

CROSS COMPLIANCE VALIDATION: APPLYING PROPERTY RIGHTS THEORY TO EU AND US AGRICULTURAL POLICY

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Abstract:

Cross Compliance (CC) is a mechanism to get farmers to fulfil certain conditions in return for governmental payments. If farmers claim support from one governmental program, they have to fulfil the requirements of the same program as well as the demands of other programs. Introduced into US policy in the 80s, CC gained increasing political attention in the EU and developed towards a policy within the scope of the Agenda 2000. In particular, CC includes several norms for environmental protection and therefore the concept is generally used to explain the correlation of agricultural and environmental policies. CC is therefore interpreted in different ways: (i) firstly as a public policy for enforcing environmental protection law; and (ii) secondly as a way for organising and rewarding the production of environmental services as public goods. The varying interpretations reflect the different political and social interests and influences. Furthermore, the effectiveness and efficiency of this instrument have been criticized in the recent years. In order to validate the deviating understandings of the policy tool as well as its effectiveness and efficiency, we analysed CCs' implications in terms of economic property rights theory. The validation is based on the assumption that consistency between the applied policy instrument and the existent property rights regime is an essential criterion for long-term success. Property rights have been central in debates on governance of natural resources. Although property rights theories have changed over time and the concept is differently defined, property rights theories can still be used to explore the categories of ownership or property regimes. They can provide definitions for the property right elements, explain why and how property rights change, judge regimes and changes, and serve as a framework for analysing agent behaviour regarding resource allocation and utilisation. We applied the theory to CC policy in the US and Germany (the latter as an example for CC imposed by the CAP). We focussed on the authorisation either through de jure rights, which are codified in law, or through de facto rights, which are informal rights embedded in cultural norms, and on the dichotomy between absolute and relative rights. We also took into account legal scholars' understandings of conventional property rights. Our analysis shows that CC payments may not conform to the existing property rights regimes and the classification of these as payments for the production of public goods could therefore be theoretically inconsistent. The results have been discussed in terms of possible agent behaviour, institutional changes towards new de facto rights as well as effects on related environmental policies such as European agri-environmental measures. We conclude that inconsistent CC policies, even if useful for triggering and broadening environmental protection efforts on a short-term basis and useful for encouraging the implementation of certain standards, may cause several long term problems such as new emerging farmer claims. Therefore, other detached policy instruments might be more suitable for solving environmental problems.