POLICY INSTRUMENTS IN THE COMMON AGRICULTURAL POLICY

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ABSTRACT

Policy changes in the Common Agricultural Policy (CAP) can be explained in terms of the exhaustion and long-term contradictions of policy instruments. Changes in policy instruments have reoriented the policy without any change in formal Treaty goals. The social and economic efficacy of instruments in terms of evidence-based policy analysis was a key factor in whether they were delegitimized. The original policy instruments were generally dysfunctional, but reframing the policy in terms of a multifunctionality paradigm permitted the development of more efficacious instruments. A dynamic interaction takes place between the instruments and policy informed by the predominant discourses.

The analysis of policy instruments presents a new lens to examine the familiar territory of the Common Agricultural Policy (CAP), generating fresh insights and understandings. Standard accounts of the CAP have often either neglected policy instruments or treated them as secondary administrative devices, neglecting their capacity to be tools for understanding policy change and power relations, although an exceptions is Greer (2005: 174-84).. The policy instruments approach allows us to detect and examine policy change. For example, it helps understanding of how some policy changes are best explained by the exhaustion and long-term contradictions of policy instruments. They thus deserve a more central place in public policy analysis. This article, following the insight of Lescoumes and Le Galès (2004a, 2004b, 2007), will show that they offer a mixture of the technical and social and are the bearers of values, a combination that is particularly apparent in the case of the CAP. Issues of inclusion and exclusion and the privileging of certain actors are also evident in the case of the CAP. Symbolism co-exists with more concrete attempts to shape actor behaviour. The analysis thus provides a means of understanding the relationship between the governing and the governed in a sector where that relationship has had a long duration and has been particularly intense and complex.

This article outlines the main changes in policy instruments in the Common Agricultural Policy (CAP) in the recent past with reference to the principal drivers of those changes. It then outlines the principal policy instruments used in the CAP since its inception with reference to how they are chosen. Because there are so many policy instruments it has been necessary to focus on those that operate or have operated across the CAP as a whole (or most parts of it) rather than in particular commodity regimes. The process by which instruments lose their legitimacy and become obsolete is assessed. The success of the recent shift in policy instruments will be reviewed with reference to their deployment and their co-management by the Commission and the member states. The article will conclude with a review of the effectiveness of the instruments, how they structure public policies and how power relations affect choice and change with respect to policy instruments.

Some key considerations

This paper shares the insight of Lascoumes and Le Galès (2007: 3) 'that instruments at work are not neutral devices: they produce specific effects, independently of the objective pursued … which structure public policy according to their own logic.' An observation that is particularly relevant to the CAP is:

> Public policy instrumentation is … a means of orienting relations between political society (via the administrative executive) and civil society (via its administered subjects) through intermediaries in the form of devices that mix technical components (measuring, calculating, the rule of law, procedure) and social components (representation, symbol). (Lascoumes and Le Galès, 2007: 7)

This sometimes uneasy combination of the technical and the social is very typical of the CAP. On the one hand, it has involved highly technical policy instruments that are understood fully by only a very few people and perhaps not even by those who claim to understand them. However, the CAP also resonates with symbolism, embedded as it in often emotive concepts such as the family farm or *la campagne.* Thus, public policy instruments 'are bearers of values, fuelled by one interpretation of the social and by precise notions of the mode of regulation envisaged.' (Lascoumes and Le Galès, 2007: 4). In relation to the CAP, one has to be aware of the way in which instruments as institutions 'eventually privilege certain actors and interests and exclude others.' (Lascoumes and Le Galès, 2007: 9). The general effect of the CAP has been to privilege the input industries such as machinery and agrochemicals;

traders in food; and large-scale farmers. In other words, already powerful groups have had their power reinforced. All political processes produce winners and losers and involve inclusion and exclusion, but the stakes are higher when the gains and losses are distributed across different countries and different sectors of farming as they are in the CAP.

In the case of the CAP, one also has to be aware that governance has far from displaced government. To some extent the CAP has been insulated from the changes noted in the contemporary period by Lascoumes and Le Galès (2004a: 21-22) in terms of 'the transformation of the modes of government/governance, the links between public authorise and economic and social actors, in a context of internationalization, the modalities of regulation, and the restructuring of the state.' [Author's translation from French original] Of course, the CAP is formed within a multi-level regional government structure and is influenced by international trade negotiations, but nevertheless displays strong elements of path dependency (Kay 2003) and resistance to change. Thus the CAP does not meet the tests of being 'less hierarchized, less organized within a sector demarcated, or structured by powerful interest groups'. (Lascoumes and Le Galès, 2007: 2). Throughout, however, this article seeks to be aware of the central insight that instruments can structure policies.

Garzon (2006: 10) argues that 'Were the founders of the CAP in 1958 to come back today, they would not recognise this policy, its objectives and its instruments'. It can be argued that they would recognize the policy and its objectives if not the instruments, particularly given that the CAP objectives as set out in Article 39 of the Treaty of Rome have not been changed or modified unlike other parts of the treaty. There is an interesting contrast here with Palier's analysis of instruments in the case of funded pensions in France. He shows that, despite path-dependent forces, the incremental expansion of new instruments lead to cumulative change and a profound transformation in the pension system. ‘The development of a new instrument … may in fact signify an overall change’. (Palier, 2007: 102). Of course, it is possible for policy content to change without the objectives being formally altered. One problem with the original objectives was that they were not prioritized, nor in some cases, particularly in relation to farm income, specified in a way that could readily be operationalized. Agricultural economists were concerned from the early years of the CAP about ‘the impossibility of realising the multiple objectives of Article 39 … by means of a single instrument, namely price policy.’ (Garzon, 2006: 33).

The original choice of instruments

Following the lead given by Lascoumes et le Galès in their book (2004) what conditions/actor constellations lay behind the original choice of CAP instruments and what were the consequences, intended and unintended? A full answer to this question would require extensive research in the Commission archives and those of member states: a start in this direction was made by Knudsen (2001). By reviewing the secondary literature we can identify some stylised facts as far as the constellations/actors were concerned:

- The six original member states but especially France and Germany played a key role in shaping the policy and its instruments.
- The Commission played an important role in the technical development of the relevant instruments, but then had to negotiate about its plans with the Council and the farm organizations.
- In terms of agency, the first Agriculture commissioner, Sicco Mansholt from the Netherlands who held office from 1958 to 1972 played a key role in

> shaping the policy. He had a federalist orientation and saw the CAP as a key building block for a more integrated Europe.

What developed was a policy made up of 'the sum of agricultural policies operating in the member states'. Thus, 'Despite the fact that they had failed to achieve their goals nationally, the very same policy instruments were built into the CAP.' (Knudsen, 2006: 196).

The interaction between the Commission, the Council and the farm organizations in the design of the CAP led to 'a more extensive system, involving much more intervention than the Commission had proposed.' (Tracy, 1989: 255). However, one cannot simply explain this in terms of a billiard ball interaction between the key actors (DG VI; Commissioners; Council/member states; farm organizations), although that is part of the story. One also has to take account of the prevalent discourses that shaped the debate and could be used to legitimate particular decisions. Three can be that were particularly influential were concerns about food security; a belief that markets could never work properly in agriculture; and a concern about the income gap between urban and rural populations.

It is evident that the initial selection of policy instruments for the CAP had a range of unintended consequences. In particular, they had created structural surpluses of particular products and they also placed considerable strain on the budget of the European Community. These led to a number of reforms of the CAP of which the most significant were the 1992 or MacSharry reforms which 'changed for the first time the CAP's policy instruments, implying a real rupture with the historic model of the CAP.' (Cunha and Swinbank, 2009: 244). In broad terms these reforms initiated the break of the link between production and subsidies or 'decoupling' as it is known in the jargon. This meant that farmers no longer had to (over) produce to receive a subsidy.

The 'Fischler' reforms of 2003 led to further significant changes. (Swinnen, 2008) In terms of stylised facts the new shape of the policy post 2003 may be summarized as follows:

- The replacement of measures designed to support and encourage production by measures designed to provide income support to farmers not linked to production, hence measures that have less effect on 'the way in which actors are going to behave' (Lascoumes and Le Galès, 2007: 9).
- A greater emphasis on forms of support designed to ensure that farming continues to supply positive externalities in the form of public goods.
- A greater emphasis on policy measures that are horizontal (across the board) in their application rather than vertical (directed at particular commodities or categories of farmer).
- A trend towards denationalization of the CAP with more decisions being taken at the member state or regional level.

The policy instruments

Our consideration of policy instruments in the CAP seeks to pursue the question of delegitimation: what is the process by which (some) instruments lose legitimacy and become obsolete? Lascoumes and Le Galés (2007b: 360-61) take forward the work of Hood to develop a typology of types of instrument and the corresponding type of legitimacy. For the purposes of this discussion, the CAP policy instruments are seen as predominantly economic and fiscal, notably subventions of various kinds in which case legitimacy is derived from 'Recherche d'une utilité collective' and 'Efficacité sociale et économique'. The succeeding discussion will show that considerable emphasis is placed on the economic and social efficacy of CAP instruments.

In order to bring some order to a complex topic, the discussion is broken down into three categories:

- Policy instruments that have been dropped or are effectively defunct (*green currencies/switchover mechanism; monetary compensation amount; objective method; target price; threshold price; variable import levy; guarantee thresholds; budgetary stabilisers; butter disposal aids)*
- Policy instruments that are still in place, but are likely to diminish in importance over time or in some cases disappear *(intervention purchasing (*including *distillation); export subsidies; quotas; co-responsibility payments; set aside; tariffs)*
- Relatively new policy instruments that are likely to be of importance in shaping the CAP in the future *(decoupling; single farm payment; modulation; cross-compliance; financial discipline mechanism; IACS)*

Policy instruments that have disappeared

One set of policy instruments was connected with the fiendishly complex green money system of the CAP which was abolished with the the arrival of the euro. This originated in the French devaluation and German revaluation of their currencies in 1969. In order to shield French consumers from further price rises, changes in the way in which the unit of account was translated into farm supports in national currencies was phased in. Hence, a supposedly temporary system of border taxes and subsidies known as *monetary compensation amounts* was produced to sustain agricultural trading as if common prices still existed. Each member state then went on to develop its own *green currency* which were used as instruments of national economic policy and formed part of annual CAP price negotiations.

Following the introduction of the European Monetary System (EMS), a green ECU was introduced in 1984 based on the strongest currency in the EMS (normally the Deutschmark). This involved the introduction of a *switchover mechanism* accompanied by a correcting coefficient. The 1984 changes had three important effects: they reduced transparency, they increased complexity to the benefit of larger traders who understood how to manipulate the system; and it pushed prices by 1994 20 per cent higher than they would otherwise have been. (Grant, 1997: 88-90). In short, those who gained were those who were already significant beneficiaries from the CAP. Originally a stopgap solution to a particular problem, this increasingly complex system had unintended consequences in terms of beneficiaries and the CAP budget. This undermined its legitimacy, not least among decision makers, but a higher level policy decision, the introduction of the euro, rendered it obsolete.

Critics of the *objective method* have argued that it was neither objective nor a method. Yet 'For a brief period in the mid-1970s the "objective method" was viewed by many observers as a precise tool which would allow the Commission of the European Communities to prepare in a scientific fashion its annual package of farm price proposals for consideration by the Council.' (Swinbank, 1979: 303). 'In short, the method entailed calculating the percentage increase in guaranteed prices necessary to keep incomes of "modern" farms in line with non-farm incomes.' (Phillips, 1990: 54). In practice there was considerable disagreement over the figures, complicated by the distortions introduced by the green currency system, and the whole matter became highly political and essentially subjective. 'As the years passed, references to the objective method became fewer until, by 1982, it was being referred to [by the

Commission] as the “so-called” objective method …. Effectively the concept was dead.’ (Fennell, 1997: 99).

Three lessons can be learnt from the sad history of the objective method. First, it reflected a period in the CAP when the institutional power of farmers at a Community level, as embodied in the Comité des Organizations Professionelles Agricoles (COPA), was at its height, showing how power relations can be exhibited in policy instruments. Second, it shows the difficulty of devising some acceptable statistical measure that can guide policy on matters relating to incomes. Third, ‘The history of the objective method is a good illustration of the difficulties encountered in the use of price policy as the main means of supporting farmers’ incomes.’ (Fennell, 1997: 99). The method lost legitimacy because its claim to objectivity was clearly not well founded: in other words, evidence-based policy making overcame the pursuit of particular interests under a mask of instrumental neutrality.

The CAP as it operated before the Uruguay Round reforms was based on a system of price supports which were originally devised for the cereals regime with the intention of maintaining high grain prices. ‘The choice of the original instruments had major economic and institutional consequences.’ (Grazon, 2006: 25). Each year the Council of Ministers set a *target price* for each commodity in the CAP. The hope was that farmers would receive a price from the market approaching that price. It was necessary to protect farmers from commodities entering the common market at lower prices. The *threshold price* (sometimes known as the minimum import price) ‘was the at-frontier equivalent of the target price, the difference between the two being the cost of internal transport.’ (Fennell, 1997: 190). Thus, on a given day the lowest price of a consignment of grain which met quality standards that was landed at Rotterdam which be adjusted to account for the cost of transporting it to, for example, Duisburg in the Ruhr which was judged to be the place in Germany in which grain was in shortest supply. A *variable import levy* would then be used to make up the difference between the frontier price and the threshold price. Any attempt to cut the frontier price would simply result in an increase in the levy. After the Uruguay Round, the variable import levy was replaced in July 1995 by tariffs which were thought to be more transparent, hence there was no longer any need to calculate a variable import levy on a daily basis. An international discourse about transparency undermined the legitimacy of the levy.

Guarantee thresholds were introduced in 1982 in an attempt to limit the growing budgetary costs of the CAP by getting producers to contribute to some of the costs of excess production. These were ineffectively implemented and were rapidly discredited. Curbs on production were reinvented in 1987 as *budgetary stabilizers.* These used the concept of the 'maximum production quantity', later to be called the 'maximum guaranteed quantity'. 'The difference between this and the discredited guarantee threshold lay in the immediacy of the response to a production overrun, and its automatic enforcement by the Commission'. (Fennell, 1997: 167). In some respects, the terminology was misleading as 'the original proposal was for a budget stabilizer mechanism, whereby adjustments to the CAP would be made if spending exceeded a specified level. Considered politically unacceptable, this was replaced by a stabilizer triggered by production exceeding a specified level instead'. (Ackrill, 2000: 63). In any event, 'it was a false dawn.' (Fennell, 1997: 168). Tinkering with the system of price support (and the actual cuts in prices were minimal) was not going to overcome the problem of excess production when farmers had to produce in order to cash in their subsidy. A method of providing support that was not linked to production was needed and this is what the MacSharry reforms and subsequent reforms sought to achieve. The policy instrument lost legitimacy because it was simply not efficacious.

Policy instruments disappeared to some extent because of changes in other policy areas (currency policy and trade policy) rather than within the CAP itself. In terms of legitimacy, one can see policy measures being delegitimized because they were unduly complex, not efficacious, had unintended consequences in terms of beneficiaries, had undesirable price or budget effects or were inconsistent with the new emphasis on transparency as a criterion for judging policy instruments. The shift away from price policy is having a continuing effect and is likely to lead to further policy instruments disappearing or diminishing in importance as we shall see in the next section.

Policy instruments that still exist but are declining

Intervention purchasing was one of the keystones of the price support system. The intervention price was set somewhat below the threshold price but above the world market price. Produce could be sold to official intervention agencies in each member state provided that it met certain quality standards (which were tightened up over time as a means of reducing the growth of intervention stocks). This created a risk free market for produce and led to the appearance of the famous butter mountains, wine lakes etc. Intervention is being phased out, either by reducing the intervention price to near world market levels (although there can still be purchasing if there is over supply or the world market price falls) or by abolishing the instrument altogether in relation to particular commodities.

The fall in dairy prices led the EU to start purchasing butter and skimmed milk powder again in 2009. However, intervention is now only for a limited period of time each year and buying is triggered only if the market price in a particular member state falls below a threshold level. Moreover, intervention purchases are capped at a maximum of 40,000t in 2007 and 30,000t a year from 2007 onward. Intervention purchasing has been delegitimized by the new policy discourse which argues that farm support measures should be structured so as not to encourage farmers to over produce.

In the case of the complex CAP wine regime, the preferred intervention instrument has been *distillation* which aims to withdraw production surpluses from the market at a guaranteed minimum price. The wine is the processed into alcohol which is used partly for sale as potable alcohol and partly for the fuel market. The Commission has been particularly critical of crisis distillation which occurs when the market is seriously disturbed. The wine reform agreed in December 2007 moves away from the distillation of surplus production towards a more market oriented sector, although it will be permitted from national envelopes for a further four years. Distillation as a policy instrument lost credibility with decision-makers and analysts because it did not deal with the central problem of over production of wine for which there was no market.

Export subsidies formed the last element in the system of price support and protection in the classical CAP. Typically this was paid to private traders and known as a refund or restitution ‘equal to the difference between the intervention price and the world price and in fact the bulk of surplus produce has been disposed of in this way.’ (Ritson, 1997: 6). Export subsidies have been particularly controversial in international trade negotiations because they can drive domestic producers out of business and also disrupt third country markets. Preliminary agreements reached in the Doha Development Round include an EU offer to phase them out by 2013, although they were reintroduced for dairy products in 2009. They have lost legitimacy as a consequence of evidence-based criticisms from organizations concerned with the Global South such as Oxfam.

Intervention purchasing, export subsidies and protection from international competition tended to lead to over production in member states, resulting in structural surpluses of commodities such as milk. The CAP therefore introduced a number of policy instruments designed to restrain production, of which *quotas* were one of the most important. Quotas had been introduced, rather unsuccessfully, in the sugar sector in 1967, and they won little favour as a general policy instrument in the 1970s . Nevertheless, they were used from 1984 as a means of addressing the problems of the dairy sector which was producing a heavy strain on the EC budget. 'Dairy farmers had particularly strong incentives to produce a surplus as they could use low-cost cereal substitutes and soybeans for feed while the EC guaranteed them a high price for whatever amount of milk they marketed. Dairy stocks, by 1983, exceeded all other EC stocks in value and were increasing rapidly.' (Moyer and Josling, 1990: 67). Milk quotas advantaged existing producers over potential new entrants as they gave those already in production a windfall capital asset which new entrants had to acquire. Member states had to decide whether and how quotas could be traded and whether arrangements were made to make quota available for new entrants. Despite the existence of a single market, quotas could not be traded across the borders of member states. The use of quotas had the general effect of slowing down adjustment in a sector which was uncompetitive by international standards, particularly in terms of size of farm.

The quota regime will expire in 2015. Although seen as an expedient solution to a particular policy problem, it produced a number of undesirable unintended consequences which were made apparent by evidence-based policy analysis, triggering a process of delegitimization.

The notion of *co-responsibility* was favoured by the Commission throughout the late 1970s and 1980s as a means of restoring market balance, but resisted by the member states. The basic idea was to support production into two parts, one part to be supported entirely by the price policy while 'the cost of the other part would be divided between the Community and the producers according to some formula, which could vary from one commodity to another.' (Fennell, 1997: 157). It was 'intended as a way of getting farmers to share the (budgetary) consequences of their actions.' (Ackrill, 2000: 54). The co-responsibility levy for milk was introduced in 1977 and used to finance market development measures, market surveys or product research as well as certain disposal measures. As a policy instrument, it was never a great success as it was never more than 3 per cent of the target price and was offset by increases in support prices and manipulation of the green currency system. It was abolished from 1993 as part of the MacSharry reforms. A three per cent co-responsibility levy was introduced in cereals in 1986-7 and increased to five per cent for large farmers in 1991-2, but was also abolished as part of the MacSharry reforms.

Notionally, the policy instrument still operates which is why it is included in this section: What is of interest here is why a policy instrument which was favoured by the Commission and was sensible in principle (making the producers pay part of the cost of the surplus disposal) 'had a chequered history.' (Hubbard and Ritson, 1997: 90). The problem was the lack of linkage with the predominant set of policy instruments at the time, price support. The overall support price could be forced up, often in a non-transparent way when the green currencies were operating, thus transferring the levy to consumers as a tax paid through raised prices. 'Even so, it was an unpopular measure with farmers.' (Hubbard and Ritson, 1997: 90). No doubt they would have contested the notion of being penalized for increasing production which was the main emphasis of policy in the immediate post-war period. Hence, one had a policy instrument that was both ineffective and unpopular, problems leading to its eventual effective abandonment by its Commission sponsors.

Set-aside was introduced as a compulsory measure as part of the MacSharry reforms. Farmers growing arable crops were required to 'set aside' a fixed proportion of their land and not cultivate it (or at least not grow crops within the CAP). It was thus a functional equivalent of quotas in the dairy sectors in the sense that it was supposed to place physical constraints on production. One problem was that farmers were inclined to set aside their least productive land so that the impact on production was less than forecast. It was seen as a rather blunt policy instrument. The set aside rate was set at zero for the 2007-8 harvest, effectively abandoning the policy instrument which is to be scrapped altogether. Even before increasing food prices arising in part from supply shortages made it look irrelevant, it had been perceived as an ineffective policy instrument, even though it had some defenders among conservation groups.

What we have seen in this section is the decline in importance of a range of policy instruments because of a shift in the nature of the CAP itself. In its original form 'policy instruments were used for a threefold purpose of securing high prices on the EU domestic market, insulating the European producers from international markets and accelerating structural adaptation through a limited set of structural measures.' (Garzon, 2006: 39). The reforms initiated in 2002 'had fundamental consequences for policy instruments.' (Garzon, 2006: 52). Assistance has 'progressively changed from an economic to a social support for agriculture.'

(Garzon, 2006: 52). As the old family of policy instruments has started to fade away, new ones have been put in their place.

Relatively new policy instruments that are likely to shape the future CAP

The new generation of CAP policy instruments reflects a shift from market to income support and rules that, because they are linked with environmental and rural development objectives, are more horizontal in character, i.e., they are less sector specific. In part, this is a reflection of the growing influence of environmental organizations on the reform process. (Cunha and Swinbank, 2009). These instruments may nevertheless not have as clear a relationship between goals and implementation mechanisms as might be hoped for:

> Having evolved out of a complex mixture of market instruments and direct payments, [the single farm payment] is trying to be an 'income support', a 'compensation payment' and a 'land-management' payment all in one. It is a blunt and non-targeted policy instrument which, in trying to achieve a lot of things at once, will probably achieve none very well, if at all. (Atkin, 2007: 35)

Decoupling is at the heart of the reformed CAP. The idea is that payments are no longer linked to production, thus qualifying the instrument through which decoupling is applied, the *single farm payment* to placed in the 'green box' of the WTO as a non-trade distorting measure, although it is far from certain that the SFP does qualify for placement in the green box. Originally temporary payments, the SFPs have acquired a semi-permanent character, Commissioner Fischer Boel stating that they 'will be with us for a long time to come' (*Agra Europe,* 30 March 2007: EP/2) which means they are likely to survive after 2013 when the next major overhaul of the CAP is anticipated to take place.

SFPs are now being bought and sold through agricultural brokers or internet sites. This is not an unintended consequence of the policy instrument. When the SFP was set up, farmers were given the right to trade subsidy entitlements between themselves, on the model of quota trading. This makes sense as it allows individual farmers to adjust their own businesses in the light of their assessment of market conditions. The market that has developed does enable farmers to raise funds to retire or to invest in their business. But that could have been achieved by the conversion of subsidies into bonds. What appears to be a perfectly rational aspect of the SFP policy instrument in the sense that it is goal related has stirred up controversy about the whole policy as it does not seem consistent with notions of legitimation through 'une utilité collective.' (Lescoumes and Le Galès, 2007b: 361). In that sense debate about the policy instrument could configure the policy.

There are three alternative models for determining the calculation of payments to farmers which vary by member state and in some member states by region, reflecting a denationalization process within the CAP. Of these, the historical model, used in ten member states or regions of them, perpetuates the existing distribution of payments whereas flat-rate payments per hectare undermine them. In order to cushion these effects, some member states employ a combination of the historical and flat-rate models.

The extent of decoupling varies by member state. Under Article 69 of Regulation 1782/03 a member state can channel up to ten per cent of the single payment envelope to provide additional support to types of farming important for the environment and/or improving the quality and marketing of products. For example, Scotland uses this provision to retain ten per cent of aid to support the beef sector. There is also scope for other forms of re-coupling which can be up to one hundred per cent for a specific commodity. Indeed, only four member states have opted for full decoupling: Ireland, Malta, Luxembourg and the UK (except Scotland) with France using complex forms of retained coupling.

All this might seem to be a recipe for increased complexity at a time when there is supposedly a policy impetus towards simplification. However, the Commission's view is that these arrangements are largely transitional. Commissioner Fischer Boel recently stated, 'Production-linked payments to farmers are on the way out. Nearly 90% of direct payments will be decoupled by 2010.' (*Farmers Weekly*, 18 May 2007).

The meaning of *modulation* has changed over time. In the context of the MacSharry reforms it meant the transfer of funding from larger to smaller farms. The idea of this form of socio-economic modulation has not disappeared entirely from the CAP reform agenda but it is now usually expressed in the notion of *capping*, i.e., of not providing additional subsidies to farms beyond a certain size. The idea was revived in the context of the CAP Health Check, but encountered the customary resistance from Britain and Germany and was dropped. This reveals the influence that large-scale farmers are able to exert on policy instruments.

Modulation now normally refers either to the compulsory or voluntary transfer of funds from Pillar 1 of the CAP, guarantee expenditure and single farm payments, to Pillar 2 which is concerned with rural development policy including agri-environmental measures. These had been introduced on an EU-wide basis as part of the MacSharry reforms with all member states required to develop such schemes with co-financing from the EU.

Modulation was introduced on a voluntary basis as part of the Agenda 2000 CAP reform, but was not generally taken up by member states. The 2003 reform made it compulsory applying to SFPs and other direct aids at a rate of 3 per cent in 2005, 4 per cent in 2006 and 5 per cent from 2007 onwards. Modulation reductions in direct payments will not apply to the new member states until 2013. Following a dispute involving the European Parliament in the spring of 2007, voluntary modulation is confined to the two countries that are interested in applying it, Portugal and the United Kingdom. There is concern that allowing extensive voluntary modulation would undermine a *Common* Agricultural Policy. The 2008 Health Check agreement on compulsory modulation will increase it from the current 5 per cent to 10 per cent by 2012 with all funds kept by the member state. There is a supplementary rate of modulation of 4 per cent for large holdings, but this only applies to amounts above €300,000, increased from a threshold of €100,000 after strong German pressure.

If modulation is not popular with farmers as they seen it as increasing the difficulty of funds which they see as rightfully theirs, *cross-compliance* is even less popular. Indeed, Commissioner Fischer Boel conceded in January 2007 that 'most farmers consider cross-compliance to be a pain in the [backside].' (*Agra Focus*, April 2007: 11). Nevertheless, it is seen as a central policy instrument of the reformed CAP both in terms of promoting sustainability and making it more acceptable to consumers and taxpayers. In particular:

> Cross-compliance creates a link between the full payment of support, and compliance with certain rules relating to agricultural land and to agricultural land in the areas of the environment, public, animal and plant health, animal welfare and good agricultural and environmental condition. The link is expressed in concrete terms in the possibility, if the rules are not respected, of full or partial reductions of certain EU agricultural payments.' (European

Commission, 2007: 2)

The Commission admits that ‘Cross-compliance may indeed represent a challenge as it often results in a rather bulky set of rules which were previously implemented independently of each other’. (European Commission, 2007: 2). Of course, many of these rules cover what should be followed as best farming practice or even legal requirements in any case. They may be divided into two categories: statutory management requirements which are in force throughout the EU and good agricultural and environmental condition (GAEC) requirements where member states are permitted to define minimum requirements on the basis of a European framework. The statutory requirements cover environmental regulations; animal record keeping; animal and plant diseases; and animal welfare.

The 2003 reforms introduced a *financial discipline mechanism* by which direct payments to farmers would be reduced if the annual agricultural budget ceiling was exceeded. The CAP has been under budget in the recent past, but it is anticipated that SFPs will be cut by 7 per cent a year by 2013 under the Financial Discipline Mechanism. This will result from the continued phasing-in of direct aids in the new member states while the addition of Bulgaria and Romania has taken the SPS payment budget beyond the Pillar 1 budget ceiling.

The *Integrated Administration and Control System (IACS)* is a highly complex system for the administration of the CAP necessitated by the introduction of direct payments to farmers as part of the MacSharry reforms. One feature has been the use of near earth satellites to ensure that crops are being grown where it is claimed that they are being cultivated, leading in one case to the discovery that a farmer had made a claim for ‘fields’ located in mid Atlantic. The transaction costs involved in IACS, for the Commission, the implementing authorities in the member states and farmers have been a subject of criticism. However, in the context of its simplification strategy, the Commission's view is that IACS 'has kept the administrative burden for farmers at a manageable level while ensuring a high degree of financial security and protection of taxpayers' money' although they are prepared 'to consider more streamlined procedures'. (European Commission, 2005: 3).

Conclusions

The paper has noted particular ways in which policy instruments could shape policy, e.g., the debate about trading SFPs. More generally, some of the recently introduced policy instruments have opened up scope for re-nationalization of the CAP. This was not the intention, but resulted to some extent from the bargaining process in the reform negotiations. Greer (2005: 208) exaggerates when he states that 'there is now a *"cafeteria CAP"* in which it operates more like a menu from which countries can choose those dishes more suited to their individual tastes.' Nevertheless, a shift away from a common policy has taken place and this allows countries to adapt policy instruments to suit their own particular circumstances. This can in turn create anomalies which spark off wider policy debates as in the recent case of policy modulation. Hence, 'policy feedback analysis demonstrates the strength of apparently minor changes to put pressure on policy mechanisms and produce further changes.' (Garzon, 2006: 179).

Nevertheless, the overall picture does look like one of changes in policy leading to changes in policy instruments. This is because 'all reforms since 1992 have tried to address the market imbalances created by the original policy instruments based on price support' leading to 'a progressive introduction of new instruments' (Garzon, 2006: 51). This has been shaped by a vision of multifunctional agriculture in which farmers produce positive externalities such as cherished landscapes, alongside high quality, value added niche products using environmentally and animal friendly production methods. This mode of production does, however, co-exist with more intensive forms of production that are competitive on world markets so there is something of a dual model which can give rise to tensions.

This might seem to be inconsistent with the argument of Lascoumes et Le Galès that instruments can structure policies. However, this is not necessarily the case. First, some examples of instruments structuring the policy debate and hence policy design have been identified such as the decoupled payment originally introduced as a temporary compensation payment to arable farmers. Second, the relative paucity of such examples may simply demonstrate the existence of agricultural exceptionalism. In this respect, the fact that instruments are highly specific to the CAP regime and do not include instruments adapted from other sectors is significant. What is also evident from this discussion is the utility of the Lascoumes et Le Galès framework on policy legitimation. It was evident that, as predicted, the social and economic efficacy of instruments, as judged by evidence-based policy analysis, was a key factor in whether they were delegitimized, although the impact of transparency as a discourse was also noted.

There is also considerable scope for policy change deriving from the drive to simplify the policy instruments used in the CAP. The CAP has been marked by considerable complexity since its inception. Complexity has had three broad consequences: it has increased losses and transaction costs; it has created substantial opportunities for fraud; and it has created entry barriers to the political debate. If the drive for simplification is successful, the whole character of the CAP could be substantially changed.

How effective have these changes in policy instruments been? Cumulatively they have reoriented the policy, even if its formal goals have not been changed. With the exception of cross-compliance, they are also less intrusive at the farm level in the sense that they give farmers more scope to make decisions in response to market signals. In deciding which crop to plant (or which form of livestock farming to pursue), farmers do not have to consider the subsidy a particular crop would attract, but can base the decision of considerations of agronomy and the likely return from the market. This is a substantial change, although the mindset of farmers has become adapted to their decision being made in a context of production related subsidies so there may be a time lag before the full effects are seen.

How do power relations affect choice and change with respect to policy instruments? In particular, how far does the study reveal the changing balance of power between different actors in governing the EU? It was evident in the initial formation of the CAP and the choice of policy instruments that although the Commission presented the menu of policy choices, the member states, particularly France and Germany, made the final selection. In making these choices, they sought advice from the kitchen in the form of the farm organizations. Over time, the chef has lost ground to the consumer: analysts would agree that farm organizations have become less powerful in the policy process. In part this is because the farm organizations have found it more difficult to agree between themselves at anything more than a lowest common denominator level as the number of member states has expanded, increasing the number and range of conflicts of interest. There has also been a failure on the part of most farm organizations to recognize how the debate has moved on and to engage on the new terrain which has been occupied by environmental, third world and consumer organizations. This has led to demands to which the Commission has responded for a new kind of CAP with different policy instruments that focuses on consumption rather than production.

Nevertheless, the member states have been effective in protecting particular interests, e.g., large farmers in Germany. The Commission retains considerable scope in proposing new policies, but has to use strategic vision and tactical skill to put them through the Farm Council in a form that achieves their original intentions. (Swinnen, 2008) The clever design of policy instruments which can deliver real change over a period of time is a key element of this political design process. The old style instruments reflected a particular set of objectives centred on maximizing productions whereas the newer ones are intended to provide broader public goods such as environmental benefits. In the absence of co-decision the Parliament remains largely absent from the decision-making process.

The analysis of policy instruments thus helps to show how power relations have shifted over time, but the analysis of actor relations is by itself insufficient. What is also needed is an examination of competing discourses and how they are utilized by actors in the policy process. Before the credit crunch significantly rising world food prices driven by an imbalance of supply and demand led to a revival of the discourse of food security and hence of productionist understandings of agriculture. This has been spearheaded by France which claims that food is too important to be left to the market. Will this mean a revival of the old instruments that have been discarded? This will probably not happen because it would be accepted even by supporters of productionist discourses that they were not an efficacious means of helping farmers. France has been emphasizing the continuation of import tariff protection in particular, an instrument that has not been discarded.

Many of the original policy instruments used in the CAP became discredited because they were highly inefficient means of achieving their objectives and produced significant negative externalities. The principal beneficiaries were often the opposite of those intended (prosperous rather than marginal farmers) and the transaction costs associated with the instruments were high. Instruments such as export subsidies transferred the costs of adjustment to the rural poor in least developed countries. Attempts to repair these deficiencies through the use of instruments such as quotas simply introduced new unintended consequences. Reframing the policy in terms of a multifunctionality paradigm permitted the development of new policy instruments which had less market distorting effects and emphasized the production of public goods such as environmentally friendly agriculture. There was thus a dynamic interaction between the instruments and the policy which was informed by the predominant discourses.

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