



Ministry of Economic Affairs

The cooperative approach under the new Dutch agri-environment-climate scheme

Background, procedures and legal and institutional implications



1. Introduction

After the 2014 EU Rural Development Regulation introduced the option of group applications for agri-environment-climate measures (Regulation (EU) No 1305/2013, Article 28), the Dutch government decided to implement the measure for joint applications only. As of 2016, a new scheme was introduced in which individual applications are no longer possible. This approach fits within a long Dutch tradition of environmental cooperatives. Elsewhere in Europe, and even around the world, territorial cooperation and community-based approaches are also becoming increasingly common. A 2013 OECD report on collective delivery of environmental services offers many interesting examples.

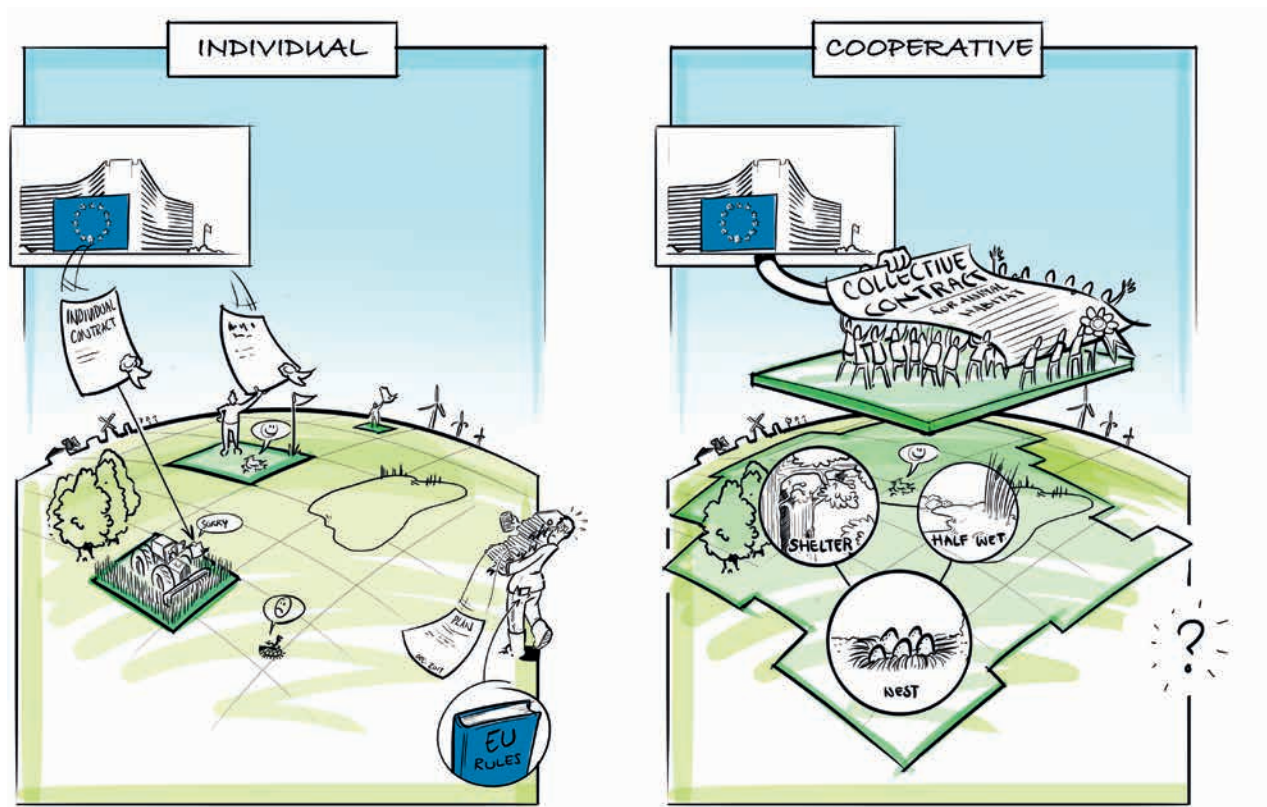
This growing popularity does not mean that a cooperative approach to agri-environment is easily realised. Over the last years, the Dutch government has been in close contact with the European Commission to establish workable rules and regulations. In this paper we explain the “Dutch model” in further detail, we discuss the themes that needed special attention in terms of their implementation and compliance with EU regulations, and we describe the model’s relevance to other Member States.

2. Why did the Netherlands opt for a cooperative approach?

There are four main reasons why the Dutch government decided to introduce the option for group applications, and even to deal exclusively with cooperative applications.

First, in the course of the ongoing debate on the effectiveness of agri-environment schemes, it gradually became clear that the decline in farmland biodiversity can only be reversed through a cross-farm approach. This applies especially to farmland birds and ecological corridors, which are important conservation targets in the Netherlands. For this reason, the government opted for strong regional coordination and ecological guidance, creating a situation in which individual applications can even be detrimental to regional goals. The government expects that a cooperative approach will deliver better value for money, while farmers wish to ensure continued access to agri-environment budgets that would – in case of poor cost-effectiveness – be an easy target for budget cuts.

Second, there is an increasing need for greater flexibility in terms of the content of conservation activities, their exact location and their financial compensation. Because of the dynamics of farmland biodiversity (in relation to weather conditions, for example), a static scheme design without room for yearly or seasonal



Joint applications ensure greater connectivity of conservation measures for cross-farm species and habitats

deviations would not be effective. Making cooperatives the final beneficiaries of agri-environment support allows for a simpler scheme design with room for local fine-tuning of activities and payments. Instead of extending the national list of approved conservation activities, an emphasis on conservation targets in combination with local fine-tuning by the cooperative and real-time notification of the actual conservation operations is expected to enhance entrepreneurship and ecological innovation. As the number of applications and beneficiaries is drastically reduced, this approach also enables the government to substantially reduce implementation costs.

Third, the previous individual scheme had a relatively high error rate. Working with cooperatives makes it possible to both simplify the administrative processes and to improve scheme compliance.

And last but not least: the Netherlands has a long tradition of agri-environment cooperatives, their number having grown to 160 over the last 20 years. They function as producer cooperatives for public goods and have become a trusted partner for farmers as well as governments. This means that the social structure for the new scheme design was already present; it only had to be professionalised and extended to the entire countryside.

3. How does the Dutch model work?

The “front door – back door principle”

The new scheme design uses the so-called “front door – back door principle”. At the front door, the government signs a contract with the regional cooperative, setting the agri-environment targets and describing the *types* of conservation activities that will be used to achieve these targets. The agreement establishes a six-year, results-based obligation to realise specific habitats on a specified

land area at a budget per habitat based on the average payments per hectare for the different activities. At the back door, the cooperative concludes contracts with individual land users. These contracts include all the specific activities and payments needed at field level to realise the habitat at a landscape level. Between the front door and the back door, the regional fine-tuning of conservation activities and payments takes place.

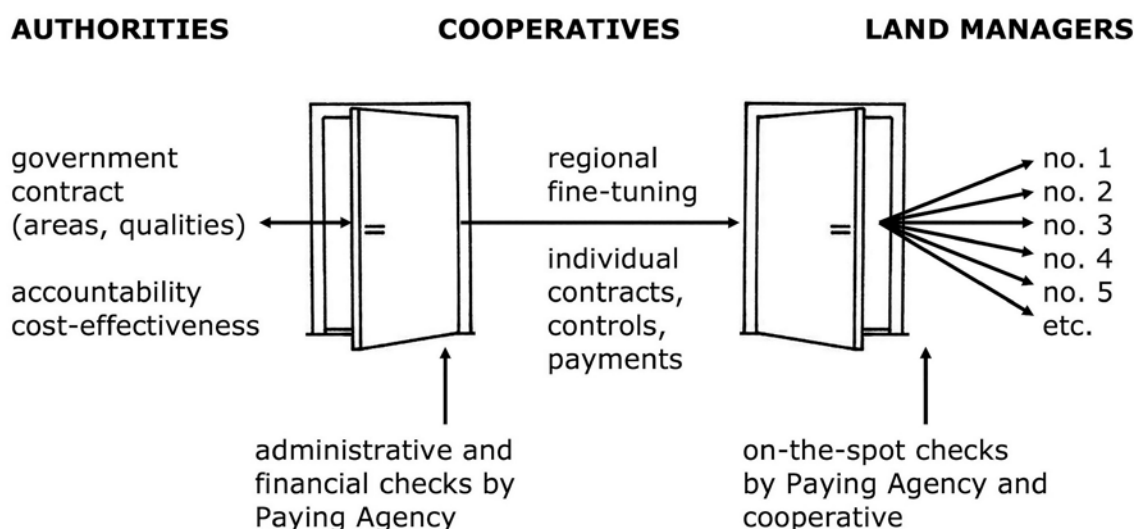
We will elaborate on the institutional arrangements in §5, but the general division of responsibilities under the new scheme is as follows.

The **national government**:

- Defines the national targets. Based on the Birds and Habitats Directives, the government has selected 70 target species that the conservation activities under the scheme should help thrive.
- Provides a broad menu of possible conservation activities and payments listed in the Annex of the Dutch RDP from which the cooperatives can compose their optimal conservation strategy.
- Is responsible for the reporting on the scheme and the development of knowledge.
- Establishes a national framework for controls and penalties.
- The Paying Agency carries out controls, provides payments and, in case of infringements, applies penalties. It also provides the payments to the cooperatives and, according to the approved payment claims, the declaration to the European Commission.

The **provincial government** (lead responsible party for conservation policies):

- Makes a further selection of target species and – if necessary – adds regionally important species.
- Designates areas where – based on the regional targets – conservation activities are thought to be most effective.
- Allocates the budget according to the conservation priorities, the number of designated areas and the number of cooperatives in the province.



The “front door – back door system” of the Dutch agri-environment scheme with a key role for agri-environment cooperatives as final beneficiaries



- Invites the cooperatives to submit an application for a six-year contract for the selected targets and available budgets. For this purpose, it organises meetings with the cooperative(s) involved to discuss the relation between “demand” and “supply”.
 - Assesses the quality and feasibility of the application before approving it. If necessary, the application is returned and revised.
 - Invites the cooperatives to submit yearly management plans (including detailed conservation activities) and – if needed – yearly adjustments to the plan.
 - Is responsible for the scheme’s administration (carried out by the Paying Agency) and for the compatibility of the government’s and the cooperative’s administration systems.
 - Contributes to the national framework for controls and sanctions.
 - Decides on penalties in case of failure to meet the terms of the cooperative contract (based on the Paying Agency’s control results).
 - Is responsible for evaluating the scheme every three years, based on monitoring the target species.
- The **cooperative** (as final beneficiary):
- Prepares a six-year application and develops yearly management plans. To do so, it selects appropriate conservation targets and appropriate conservation activities from the government’s lists, it defines ecological preconditions and guidelines for participants and it consults farmers and other relevant parties such as conservation organisations regarding their preferences and capabilities.
 - Provides ecological guidance. While preparing the application, it actively acquires desired contracts and actively refuses applications that do not fit the plan. While carrying out the conservation measures, its field coordinators provide advice and guidance to farmers.
 - Develops guidelines to arrange individual payments and for the individual “distribution” of penalties imposed on the cooperative. Because the contracts between the cooperative and its members remain within private law arrangements, there is room for local and individual fine-tuning of measures and payments. Some cooperatives, for instance, redistribute part of the payment according to the number of birds present on individual farms.
 - Carries out most of the local implementation work, including the contracting and payment of, and all administration relating to individual land users. It is also responsible for monitoring the implementation of the adopted measures.
 - Communicates with the Paying Agency on the actual conservation activities carried out (real-time notification).
 - Assesses the conservation activities on a yearly basis and decides if necessary on changes of the conservation activities in the management plan.
 - Sends a yearly payment claim to the Paying Agency.
 - Takes care of annual reporting, and actively informs its members as well as the wider public about the well-being of the target species.

Core elements of the new scheme are:

- A landscape-scale approach with conservation measures at habitat level instead of field level.
- An intermediary position for the cooperative as a final beneficiary, allowing for increased flexibility at farm and field level with regard to measures and payments.
- Ecological guidance in all relevant phases: the development of the management plan, the acquisition of individual contracts and the actual activities at field level.
- Tailor-made controls, with a distinction between the contracted area and the compliance with contract obligations. This two-tier system offers flexibility, making it possible to change the management approach from year to year and even in the course of one season. Last-minute changes in conservation activities are facilitated by real-time notification.
- Increased stakeholder involvement, between farmers in the region and with other relevant regional and national parties (e.g. conservation organisations, environmental NGOs or universities for ecological advice or monitoring), in synergy with the ecological guidance provided by the cooperative itself.

4. Benefits of a cooperative approach

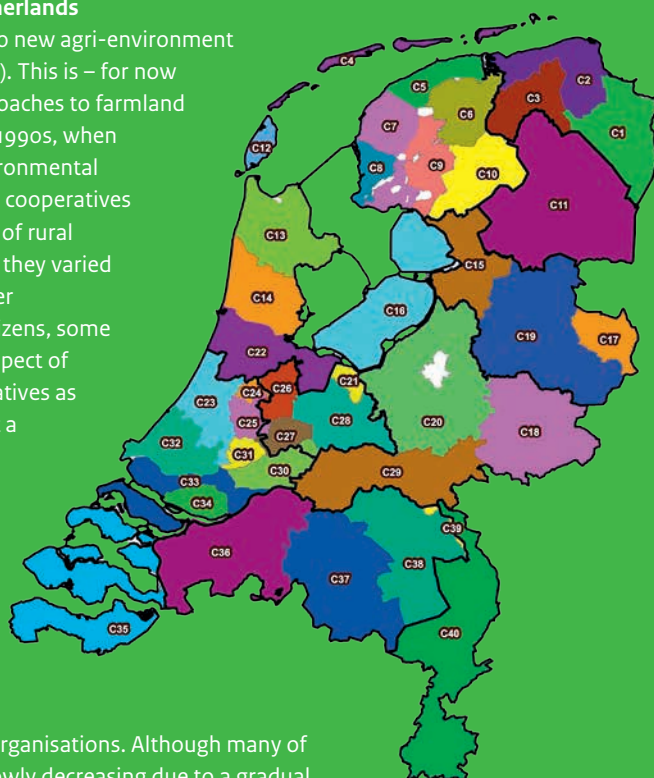
The main aims of the new Dutch scheme are to improve scheme results and lower implementation costs. There are many potential benefits to a cooperative approach:

Increased environmental output

- A coordinated cross-farm approach is more effective for species and habitats that exceed farm level (e.g. farmland birds, ecological corridors) and for reducing negative externalities to improve water, soil and air quality. The approach can also help connect protected areas such as Natura 2000 sites.
- Scheme implementation by an organisation close to the farmers increases participation and scheme coverage. High coverage is beneficial to part of the target species involved.
- Regional coordination allows for the involvement of conservation organisations and other relevant parties, as well as the many thousands of enthusiastic conservation volunteers, which is of vital importance to conservation outcomes.
- In the Dutch example, the cooperatives' character and routine allow for strong ecological guidance, selection of suitable areas and fields, appropriate measures following ecological guidelines, and intensive guidance and education of participating farmers, thus professionalising the management.

A key role for agri-environment cooperatives in the Netherlands

Anticipating the new scheme, Dutch farmers established 40 new agri-environment cooperatives, covering the entire countryside (see the map). This is – for now – the final outcome of a long tradition of cooperative approaches to farmland biodiversity conservation. This tradition starts in the early 1990s, when – inspired by German and Danish examples – the first environmental cooperatives were founded. Up to 2015, some 160 regional cooperatives were established, many of them developing a broad range of rural development activities. All of these were legal entities, but they varied substantially in size (from several thousand hectares to over 100,000 hectares), in membership (many being open to citizens, some to farmers only), and in terms of professionalism. The prospect of a scheme based on the large-scale participation of cooperatives as applicants and final beneficiaries led to the awareness that a major reorganisation and professionalisation was needed. From 2011 to 2014, the new approach was successfully tested in four pilot regions. The actual reorganisation took place in 2014 and 2015, resulting in 40 new cooperatives, in many cases established on top of the existing ones. The new organisational structure was a result of intensive consultation, both among cooperatives and with the national and provincial governments. In 2015, all the new cooperatives were established as legal entities and certified as conservation organisations. Although many of the original cooperatives are still active, their number is slowly decreasing due to a gradual transfer of activities to the new organisations.

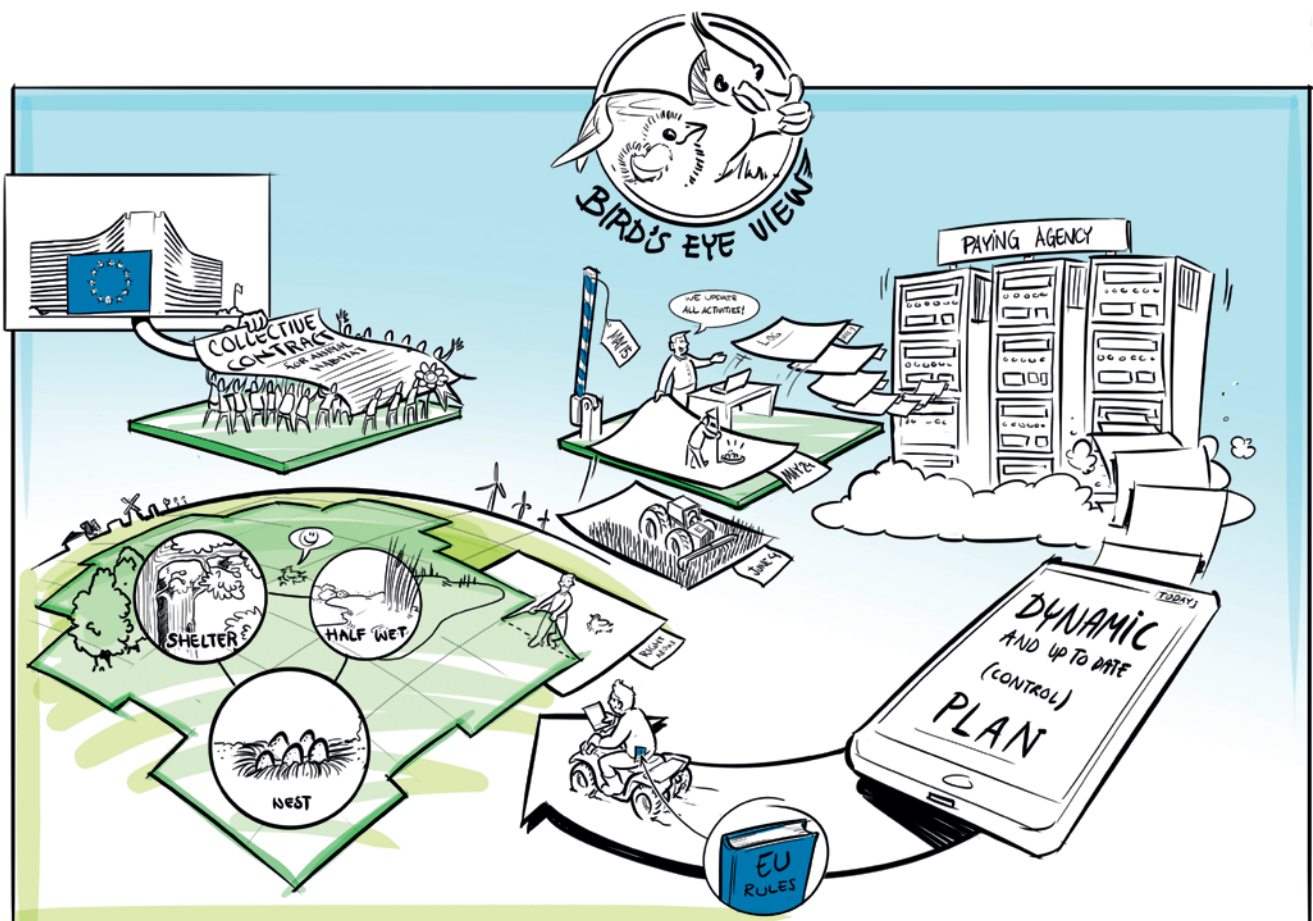


Increased flexibility

- Under the previous scheme, the character and location of conservation activities used to be fixed for six years. Due to the compatibility of the administration systems of the Paying Agency and the cooperatives, real-time notification has become possible: up to 14 days before the activity (commitment) is supposed to be carried out, changes are possible. This substantially increases the scheme's flexibility in terms of the design and location of conservation activities, providing room for environmental innovation, for making optimal use of local knowledge and for adjusting activities to the actual situation in the field (e.g. as a result of weather conditions). Regional governments and cooperatives meet every year to evaluate and (if necessary) adjust the management.
- Due to the position of the cooperative as final beneficiary, the cooperative can develop a suitable internal "financial policy" – obviously within the EU financial framework. It can adjust the individual payments to local circumstances (for instance to motivate relatively intensive farms to join the scheme), introduce results-based payments or develop an adequate policy on individual penalties.

Reduced implementation costs and error rates

- Now that the number of applications has been reduced from 13,500 to 40, the Paying Agency will be able to substantially lower its expenses. This fulfils the request for simplification of the CAP and a decreased administrative burden for governments as well as recipients. Of course there is a shift in implementation costs from the Paying Agency to the cooperatives, but the assumption is that the cooperatives can be more efficient because they are familiar with the farmers and farmland involved.
- The small number of beneficiaries also drastically simplifies communication between the regional government, the Paying Agency, NGO's, and the cooperatives, thus enabling faster action.
- For the individual farmers, a major advantage is the reduction of paperwork, which is now taken over by the cooperative. As is known from EU surveys, the amount of paperwork is an important barrier to participation, especially for small farmers.
- Improving the quality of the application together with simplifying and streamlining administrative procedures is expected to lower implementation costs and financial penalties. The farmer can focus on conservation work and is no longer bothered with scheme administration. This may lead to better scheme compliance. Furthermore the cooperative is a professional organisation with a professional administration



close to the region and the farmers involved. This enables a more efficient implementation. To reduce the risk of errors and sanctions, a cooperative can also choose to create ‘buffers’ as to the contracted land area and annual payments for activities to anticipate mistakes or fields dropping out (see the Annex). By doing so, errors become only ‘visible’ when the buffer falls short.

5. Legal and institutional implications

The 2014-2020 CAP regulations not only include the opportunity for groups of farmers to apply for agri-environment-climate support, but present other options for cooperation as well. Group applications also allow for additional rural development measures, such as non-productive investments. The new cooperation measure in the rural development regulation (article 35) joins and extends the number of previously existing cooperation options. Furthermore, the Pillar 1 greening obligations include options for cooperative implementation of greening measures. As the Netherlands is one of the first countries to implement the possibility for group applications, the Dutch government has been cooperating with DG Agri to develop a cooperative approach that fits into the EU regulations, and vice versa. Here we list some topics that may be of interest to other Member States. These include the relevant parts of EU policies (implementation regulation,

horizontal regulation) and the choices that the Netherlands has made. Selected topics are highlighted in more detail in the Annex to this paper.

Legal status and certification of cooperatives

The Netherlands has chosen to require “groups of farmers”, as mentioned in the EU regulation, to organise themselves in legal entities, which are to be certified as professional conservation organisations. These conditions were not imposed by the Commission, but are meant to provide adequate proof of establishing a set of “internal rules” by the group applying for agri-environment support.

Dealing exclusively with cooperatives

The Dutch government has decided to make the scheme accessible to cooperatives only, thus excluding individual applications. This choice could be contradictory to the governance principle of equal access to government schemes, as the individual farmer must become a member of the association. There are four reasons why this model was chosen:

- Looking at the nature of the Dutch conservation priorities, there are good ecological reasons for dealing with cooperatives only. Many of the species involved have cross-farm habitats, so in this case, a cooperative approach is more effective (better value for money).

An imaginary agri-environment cooperative in action

To illustrate and bring to life the routines of a Dutch cooperative, we describe a fictitious cooperative focussing on grassland birds. For grassland birds, the government has defined one habitat (‘open grassland’), but the target species can differ per region. Based on the species selected by the government, the cooperative selects its local conservation priorities and develops a strategy which activities are needed and how they should be located throughout the area. Based on this blueprint, it starts the contract acquisition among land users. As the cooperative knows the available budget as well as the desired mix of conservation activities, the area to be contracted is also known. As soon as the acquisition results are satisfying, the cooperative prepares an application. The main elements of the application and the government 6-years contract include:

- The area involved within the designated area of ‘open grassland’.
- The budget estimate and the average cost per hectare. For this purpose, the cooperative calculates the average cost of all different conservation activities involved (e.g. postponed mowing, extensive grazing, creating wet conditions in early spring).
- The mix of ecological functions for grassland birds. Not on the level of activities, but on the level of the functions as shown in the illustration on page 2: nesting opportunity, food and shelter.

For the yearly management plan, the cooperative contracts a slightly larger land area with the farmers than with the government to create an area buffer for errors or fields dropping out. It also creates a modest financial buffer by using slightly lower payments than the maxima that scheme allows for. Other elements of the cooperative’s financial strategy can be a result-based payment per successful nest (to avoid paying for ‘empty fields’) and a payment differentiation based on farm intensity (to also attract intensive farms).

The cooperative’s field advisors – often in cooperation with local NGOs and other stakeholders – provide guidance to the participants throughout the breeding season. If the season is late and the contracted mowing dates need adjustment, this can take place up to two weeks prior to the contracted mowing date. Since the cooperative’s administrative (GIS) system is directly linked to the Paying Agency’s administration, real-time notification of the actual activities is possible. Also changes in locations are possible, for instance to ‘follow the birds’. Based on the results of the current year, there is room to change the activities in the next year, on condition that the changes have no effect on the budget granted. These changes are incorporated in the new management plan.

Before May 15th, the cooperative sends a payment claim to the Paying Agency. Based on the results of the on-the-spot checks (contracted area and undertaken activities), the government pays the cooperative that – according to its financial strategy – then pays the individual land users.

- The cooperative approach as the only model creates less problems with farmers applying for suboptimal activities or activities on suboptimal locations. In the past, such contracts were possible as long as they fit the provincial plan, now they are subject to the cooperative's ecological strategy and assessment and there is no way around.
- The cooperatives cover the entire countryside, so there are no major barriers to becoming a member in order to apply. In addition, many farmers are already familiar with cooperatives as an integral part of the "social structure" of the Dutch countryside. Even if a farmer does not sympathise with his cooperative, he might still be motivated to join the scheme.
- The goal of working with cooperatives was to improve the implementation process and to reduce implementation costs and error rates. Running cooperative and individual schemes at the same time would increase rather than reduce such costs and rates.

Enforcement: controls

The procedure is as follows:

- There is a two-tier approach with a distinction between a check on the area involved and a check on the compliance with contract obligations (activities/commitments).
- For the area check, the Paying Agency annually selects 5% of the cooperatives for inspection. To comply with the EU rules, the inspected land area contained within these cooperatives should correspond to at least 5% of the national area under the agri-environment scheme. If the scheme area in the selected cooperatives is too small, additional cooperatives will be included in the inspection. For each cooperative, at least 50% of the contracted land area is measured.

- For the management-based check of the activities, 5% of all the annual activities (on parcel level, from all the cooperatives, so not only the ones selected for the area check) are selected in a process that is partly random and partly risk-based. An important element of the activity check is the possibility of real-time notification regarding changes in commitments, including their type, location and/or timing. Changes must be announced at least 14 days prior to the date on which they will be implemented. The cooperatives perform additional checks on scheme compliance, often on a much higher share of the contracted land. These checks are not obligatory, but are carried out on the cooperatives' own initiative in order to provide them with a broad overview of the actual conservation activities and to strengthen information exchange between farmer and cooperative.
- As all cooperatives are certified, the (public) certifying organisation will perform regular audits on the cooperatives' administration. This procedure is not enforced by European law, but is instead part of the certification system.
- The cooperatives inform the Paying Agency in real-time on matters concerning the land involved and the management carried out. For this reason, their GIS facilities are fully compatible and compliant with the Land Parcel Identification System (LPIS) as part of the Integrated Administration and Control System (IACS).

Enforcement: sanctions

How does the Paying Agency "translate" individual breaches of contract to the agreement between cooperative and government? The implementation regulations specify that individual breaches concerning eligibility criteria (other than land area) will only lead to penalties corresponding to the area of farmland involved (Reg. (EC) No. 640, art. 35(3)). Therefore a breach of contract on 10 hectares





carrying a 20% payment reduction would be imposed on the cooperative for this area only, and the cooperative can then decide how to distribute the penalty between its members. It can impose the penalty 1:1 on the farmer involved, or decide on a different approach. As mentioned before, many cooperatives have opted to create “buffers” in terms of land area and financial obligations by contracting a slightly larger area of land in order to compensate in advance for possible errors and/or fields that are dropped from the scheme (see the Annex). Cooperatives have also been using slightly lower payment levels than the maximum tariffs allowed under the notification on the new Dutch scheme. Since penalties relate to the latter, many cooperatives have a (theoretical) buffer to compensate for errors. In this way, errors first aggravate the buffer before they influence the payments. Naturally, the system has a built-in guarantee that no overcompensation or over-declaration will take place: the payment never exceeds the subsidy granted and/or the maximum payment allowed per contracted activity, according to the Dutch RDP.

Relation to cross-compliance

A similar principle applies to deviations from the cross-compliance obligations set forth in the Good Agricultural and Environmental Condition standards. Compliance with these is compulsory for any payment involving an EU budget, meaning that breaches will affect not only direct payments (basic payment and greening payment), but also agri-environment payments.

The vast majority of participants in the agri-environment scheme will be part of the control sample for direct payments (this is no different from the situation in the past). In this case as well, the principle applies that individual breaches will lead to penalties imposed on the

cooperative, but only in an amount corresponding to the contracted area of the farmer involved (Reg. (EC) no. 809/2014, art. 73(5)).

Tax status of payments made by the cooperative

Now that payments to farmers are transferred from the Paying Agency to (private) cooperatives, it was suggested that this might be liable for VAT. The reasoning is that the transaction could be perceived as a service offered by the farmer to the cooperative. In this case, payment levels would be substantially reduced. However, the Dutch tax authorities have concluded that farmers do not provide a service to their cooperative, but rather to the broader public, and that the cooperatives simply enable an effective implementation of the scheme by the farmers. For these reasons, neither the individual farmers nor the cooperatives themselves (who receive an implementation budget) are liable for VAT.

Flexibility versus accountability: the “two weeks’ notice”

A key element of the new scheme is the increased flexibility with respect to the content, location and timing of conservation measures: real-time notification. In the past, the measures were fixed on the date of the individual application (15 May at the latest). The new option includes the possibility to change the conservation measures from year to year, and even during the season (“last-minute measures”), provided that the notification takes place at least 14 days before the measure actually goes into effect. In this way, conservation measures can be tailored to the current circumstances (e.g. weather conditions or unforeseen presence of birds). The period of two weeks is meant to enable proper inspection of the conservation activities even when they are changed.

6. Future challenges and relevance to other Member States

Challenges

The Dutch cooperatives are all “in force”, a new national umbrella organisation was established in early 2016 and the first management season under the new scheme is currently underway. However, the drastic scheme change has not come without several points of discussion, some of which are still ongoing.

First, there is concern about the balance between regional self-regulation and a “governmental straightjacket”. For over 20 years, regional cooperatives developed as bottom-up initiatives, providing guidance to farmers by the goodwill they received due to their position as “organisations of our own”. These cooperatives have now been regulated under government policies, informal procedures have been formalised and the cooperatives carry out tasks that (under an individual scheme) would otherwise lie with the government. These changes put cooperatives at risk of being perceived as an extension of the government, or at least being “sandwiched” between the government and farmers. Up to this point, the benefits of the new scheme have seemed to outweigh the possible drawbacks and farmers are generally eager to participate, but the coming years will be the real test. Some cooperatives are eager to extend their influence and act as the overall coordinators of all farmland greening measures in their regions. Others are biding their time to see if this approach will really bring about the envisaged benefits.

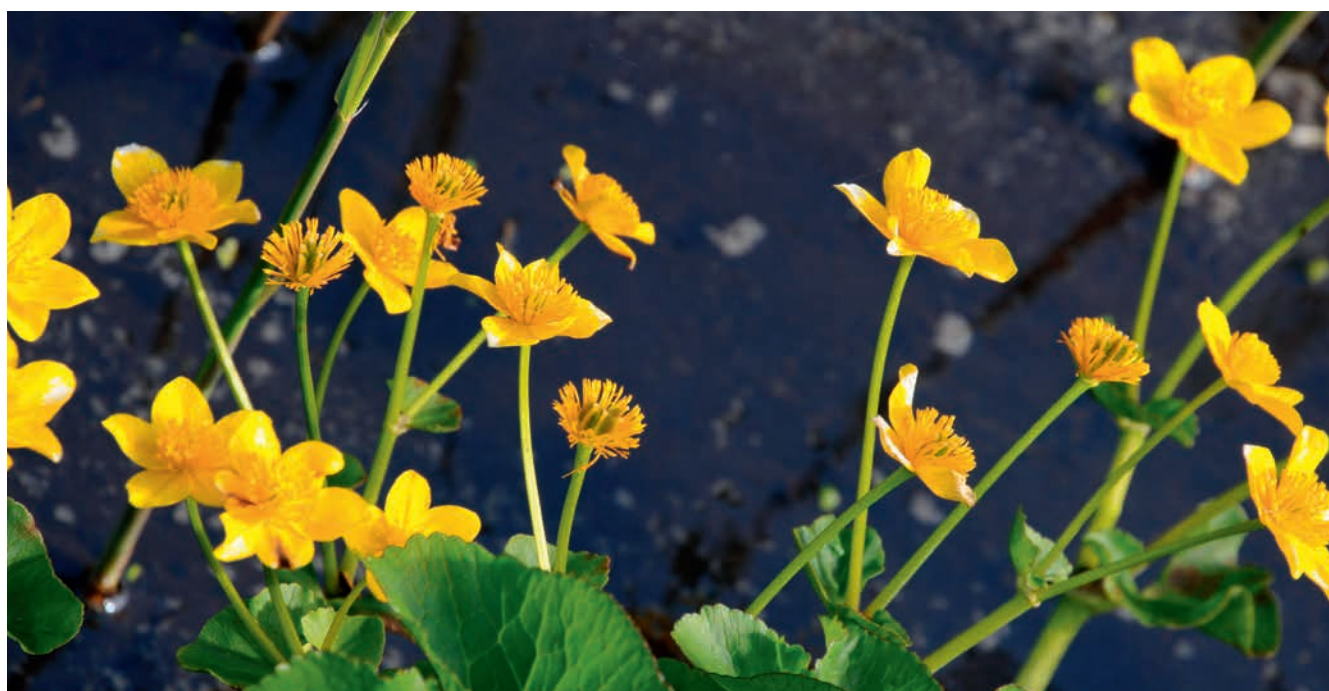
Second, the newly established cooperatives are merely farmers’ organisations, meaning that participation from conservationists

and other non-farmers is still rare. The challenge for farmers and conservation organisations is now to improve their regional cooperation, fuelled by growing trust and supported by monitoring and evaluation of scheme results.

Third, the Dutch government would welcome a more adequate connection between the two pillars of the CAP:

- A more workable connection with the cooperative approach in Pillar 2 and the opportunities for joint implementation of Pillar 1 greening measures, in line with the scale and character of the Dutch cooperatives. An increasing number are willing to expand their activities to the first Pillar, and there is room for increased “green synergy” between both Pillars.
- In line with that: an improved balance between ‘light green’ and ‘dark green’ measures. The Dutch government is now with its renewed scheme aiming at darker green measures on a smaller land area (stricter designation of eligible areas) at a limited budget. It is still unclear if the national populations of – for instance – farmland birds will be sufficiently protected in this way. Broadly applied, but well targeted light measures under the first Pillar can help realise national biodiversity objectives.
- Furthermore, the scale of Dutch cooperatives makes it possible to (on a voluntary basis) coordinate greening measures for climate mitigation, landscape, water and soil quality on a regional scale. This is supposed to be more effective than a farm level implementation.

Fourth, the new Dutch scheme is in principle a results-based scheme to create habitats for native species, in which cooperatives play a crucial role. However, the results-based component of the scheme can still be improved. This component of the scheme can still be improved. The 2014 EU implementation regulations offer



more room for results-based approaches and European studies (e.g. by IEEP) and recent pilot projects in several member states show interesting possibilities. In this perspective, results-based and cooperative approaches can develop stronger synergy.

Relevance to other Member States

In discussions with other Member States, the Dutch cooperative approach is often met with praise as well as scepticism when it comes to broader implementation: “Nicely done, but it’s not for us.” Some remain unconvinced of the added value of cooperation, while others foresee a lack of cooperative spirit or insufficient regional implementation capacity. For this reason, it is important to emphasise that the Dutch model of cooperatives as certified legal entities is *not* a blueprint for other Member States, and is only *one* way to improve the scheme’s environmental outcomes and to reduce the paperwork for farmers. Significant progress in improving cost-efficiency and effectiveness can already be made by moving from an individual to a regional approach in which potential applications should fit within a regional plan. Such community-based and landscape-scale approaches are becoming increasingly common in the EU. While these efforts may not result in a joint contract, such as in the Netherlands, they nevertheless pursue the same goals. In this respect, a regional approach and regional cooperation are already very important keys to increasing the efficiency and effectiveness of environmental services by agriculture. Furthermore, the Rural Development Regulation allows for group as well as individual applications. Based on the regional circumstances (habitat type, support for cooperation etc.), each national or regional government can make appropriate choices.

The fact that there is no “one-size-fits-all” solution is nicely illustrated by the work on territorial cooperation being carried out by organisations such as the OECD and the Groupe de Bruges. The latter is now preparing an interactive map and database, and creating a European network for territorial cooperation. These initiatives demonstrate the broad variety of efforts being made both in Europe and on other continents. Only this type of variety can offer true inspiration for the extension of cooperative and territorial approaches, bearing in mind that – as the Dutch example shows – the present EU regulations do not entail serious restraints to wider implementation.



7. Further reading

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- The European Agricultural Fund for Rural Development – Examples of projects providing environmental services* (2012). European Network for Rural Development. European Union, Brussels.



Annex: Further details on selected legal and institutional arrangements

Tailor-made system for on-the-spot checks (OTSC)

For the OTSC, a system has been developed that differentiates between:

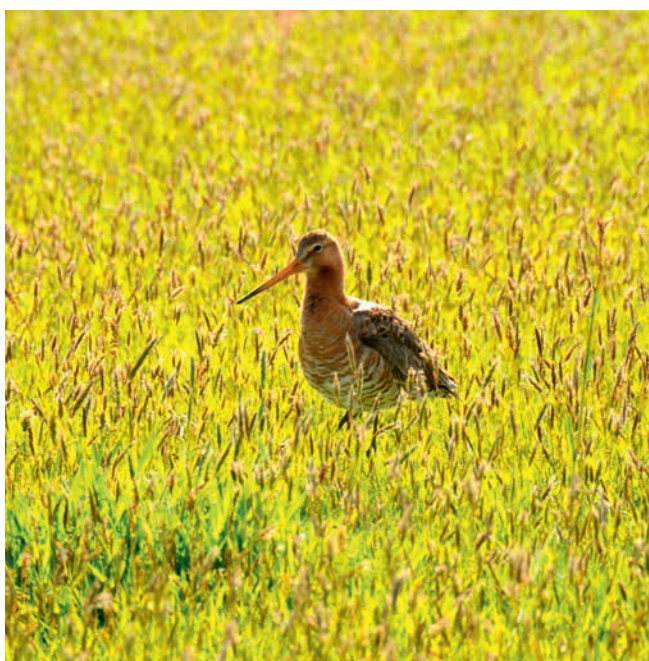
- “stable” information, e.g. on the area involved;
- “variable” information, e.g. on the activities carried out.

Under the Dutch scheme, the OTSC sample selection process is as follows:

1. For the area control (art. 32 (2bis) Reg. 809/2014), 5% of the cooperatives and 5% of the total land area are selected at random. The inspection includes an area measurement (by remote sensing or measurement in the field) as well as the verification of eligibility criteria and other obligations of the cooperative claim. The Netherlands will select two cooperatives (equivalent to 5% of 40) or more, in case their joint land area does not correspond to 5% of the national contracted area. For each cooperative, at least 50% of the contracted area will be checked. In case of non-compliance, all the fields (100%) will be checked or the non-compliance is extrapolated to the entire cooperative application.
2. For the inspection of activities (commitments according to the EU implementing regulation), 5% of the activities on the level of individual fields are selected in a process that is partly random and partly risk-based. The inspection includes the verification in the field (in the ideal time of year) of the activity notified to the Paying Agency.

Real-time notification: how does it work?

The cooperative notifies the Paying Agency every year (in the Netherlands by 1 January at the latest) of the activities undertaken.



However, it is possible to notify the Agency of changes of the activities until very soon before the effective date of implementation. Such changes can relate to:

- the type of activity;
- its location;
- its timing (earlier or later in the season).

Changes should be announced at least 14 calendar days before the activity is undertaken. Changes are possible with a proper explanation until 1 October or until the date of the on-the-spot check, of course taking into account the 14 days period. In this way, it is nearly possible for notifications to be processed in real time.

If the change relates to timing:

- changes to an earlier date should be notified at least 14 days before the new envisaged date;
- changes to a later date should be notified at least 5 days before the original date, and at least 14 days before the new envisaged date.

This “two weeks’ notice” is meant to facilitate the inspection authority’s preparation for proper inspection. The penalty for shortening the time between notification and implementation of the activities is 1% of the payment per day. With a timespan of five days or less, the original activity will remain in place, or – if this is no longer possible – the (change in) activity will be declared non-eligible.

Error rates and financial buffers

The six-year agreement with the cooperatives often includes lower average hectare payments than the maximum payments indicated in the Netherlands’ notification to Brussels (in the Dutch Rural Development Programme). Error rates and penalties with respect to contracted area or compliance with scheme and cross-compliance obligations are based on the maximum payments specified in the notification. In this way, the cooperatives have a theoretical buffer for dealing with errors; the size of this buffer varies for each cooperative. Of course, the system includes the guarantee that farmers are paid according to state aid rules and that the Netherlands invoices the European Commission for actual expenditures only.



Authors:

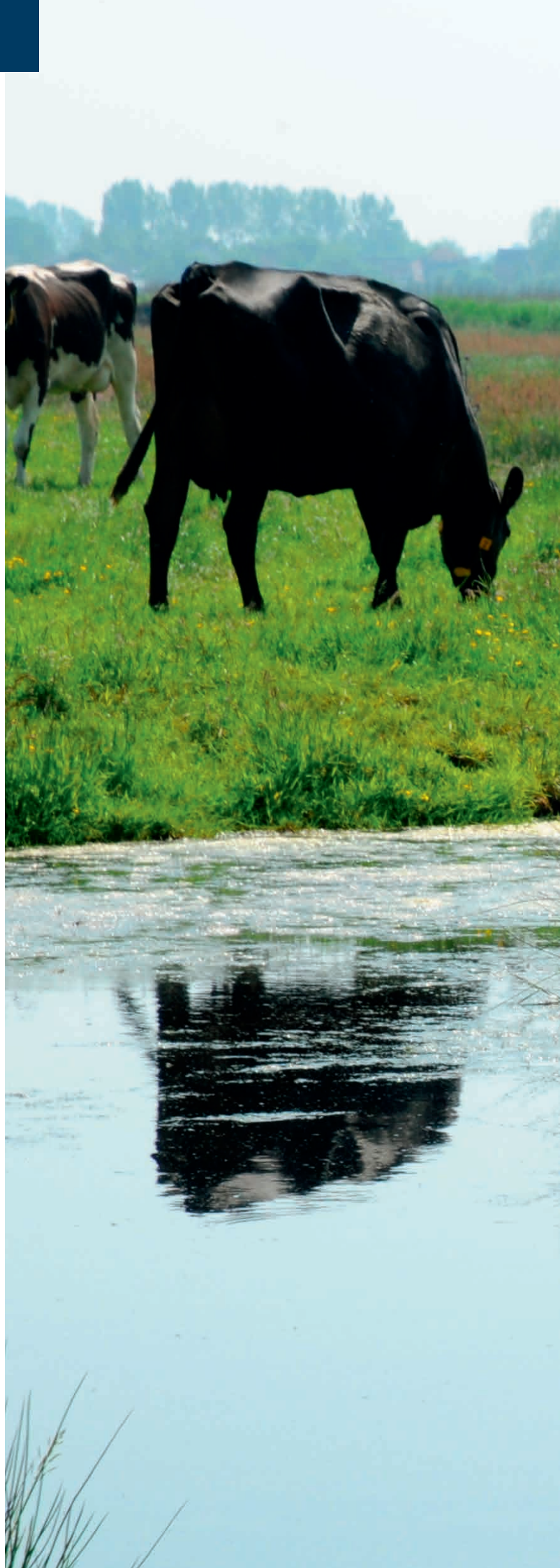
Paul TERWAN | Paul Terwan research & consultancy
Jan Gerrit DEELEN, Aard MULDER, Eefke PEETERS |
Ministry of Economic Affairs, NL

Photos:

Paul TERWAN

Drawings

(pages 3 and 7): Wilco PRINSEN



Published by:

Ministry of Economic Affairs

P.O. Box 20401 | 2500 EK The Hague | The Netherlands

www.rijksoverheid.nl

August 2016 | 95078