall define, at national or regional level, minimum requirements for good agricultural and environmental condition on the basis of the framework established in Annex III,*

Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (**EAFRD**): eight types of RD measures are subject to CC (Art. 36 and 51, para. 1) including payments to farmers in areas with handicaps and agri-environment payments (e.g. conservation tillage, buffer or environmental strips)

Directive on the promotion of the use of energy from renewable sources (biofuels), soon to be published.

Directive makes CC applicable to production of plant raw material for biofuels

Whole Farm Approach: support for one piece of land means whole land of farm is subject to CC

Consequence: In Germany almost all arable land and most land under pasture are covered by CC

B. Main Differences between Cross Compliance and Soil Framework Directive

Cross Compliance (CC)

- CC covers soil erosion (wind and water), soil organic matter, soil structure: applicable to **arable land**, in Germany up to 30% of arable land in some States
- **Pasture**: in principle prohibition to change to arable land (10% requirement)
- Determination of relevant agricultural land/pieces of land in principle only once
- **Fixed, limited** list of mandatory and optional measures
- Member States shall not define minimum GAEC requirements not foreseen in the EC-regulation 73/2003 (level playing field)
- No risk reduction or restoration targets, no public participation, no timetable, no regular updates/reviews, but controls (1% of farms/a) and sanctions

Soil Framework Directive (SFD)

- SFD covers **all land** (e.g. agricultural, forest, industrial, residential, recreational, urban and coastal land, mining, roads and railway tracks, hiking trails, ski slopes, camp grounds and so forth): in Germany approx. 35 Mio. ha would need to be evaluated
- In addition to wind and water erosion, soil organic matter and soil structure (compaction) the following threats are covered: salinisation, landslides, acidification (Council) as well as subsidence, desertification, adverse effects of climate change on the soil, soil biodiversity loss (European Parliament)

- **Legally binding soil protections areas** for up to **11 different soil threats** (including areas “likely to be subject in the near future” to soil threats)
 - In **Germany** approx. 5 to 8 Mio. ha soil protections areas (conservative estimate), for example:
 - * erosion: in some states up to 30% of arable land under CC; perhaps more than 50% of land area at very low or low risk of erosion.
 - * loss of organic matter: approx. 5 Mio. ha drained land, 2,5 Mio. ha drained arable land, 0,5 Mio. ha irrigated land
 - * acidification: up to 10 Mio. ha forest land
 - * compaction: very difficult to estimate (depends mainly on behavior of land user)
 - * salinisation: some areas affected e.g. by mining (potassium), some irrigated land??
- **Programs with**
 - (quantitative) risk reduction targets and possibly restitution targets
 - measures to reach targets
 - timetables for implementation of risk reduction targets
 - public participation
 - monitoring
- **Update/review**
 - soil protections areas update every 10 years
 - program update every 5 years and review every 10 years
 - **Continuing process**: strict measures to be taken at least in the long term

C. Common features of CC and SFD:

- Soil protection regarding erosion, soil organic matter and soil structure
- Plot level implementation unavoidable, because of measures to be taken and sanctions to be imposed against owners or possessors

D. Comparison of measures according to

- **Cross Compliance (CC) and**
- **Soil Framework Directive (SFD)**

by way of the examples

- **wind and water erosion**
- **soil organic matter**
- **soil structure (compaction)**

- **Cross compliance (CC): fixed list of mandatory and optional measures**
- **Soil Framework Directive (SFD): open ended list of measures determined by (political) process with public participation (high risk of diverse implementation), but at least in the long term strict measures required to reach risk reduction targets which need to be updated and reviewed**

Measures against soil erosion by wind and water:

- **Cross Compliance (CC)** EC Regulation 73/2009 (former 1782/2003):

Protect soil through appropriate measures:

- Minimum soil cover (mandatory)
- Minimum land management reflecting site-specific conditions (mandatory)
- Retain terraces (optional)
- retention of landscape features (e.g. hedges, field margins)

- **Application in Germany:**

- prohibition to remove terraces; note also: general prohibition to remove “landscape features”
- at least 40% of arable land of farm must be covered from 1 Dez. to 15 Febr. [until 30 June 2010]
- **NEW**: identification of plots with erosion risk until 30 June 2010 with the following classifications:
 - = **risk of water erosion**: no ploughing 1 Dez. to 15 Febr.; sowing before 1 Dez. or soil cover during winter; Alternative: contour management (e.g. ploughing transversally to slope)
 - = **high risk of water erosion**: no ploughing 1 Dez. to 15 Febr.; sowing always directly after ploughing, crop rows > 45 cm (e.g. maize) no ploughing. Alternative: conservation tillage whole year soil cover as far as possible.
 - = **wind erosion**: after 1 March: ploughing prohibited if not directly followed by sowing; ploughing prohibition, if crop rows > 45 cm, or windbreakers at least every 100 m.
- No application for plots under agri-environment measures.
- Exceptions for vegetables; ploughing for potato growing

Measures against soil erosion by wind and water (continued):

- **Soil Framework Directive (SFD):**

Measures depend on designation of soil protection areas, risk reduction targets and possible restoration targets

- **Examples of measures:**

- * change arable land to grassland, creation of bufferstrips/windbreaks, conservation tillage, adequate use of machinery, contour ploughing, appropriate timing of ploughing, mulching, adequate choices of crops/crop rotations, catch and interim crops, construction and maintenance of terraces, adjust stocking rates, duration of grazing,

- * afforestation of agricultural and degraded land, appropriate site preparation techniques for afforestation, prevent inappropriate or prohibit clear felling,

- * restrict construction works on particularly vulnerable sites, sediments management at river basin level in order to control risks, coastal management techniques.

Measures regarding soil organic matter and soil structure

- **Cross Compliance (CC)** EC Regulation 73/2009 (former 1782/2003):

Soil organic Matter: Maintain soil organic matter levels through appropriate practices:

- = Arable stubble management (mandatory)
- = Standards for crop rotations (optional)

Soil structure: Maintain soil structure through appropriate measures:

- = Appropriate machinery use (optional)

- **Implementation in Germany:** The farmer must
 - = cultivate at least three different crops of which each covers at least 15% of its arable land or alternatively
 - = keep a “organic matter balance sheet” revealing increase and loss of organic matter and that humus-C not less than minus 75kg/ha/a (three year average) or alternatively
 - = must prove by soil analysis that humus is not below 1% (or 1,5% for clay soils) every six years.

Measures regarding soil organic matter and soil structure (continued)

- **Soil Framework Directive (SFD):**

Measures depend on designation of soil protection areas, risk reduction targets and possible restoration targets

- **Examples of measures:**

- * Afforestation of agricultural and degraded land, creation of hedgerows and groves, regulate burning,
- * Change arable land to grassland, adequate choices of crops/crop rotation, incorporation of crop residues, application of conservation tillage, use of catch and interim crops, creation of buffer strips, construction and maintenance of terraces, adjust stocking rates and duration of grazing
- * appropriate site preparation techniques for afforestation, rise water table to restore cultivated or afforested peat soils, application of continuous cover forest management, natural decay of forest exploitation debris
- * Cultivation at optimal soil moisture, restrict excessive heavy machinery, low contact pressure and low pressure tyres, appropriate drainage
- * Restrict construction works on particularly vulnerable sites

German Position on the SFD (Federal Government and Second House of Parliament)

- application of the subsidiarity principle to the largely immobile and highly varied soils
- undue proportionality between administrative burdens (for example designation and administration of the soil protection areas, soil status report) and benefits to soil
- high implementation costs (according to estimate of the BMELV approx. 4 Bio. Euro/a)
- at the EU level a **strategy without a legally binding directive** is sufficient

Note: **Climate Change** is separate international dossier with obligations for EU Member States and third countries (international action necessary to ensure success and to avoid transfer of GHG-emissions to other countries)

Questions for further discussion

- Does your country already apply the **CC-soil protection provisions** and if yes, how?
 - Does the **application of the CC-soil protection provisions** reveal that a whole new framework like the SFD is necessary to tackle soil problems in agriculture?
3. **How many hectares of soil protection areas** ("priority areas") would need to be established in your country ?
4. Which **legally binding risk reduction targets** would your government present as a proposal for the respective soil protection areas within the framework of the mandatory public participation procedures (Article 8 SFD) regarding:
- wind erosion,
 - water erosion,
 - organic matter decline,
 - compaction,
 - salinisation,
 - landslides,
 - acidification,
- and taking into consideration the **opinion of the European Parliament** of 14.11.2007 regarding,
- subsidence,
 - desertification,
 - adverse effects of climate change on the soil,
 - soil biodiversity loss?

Questions for further discussion (continued)

5. Are there any of these soil degradation processes which your government would **notify to the Commission** as not applicable, because they do not occur or are not likely to occur in the near future (see Article 6 para 6 of presidencies compromise texts)?
6. **How many public participation procedures** do you expect for your country under the SFD?
7. **Which measures** to be taken within the up to 11 different soil protection areas scattered over your country would your government present as a proposal for the respective soil protection areas within the framework of the public participation procedures during the first implementation phase of the SFD?
8. How would these measures be **controlled** and **infringements be punished** according to Article 22 SFD?
- How much would the implementation of the directive **cost the economic sector** and how much the **taxpayer** in your country?

Thank you very much for your attention !