

DUTCH MANAGEMENT AGREEMENTS AS A TOOL TO ENHANCE THE PEOPLE'S ROLE IN WETLAND MANAGEMENT

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Abstract

Management agreements have been developed in Dutch law to attune agriculture with nature conservation. Some types of management under agreement are especially suited to wetland management. These types are discussed. Recent research suggests that at least one of these types aimed at the preservation of breeding areas for birds in grazing lands is as effective as nature reserves but cheaper. The management agreement system creates a balance in which national, regional, and local authorities co-operate with nature conservation and agricultural organizations to involve the local farmers in the wise use of nature and landscape. This voluntary approach is set against the background of the obligatory public law approach. This latter approach is less appropriate in dealing with small scale processes. After a troublesome starting period the management agreement system is now gaining momentum. Once local farmers get involved, social control reinforces the performance of the agreed management.

Introduction

The preamble to the Ramsar Convention states that the conservation of wetlands and their flora and fauna can be ensured by combining far-sighted national policies with co-ordinated international action. The Dutch government up to now has designated eleven wetlands for inclusion in the List of Wetlands of International Importance based on article 2 of the Ramsar Convention, and is considering the designation of sixty-two more areas.

The government of The Netherlands now has eight years of experience with so-called management agreements (beheersovereenkomsten), used by the national government to induce local farmers to take the interests of flora and fauna into account in the management of their lands. Farmers can enter voluntarily into binding agreements with the national government to refrain from certain activities that might be profitable for agriculture in the short run, but will be detrimental for the fundamental ecological functions of, for instance, wetlands. In return these farmers are paid a yearly compensation. In order to appreciate fully the potential of management agreements as a tool to enhance the people's role in wetland management, we will outline The Dutch government wetland policy and the main institutional setting in

which this policy operates. Next we will outline the development of management agreement instruments and discuss their current use. But first we will indicate what contribution management agreements can make to wetland management.

Of the approximately 775,000 hectares of wetland in The Netherlands, a major part consists of cultivated land used by waterfowl as a resting, forage, and breeding area. Agriculture influences neighbouring nature reserves because the inflow of nutrients and toxic chemicals and the outflow of ground- and surface water are affected. On the other hand, within nature reserves certain forms of management may come under the definition of agriculture. Because that management should be continued, there is little logic in buying out agriculture first and then introducing extensive grazing as a means to maintain certain aspects of the nature reserve. Historically some wetlands have been maintained, or at least strongly influenced, by traditional forms of agriculture such as willow-coppice in wetland holmes and reed-cutting. Management agreements can be used to modify these relations between agriculture and nature.

The implementation of The Ramsar Convention in The Netherlands

The 1971 Ramsar Convention, which was signed by The Netherlands in 1975, came into force for this country on September 23, 1980. Responsibility for national implementation lies with the Minister of Agriculture and Fisheries. In a 1985 government paper (Tweede Kamer, 1985) the Minister stated that the government wishes to differentiate between the designation for the Ramsar List pursuant to article 2 of the Convention, and those regulations of the Ramsar Convention that have to be applied to *all wetlands* within the national territory that come under the definition of article 1, regardless of their inclusion in the article 2 List. The Minister declared that he attached greater value to this second category of regulations, as these are the most important for conserving wetlands.

Among these regulations are wise use (article 3, part 1), the establishment of nature reserves on wetlands (article 4, part 1), research (article 4, part 3), and the increase of waterfowl populations (article 4, part 4). Management agreements are used in The Netherlands for each of these categories of wetlands policy, except for research.

The designation of wetlands for inclusion in the List will be considered only after the conditions of article 3, part 1 have been met. This means that plans must be formulated and implemented to promote the conservation of the wetlands to be included in the List. In The Netherlands this is interpreted as the necessity to have sufficient administrative clarity and juridical certainty to safeguard the conservation of the ecological functions of the area. This certainty is to be found in the institutional setting of national policies.

The institutional setting

Wetlands can be public or private property. The opportunities for and threats to nature protection depend partly on ownership and partly on the wider setting of public and private law, which determines the scope of ownership and of public authority. We will sketch this setting and briefly indicate its potential for the people's role in wetland management.

In The Netherlands a wetland can be subjected to one, several, or all of a number of possible designations or sets of rules.

The Physical Planning Act is the basis for formulation of policy and decision making on land-use. At the national level this policy is stated in successive reports on physical planning. All these reports are national physical planning key-decisions, which give them a force almost equal to statutory law (Brussaard, 1987). These policy decisions are executed at the national level by long term programmes and through the operation of various parts of the law.

In terms of these plans a wetland can be a national landscape, a national park, a large nature area, a management agreement area, a reserve area, and so on. The designation of each of these categories carries with it consequences for the co-ordination of government policy. Often it entails the obligation to make a management plan. The population is invited to participate in the preparation of these area-related plans. The decision making itself is entrusted to the national or regional administration, under the supervision of chosen representatives.

Implementation of physical planning at the provincial level is laid down in regional plans; involvement of the population in drafting these plans is minimal because decisions are made by their elected representatives. At the municipal level physical planning instruments are structure plans and land-use plans. Of these, the land-use plan is the only plan based on the Physical Planning Act that directly binds the citizen. Obligations derived from this plan are always obligations to refrain from impairing the objectives of the plan. The citizen cannot be obliged to do something for the furtherance of the objectives of the plan. The involvement of the local population is usually greater than with other plans, because the drafting and decision making is being done in their vicinity. However, decisions are made by their elected representatives. It is often said that nature conservation gets no priority at the municipal level, as agricultural and other economic interests get precedence.

On the international level, the same wetland may be an area coming under the Ramsar Convention, the European Community's Regulation for Birds, or the Directive on farming in less favoured areas. Local involvement is virtually absent. Interviewing in a Ramsar List wetland we found farmers and civil servants completely ignorant of this status. Much confusion exists about all the different statuses a given area can have, a situation which was also encountered in other nations (Koester, 1984).

Specific sectors of national policy are based on specific Acts, which can also ban certain actions. The Nature Conservation Act enables the government to assign the status of protected nature monument or state nature monument to areas that have public significance by reason of their importance to natural science or their natural beauty. In a protected nature monument, acts that are harmful to its present condition may be forbidden, or allowed only with a special permit. Infringements can be punished by criminal law. As an alternative to this public law approach, the state can reach an agreement with a (private) owner to make a management plan for the nature monument.

Environmental laws regulate aspects of water, air, soil quality and noise level. In addition to their general character, these Acts have certain spatial differences in their application. For instance a wetland can be designated as a low noise-level area.

The introduction of management agreements

In the 'Relatienota' (published in 1975 by The Dutch Government) the government analyzed the interrelationships between agriculture and nature and landscape conservation. It found that the existing physical planning and nature conservation instruments (see the previous paragraph) needed improvement. While an improvement of these instruments was put on the political agenda, the quickly deteriorating situation called for immediate action. The use of private law contracts was seen as a readily available instrument to induce farmers to take ecological values into consideration in the management of their lands. In compensation for this adaptation of production methods the farmer is to receive an allowance. This new policy instrument of management agreements was to be applied to large areas and new procedures were to be set up to implement it. To give an example of the budgetary costs involved, a calculation was made for a fictive amount of 200,000 hectares. Later this example, quite by accident, became the stated policy goal, which means that almost one tenth of the cultivated land in The Netherlands should become management agreement area. However, because of budgetary restraints, only 100,000 hectares have been designated so far. Moreover, due to resistance by farmers organizations, lack of flexibility in the regulations, centralized implementation, and complicated administrative proceedings, only 40,000 hectares have passed the Relatienota procedure so far, and only 10,218 hectares of these have actually been contracted under management agreements with 1,704 farmers up to January 1, 1989. But the acceptance of the management agreement system has increased markedly in recent years, and the contracting of additional areas is quickly stepping up. Administrative procedures have been streamlined and decentralized, and the system has been put under a new regulation: the 'Regeling beheersovereenkomsten 1988'. Among the factors that contribute to the increased interest in management agreements are the experience with the system so far, the limitations put on agricultural production which make the income from management agreements more attractive, and the somewhat lessened antagonism between agriculture and nature conservation.

The operation of the management agreement system

The 'Relatienota' proposed the designation of management areas and reserve areas. In management areas farmers are paid to manage the land in a particular way, in order to attune agricultural production to the significant values of nature and landscape. In these areas agricultural production will be continued in this manner without posing a threat to nature. In reserve areas the objectives of nature and landscape protection cannot be combined with a continuation of agricultural production in the long run. The aim in these areas is to end farming entirely and to entrust the management of the natural values to a private nature protection organization or a government agency. In reserve areas the government wishes to buy agricultural land, but farmers are not compelled to sell. Instead they can enter voluntarily into management agreements designed to preserve the natural values while these lands are still in agricultural use. In return the government obtains the first right to buy if and when the farmer decides to sell. Until that time, which may be very far in the future, the management agreement in a reserve area works just like a management agreement in a management area.

In areas designated as management or reserve areas, a management plan is drawn up. The plan specifies the conditions under which local farmers can enter into an agreement. It describes and specifies the borderlines of the area, the aims of nature and landscape management that are to be pursued and the actions and restraints required of agriculture to achieve the stated goals. The plan states the combinations of the types of management that are suited to the plan area; not every type of management will be available in every area.

The 'Regeling Beheersovereenkomsten 1988' describes six types of management, some of which are particularly suited for wetlands management. One type of management is aimed at providing forage and resting areas for migratory birds. For this purpose no agricultural activities are allowed in winter. Another type aims at the preservation and possible expansion of the breeding bird population of a grazing area, for which restrictions on mowing and grazing are imposed in breeding seasons. Botanic management has to preserve and improve the conditions suited for natural flora by limiting or excluding the use of pesticides, herbicides, and manure. Another type aligns the management agreement system with the European Community's policy for farming in certain less favoured areas, by maintaining natural handicaps. The existing situation has to be kept intact; thus this management includes prohibitions on lowering the existing high groundwater level. In addition to these mainly passive forms of management, there is also an active form, in which the farmer is responsible for the upkeep of certain elements in the landscape such as hedgerows, ponds, brooks, and so on. Finally, buffer management links agriculture to nature reserves where modern agriculture is excluded. It is used to counter the contamination of the nature reserve through the side effects of modern agriculture, by limiting the use of manure and chemical poisons in the area surrounding the reserve area.

Farmers, entering into management agreements on the basis of the management plan, can choose one or more packages for one or more parts of their land, and receive a compensation in cash for each hectare they bring under the agreement. The amount of this compensation varies with the package chosen and the harshness of the accepted conditions. The amount ranges from a few hundred to twelve hundred guilders a year for each hectare; it is paid on a quarterly basis. The contract is binding for the duration of the management plan, which is six years. The first year of the contract is an opportunity for the farmer to try out the system: he can opt out of the contract only at the end of the first year.

Management agreements as a tool to enhance the people's role in wetland management

Wise use is not guaranteed by withdrawing a wetland from the dictates of the local population and thereafter administering it by a bureaucracy. Nor is it secured by naively trusting local wisdom. A balance has to be found between national and local management. Just as the Ramsar Convention relies on the combination of far-sighted national policies with co-ordinated international action, so an analogous combination should be sought between the national and the local levels. This the more so as small scale processes of a more endogenous character become important aspects of wetland management. For this balance between interested parties, appropriate juridical forms and procedures have to be set up. Management agreements, which combine the efforts of individual local entrepreneurs with the agents of the national and regional authorities, on a voluntary basis, are an appropriate mechanism to shape the required balance.

This balance can be reinforced if the management agreement leads to lower management costs for public authorities. Recent research indicates that this applies in some cases (Beintema et al.; 1988). The balance is also reinforced if the system leads to the mobilization and preservation of local knowledge, which will traditionally be specifically attuned to local wetland conditions. The inflow of national compensation payments for specified management tasks will increase local income and thus contribute to the maintenance of local communities. Nature reserves, where human interference is kept to the minimum level necessary to sustain the natural environment, may in some cases require active management. These nature reserves can be fit into a larger spatial unit where in addition to nature conservation, agriculture and other economic activities are possible without impairing wise use; indeed, those other activities sustain the social structure that makes wise use possible.

The people's role in wetland management is enhanced both by the involvement of local people in drawing up management plans and in the consequent conclusion of voluntary agreements. Management plans are drawn up by the Provincial Committee for Land Management, which consists of representatives of farmers' organizations, private nature conservation organizations, the national government, provincial, municipal authorities, and drainage boards.