

Inter-institutional decision-making: the case of the Common Agricultural Policy

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Abstract

The dominant portrayal of the policy process around the Common Agricultural Policy (CAP) emphasises a system of inter-governmental bargaining, close links between institutions and farming interests, and compartmentalised closed policy networks. This article considers how inter-institutional relationships might be reshaped by the extension of ‘co-decision’ powers to the European Parliament in the Lisbon Treaty. This raises the possibility that policy proposals and outcomes may increasingly reflect the participation of a broader range of actors and interests. Using four scenarios that reflect different institutional configurations, a preliminary analysis of the 2011 dairy regime proposals (the ‘milk package’) is used to draw some conclusions about whether the agricultural policy agenda is likely to be broadened through de-compartmentalisation, leading to a more fluid policy arena characterised by more actors with conflicting values.

Keywords: Common Agricultural Policy, inter-institutional relationships, ‘co-decision’, European Parliament, ‘milk package’, ‘de-compartmentalisation’.

1. Introduction

Changes introduced by the Lisbon Treaty could fundamentally alter the dynamics of agricultural decision making at the EU level and reconfigure the balance of power between the main institutions. This article considers whether these changes presage a more de-compartmentalised and fluid policy process around the Common Agricultural Policy (CAP) or reinforces an established and relatively ‘closed’ policy mode. First it discusses the decision-making process in the context of debates about the nature and role of agricultural policy, highlighted in the CAP reform proposals published by the European Commission in

2011. Second it outlines how the ‘co-decision’ procedure has been extended to the CAP, and third, it uses four scenarios to consider the potential effects of this on inter-institutional relationships. The analysis draws on a small number of exploratory interviews with elite-level policy actors in EU institutions¹ and on negotiations on the dairy regime package (2010-2012), which provided the first important test of the new arrangements. The scenarios focus on inter-institutional relationships between the three key policy actors: the Commission, the Council of Ministers, and the European Parliament (EP). In the ‘conventional scenario’, the EP acquires powers at the expense of the others and becomes a co-legislator with the Council. Its ability to do this, however, is constrained by limited resources, so a second scenario suggests that this ‘void’ can be filled by the Council, drawing on the substantial administrative capabilities of member states. Because it seems unlikely that this resource can be managed collectively with MEPs to shape policy in a cohesive fashion, the third scenario suggests that the Commission is able to extend its powers, both formally and informally. A fourth possibility is that the changes produce stasis, a more protracted decision-making process that also makes reform more difficult by reinforcing the status quo.

2. The Agricultural Decision-Making Process: Still ‘Exceptional’?

In the extensive literature on decision-making in the CAP, several related features are emphasised: inter-governmental bargaining, a highly compartmentalised institutional structure, and close links between institutions and farming interests. There is a crucial interplay between dominant interests, entrenched institutional frameworks, ideas (structured

¹ In March 2011 several interviews were conducted with Members of the European Parliament, with officials in the Directorate General for Agriculture and Rural Development and in the Council Secretariat, aided by a semi-structured questionnaire sent to participants in advance. The interviews were held on the basis of confidentiality.

in policy paradigms) and policy outcomes. Two core values historically have been important influences: that farmers have special interests and needs that cannot be met through normal market arrangements, and that agriculture makes a vital contribution to broader national interests and goals, such as food security, environmental sustainability and underpinning social cohesion in rural areas. These are encapsulated in the notion of *agricultural exceptionalism*, which asserts that farming ‘merits distinctive, preferential policies’ because it is unlike any other economic sector (Skogstad 1998, p. 466; see also Halpin 2005, Coleman et al., 1997, Grant 1995). A corollary is that agricultural policy-making in the EU ‘occurs in a regularized setting of stable relationships’, which reflects the persistence over time of a ‘state-assisted’ paradigm directly linked ‘to the durability of agricultural exceptionalism’ (Skogstad 1998, p. 479).

A complex but stable process of decision making is centred on the Council of Agriculture Ministers, characterised by bargaining between member states buttressed by the interests of the agricultural lobby (Grant 1997, p. 147). While qualified majority voting (QMV) is the decision rule, the reality is bargaining and compromise, involving the construction of complex package deals. The role of the Commission, in the form of the Directorate General for Agriculture and Rural Development (DG Agri), is constrained by member states. Although it can act as a policy advocate and enjoys a monopoly on formal policy initiation at the supranational level, the Commission must ‘tailor its proposals to pander to the prejudices of farm ministers’ if they are to stand any chance of success (Swinbank 1999, p. 53). Consequently its main role relates to influencing the policy agenda, brokering package deals and trying to create consensus between conflicting national negotiating positions. On the other hand, the position of the Commission is not static and its influence can vary, for example between reform episodes and reflecting the leadership of individual Commissioners.

So the Commission actually has been a key pro-reform actor on occasions, for example in the 2003 'Fischler' package (see Cunha & Swinbank 2011; Swinnen 2009).

The agricultural policy process has been highly compartmentalised, with a particular constellation of institutions and actors, and insulated from non-farming issues. National agriculture departments often are portrayed as 'policy silos' in which issues are contained and managed within an insulated bureaucratic structure. This is reflected at the EU level in the inter-relationship between the Agriculture Council, DG Agri, and the Special Committee on Agriculture (SCA), which prepares the ground for Council meetings and fills in the details of policy decisions). To some extent the firewalls between agriculture and other sectors have been weakened in recent years, for example as a result of exogenous pressures relating to enlargement and the environment (see Greer 2005, pp. 63-4, 205-7). Trade liberalisation has also been crucial and, writing in the late 1990s, Grant argued that the inclusion of agriculture in world trade talks had widened 'the circle of actors' involved in policy formulation while 'traditional core participants, notably the farm lobby, have become marginalised' (1997, p. 148). Nonetheless he also recognised that agricultural policy remained 'remarkably insulated' and, fifteen years later, agricultural interests in Europe still see a rationale for extensive state assistance. Indeed the relatively gradual reform of the CAP since the late 1990s supports Skogstad's prediction that despite neo-liberal pressures, the future modification of the CAP would be 'consistent with the idea that agriculture merits special treatment owing to its contribution to the public interest of the member countries of the European Union' (1998, p. 482).

The state-assisted paradigm predicated on *agricultural exceptionalism* remains strong. Certainly the CAP is expected to fulfil non-agricultural functions such as environmental sustainability but, as the European Commission notes, the ‘first and foremost role of European agriculture is to supply food’ (2009, p. 1). The fundamental justification for agricultural *policy* remains that market mechanisms alone ‘cannot provide for the manifold roles and services to be provided by European agriculture’. Public support is still necessary to cushion farmers against volatile markets, to ensure the provision of public goods, and to ensure that farming meets societal demands (European Commission, 2009, p. 1). This is reflected in the debates about the CAP and the EU budget after 2013 (Greer, 2012). The draft multi-annual financial framework (MFF) for 2014-20 proposed that ‘a significant part of the EU budget should continue to be dedicated to agriculture, which is a common policy of strategic importance’. Nonetheless while CAP funding will be maintained at around the 2013 level, its percentage share of the total budget will fall gradually to around 35 per cent (European Commission 2011, p. 7).

The CAP reform proposals published by the Commission in October 2011 – summed up as ‘convergence’, ‘capping’ and ‘greening’ - envisaged the retention of a ‘strong common policy’, refocused to meet core objectives such as food security and combating climate change (see Swinbank 2012). These proposals are unlikely to be implemented without further important changes because they are subject to inter-institutional bargaining. A crucial determinant is that there is fundamental value disagreement about the purposes and nature of agricultural policy. Governments such as the UK, Denmark and Sweden argue for radical change, others such as Ireland and Greece support the maintenance of a strong CAP. President Sarkozy made it clear, for example, that while France favours some reform, it would aim to ‘maintain the CAP’s budget to the last euro’ and stated that ‘we do not have to

excuse ourselves for defending Community preference and the CAP budget' (Euractiv.com, 19 January 2011; Le Monde.Fr, 12 May 2011). This seems to be the majority view, and at an Agriculture Council meeting in March 2011 around twenty countries broadly backed the Commission's ideas (Euractiv.com, 18 March 2011).

A central claim about CAP decision-making has been that the EP is 'a marginal player' (Grant 1997, pp. 175-6). This judgement reflects both the inability of the EP to affect the distribution of the agriculture budget, and its lack of influence over policy. Peterson and Bomberg argue for example that its 'repeated failure' to obtain a voice in the agriculture policy process 'was symbolised by the Council's brushing aside of the EP's bitter condemnation of its behaviour during the 1996 beef crisis' (1999, p. 135). Roederer-Rynning attributes more influence to the EP than this perspective allows for, arguing that it should not be portrayed as either 'a rubber-stamp' that endorses Commission proposals 'or as an antechamber to the Council of Ministers mirroring the national compromises and alliances struck by agriculture ministers' (2003, p. 114). Indeed the EP has exploited 'boundary' disputes to enhance its influence in important areas of the regulatory and policy framework within which farming operates, for example food safety (hygiene legislation), environmental concerns (nitrate vulnerable zones) and animal welfare (disputes over the ban on traditional laying cages for poultry).

Yet to argue that the EP has influence does not mean that it weakens *agricultural exceptionalism* – on the contrary it may actually help to reinforce it. To some extent the EP is itself characterised by compartmentalisation, with a key role played by its Agriculture and Rural Development standing committee (COMAGRI). This is supported by a bureau and secretariat, and meets once or twice a month in Brussels (for a discussion of the EP

committee system see Neuhold 2001). Debates are held in public and the main functions are to amend and adopt legislative proposals from the Commission and Council, and draw up ‘own-initiative reports’ which are presented to the plenary assembly but not always debated. The membership of COMAGRI reflects the political balance of the Parliament as a whole but as the Committee chair, Paolo di Castro, has noted on its website, many of its members ‘have very close links to agriculture, through their origins or their previous activities’ (European Parliament, undated). In late 2011 for example, 11 of its 45 full members were current or ex-farmers, six were ex-agriculture ministers, four had worked in the industry, and many of the rest had some relevant agricultural interest or background; of the six members from the UK, five indicated a direct background in farming.

3. The Lisbon Treaty and Decision-Making in Agriculture

A central motivation of the Lisbon Treaty (in force from December 2009) was to make the EU decision making process work better for a membership of 27 countries. The aim was not to change the institutional set up fundamentally but make the existing bodies, and the relationships between them, more ‘effective, consistent and transparent’. While changes to the policy process tended to reflect the politics of treaty reform rather than ‘a sober assessment of what might be needed to promote the functional effectiveness of the EU’ (Pollack, Wallace and Young 2010, p. 496), they do have potentially far reaching consequences for agriculture, which has always had a prominent place in formal Treaty provisions. The requirement for a ‘common’ agricultural policy and its fundamental objectives (including ensuring a ‘fair’ standard of living for the agricultural community and the stabilization of markets) were first set out in Articles 38 to 47 of the 1957 Treaty of Rome (for a useful summary discussion see Roederer-Rynning 2010, pp. 183-5). While these

objectives essentially are restated in Articles 38-44, the Lisbon Treaty also introduced important changes in decision rules and processes for the CAP, especially in relation to the Parliament (see Roederer-Rynning and Schimmelfennig, 2012). Historically the marginalization of the EP on the CAP is attributed to two structural factors relating to its lack of influence over the budget and to broader decision-making processes. First, because CAP spending was designated ‘compulsory’ rather than ‘non-compulsory’, the EP had little say over its distribution and while it was able to voice its opinions it could be overruled by the Council. A unified budget procedure introduced by the Lisbon Treaty is potentially important for the CAP. For example it allows more scope for the EP to link formal approval of the annual budget to an effort to extract concessions on the CAP from the Commission and Council. During negotiations on the 2012 budget, for example, COMAGRI sought to amend the Commission’s proposals to provide an additional €250m for the fruit and vegetables sector (to compensate for the effects of an e-coli outbreak in mid-2011), although this was removed from the final negotiated agreement.

Second, until the Lisbon Treaty (unlike many other spheres of EU competence), CAP decision making was subject to the ‘consultation’ procedure in which decisions were taken by the Council of Ministers on the basis of formal proposals made by the Commission, with a limited role for the EP. Delivering its ‘opinion’ in the form of a report prepared by the relevant standing committee under the auspices of an appointed ‘rapporteur’, the options available were to approve, reject, or request amendments to Commission proposals. Any EP amendments accepted by the Commission became part of an amended proposal, whereas those rejected then required unanimous adoption by the Council, which was not bound by the EP’s opinion. In practice this meant that the EP’s powers were essentially consultative,

limited primarily to disrupting the smooth passage of proposals by delaying the publication of its opinion.

This decision process for agriculture has been reformed by the Lisbon Treaty. Article 43 of the *Consolidated version of the Treaty on the Functioning of the EU* (TFEU) confirms agricultural policy as an area of ‘shared competence’ and divides responsibilities for it between the Council, the EP, and the Commission, with the role of the latter to submit proposals ‘for working out and implementing’ the CAP. Under clause (3), the Council, ‘on a proposal from the Commission’, is responsible for taking decisions relating to prices, levies, aid, and imports (interestingly the EP is excluded here). The most important changes are signalled under clause (2), which in treaty jargon states that

...the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the common organisation of agricultural markets provided for in Article 40(1) and the other provisions necessary for the pursuit of the objectives of the common agricultural policy...

What this means is that the ‘co-decision procedure’ has now been extended to agriculture, with legislative power shared equally between the EP and the Council. Proposals made by the Commission may be approved at first reading (if the Council agrees with the EP position) or second reading (where the Council disagrees it draws up its own position that may be accepted, amended or rejected in the EP by an absolute majority). If amendments made by the EP are rejected by the Council the proposal is remitted to a ‘conciliation committee’ composed of 27 members of each body. If the positions are reconciled, a joint text is adopted and approved at a third reading by both, but if a joint text cannot be agreed - or is rejected by either – then the legislation falls, meaning that the EP has an effective veto.

In relation to agricultural policy proposals and dossiers, co-decision will extend ‘trialogue’ - informal tripartite inter-institutional bargaining and negotiation between the three main institutions that takes place before the opening of formal conciliation negotiations. It involves equal numbers of representatives from the Council (usually the Presidency) and EP (usually the rapporteur) with the Commission taking a facilitative role. While the term has referred specifically to the operation of conciliation committees at the third reading stage, it increasingly is extended to meetings at the first and second readings also. ‘Triialogue’ is said to promote flexibility and enhance the possibilities for agreement in the early stages of the legislative process. Yet arguably it will lead to more protracted decision making in agriculture - contrary to the general rhetoric of improving efficiency and effectiveness that informed the Treaty discussions. As Kardasheva estimates, time spent considering legislative proposals in the co-decision procedure between 2000-06 averaged less than two years but still took over twice as long as in consultation (2009, pp. 26-7). Decision-making times were slowest where co-decision applies (e.g. health), and quickest in agriculture and rural development (where ‘consultation’ was the norm and trialogues used on just five per cent of legislation). It is likely, therefore, that although most laws passed in co-decision are adopted either at the first or second reading as a result of good inter-institutional cooperation, the average time spent on agricultural policy dossiers will increase.

An important element of the agricultural policy process is the comitology system, which actually first emerged as a response to the problems experienced in implementing the CAP, giving ‘management committees’ a crucial role in day-to-day application of measures such as milk quotas and export refunds. New rules covering policy implementation were introduced in the wake of the Lisbon treaty in March 2011 (Council of the EU, 2011). Articles 290 and 291 TFEU make provision for ‘delegated’ and ‘implementing’ acts, the former replacing the

previous ‘regulation with scrutiny’ procedure, the latter reforming the rest of the pre-Lisbon comitology system. Here committees operate under two procedures: the ‘advisory’ procedure (largely unchanged) and a new ‘examination’ procedure that replaces the old regulatory and management committees and will be used for example in implementing measures related to the CAP (see Hardacre and Kaeding 2011).

4. Emerging Scenarios and the ‘Milk Package’

What is important to note here is that changes in decision rules can alter the behaviour of institutions and relations between them. In general terms, the position of the EP has been enhanced over time. As Young notes, the literature on inter-institutional relationships ‘finds that the EP’s influence is much greater under the co-decision procedure than under the cooperation procedure’ and that by contrast the Commission ‘is widely considered to have lost influence as the EP’s has increased’ (2010, p. 60). For Peterson and Bomberg, the introduction of co-decision ‘enhanced the importance’ of its sectoral committees and forced the Commission to engage with them ‘early in the policy process in order to get its legislation accepted, sometimes even helping MEPs to draft mutually acceptable amendments to proposed legislation’ (1999, pp. 44 & 24). They note that co-decision made EU policy networks ‘more accessible to a broader range of interests’ and that the EP ‘is strongest under co-decision when its members exercise collective judgment about how far they can push the Council to accept its proposed amendments’. In terms of inter-institutional relationships they argue that co-decision produces two patterns of bargaining: one that emphasizes the unity and strength of the Council, and a more unusual pattern in which ‘co-decision fosters competition between alliances of Member States linked to EP factions’ (Peterson and Bomberg 1999, p. 25).

What then might be the effects of the extension of co-decision to the CAP? In general, any Lisbon Treaty effects are unlikely to be uniform across policy sectors and ‘will depend on how policy makers interpret rule changes and on how the persisting confusions in institutional responsibilities’ are ‘shaped by practice’ (Pollack, Wallace and Young 2010, p. 498). While the Lisbon Treaty formally increases the power of the EP, it will be several years before a proper judgment can be made about how this has altered the handling of agricultural policy issues, and about whether it has substantially affected policy outcomes. Nonetheless, drawing on the responses from the exploratory interviews with policy actors in Brussels, some possible scenarios can be constructed to consider how inter-institutional interplay might develop. These are: the ‘conventional view’, the Council-EP axis, and the ‘Commission centric’ model. A ‘fourth’ cross-cutting scenario relates to outcomes and impact rather than processes. Reflections are largely speculative given the limited experience to date of the extension of co-decision into agriculture. While the negotiations on the CAP reform proposals post 2013 will provide the sternest test of the new arrangements, some initial conclusions about the extension of co-decision can be drawn from an assessment of the agreement reached by the Parliament and Council in December 2011 on the so-called ‘Milk Package’.

Scenario 1: The ‘Conventional’ View

One possibility, assuming that its new powers come at the expense of the other institutions in a zero-sum game, is that the EP will gain at the expense of both Commission and Council. This was the assumption of much press coverage in the UK for example, with headlines such as ‘Lisbon Treaty gives MEPs more power over agriculture’ (Farmers’ Guardian, 4 November 2009). Agriculture and Rural Development Commissioner, Dacian Cioloş has played up this scenario, recognising the important role of the EP in his response to written

questions as Commissioner-designate and in subsequent addresses to the Parliament. Certainly the EP is now a formal co-legislator with the Council but the real challenge lies in its ability to exercise these new powers. To demonstrate influence it will have to adopt policy positions that differ significantly from those of the other main actors, set out its bottom lines, and use conciliation/trialogue to reach agreement. With a multi-dimensional package such as the 2011 proposals for CAP reform (which comprises seven separate legislative instruments), there will be scope for the EP to demonstrate its own perspective and make specific demands that will need to be negotiated with Council and Commission. While its hand may be strengthened by the desire to dovetail agreement on CAP reform with that on the Financial Perspective, this also imposes constraints by emphasising the need to reach a compromise within a limited time window.

There is some evidence that from the mid 2000s the EP was wielding greater influence, even under the consultation procedure, and that as the adoption of the Lisbon Treaty grew closer both the Council and Commission sought to develop a *modus operandi* with the EP. For example on the 2006 'voluntary modulation' dossier (to enable states to shift resources from the CAP's pillar I into pillar II to enhance rural development funding), the EP extracted concessions from the Council - including limiting voluntary modulation to just the UK and Portugal - by delaying its opinion and by linking the issue to its formal approval of the budget for rural development (Kardasheva 2009, p. 144). As one MEP on the budget committee noted, this was the first time ever that the EP 'had persuaded the Council to make this kind of concession in an agriculture dossier' (Jan Mulder, as quoted in Kardasheva 2009, p. 214). As early as January 2006 the Commission cited the role of COMAGRI in shaping the proposals on the reform of the sugar regime, and from the point of the Council, the French Presidency in 2008 signalled its intention to work with the EP as a legislator, as if co-decision were already in place (European Commission 2006; European Parliament 2008). The 2008 'Health

Check' proposals were presented by the Agriculture Commissioner to the plenary session of the EP immediately following their adoption in November (Fischer Boel, 2008). While such actions may appear symbolic, they do seem to have been intended to demonstrate to the EP that the Commission saw it as an increasingly important interlocutor. In the negotiations on the Health Check, the EP arguably was able to play a greater role than in previous CAP reforms and exert some influence on the final outcome. In rejecting the capping of direct payments for example, COMAGRI recommended that modulation rates should be made progressive with higher compulsory rates applying over certain thresholds. The final Council agreement included this, albeit in a somewhat watered down form.

The EP also has been widely regarded as the 'winner' from the new procedures for delegated powers, but as one member of its legal service noted at the time, much depends on how the rules are implemented in practice (Euractiv.com, 22 February 2011). There has always been disagreement about the inter-institutional effects of comitology, for example whether management committees strengthened the hand of the Council or the Commission on the CAP. For Hardacre and Keading, the new procedures represent a substantial reform of 'procedure, legal basis and institutional balance' and 'fundamentally alters the way comitology works' (2011, p. 4). Yet while they envisage a more transparent and accessible system for stakeholders, in which the number of challenges to Commission proposals increases, especially by the EP (2011, p. 21), others are more sceptical. Christiansen and Dobbels argue that while the EP gained important formal powers it 'ended up with practical arrangements for comitology and delegated acts that fall short of the potential influence that the treaty promised to the Parliament', mainly because it lacked time and focus, and did not treat the issue as politically important (2012, p. 4). Indeed member states in the Council managed to 'claw back influence on delegated powers through the manner that the new treaty articles have been put into practice' (2012. p. 1).

The ability of the EP to exercise power is likely to be constrained by several factors, for example whether it possesses necessary resources such as time and expertise, and whether it can marshal and sustain a collective voice around key points of difference with the other institutions. This is particularly acute given the potential for the views of MEPs to reflect both party lines and the defence of national interests, as well as the prospect of ‘turf wars’ between committees or sectional interests represented within the EP. COMAGRI arguably can draw on a well of technical expertise (given its proportion of members with farming backgrounds), but a constraining factor may be its ability to cope with the sheer weight of legislation stemming from the CAP, and – at least initially – its lack of experience in dealing with procedural aspects of co-decision dossiers. In relative terms COMAGRI is under-resourced with only a very modest secretariat to run its affairs. In late 2011, for example, there were 15 people in the secretariat (including secretaries), with a further 3 researchers affiliated to the Committee from the EP’s policy department (one of whom was on a short term contract solely to deal with the CAP). In drafting the COMAGRI opinion and amendments a crucial role is played by the rapporteurs and their staff, but in preparing their reports they also may rely on co-opted expertise from elsewhere (e.g. Commission, member state or NGO).

Overall then the ability of the EP to conduct detailed scrutiny of legislative proposals may be restricted. The sheer scale of CAP legislation brings significant challenges for the EP in its capacity to consider all policy options, take full account of costs and benefits, and draw up legislative amendments that offer a comprehensive alternative to the proposals drafted by the Commission. As Swinnen and Knops comment, until the EP enjoys close relationships with the Commission and the Council on the CAP, and until it is equipped with a similar level of

resources (in terms of staff and expertise, for example), it is hard to imagine how its formal increase in powers will materialise' (2012, p. 2). Indeed early evidence suggests that the EP's powers as co-legislator may be offset by constraints such as lack of capacity, a weak inter-institutional working culture, the influence of a 'conservative' COMAGRI, and internal inconsistencies in its negotiating line (Swinnen and Knops 2012, pp. 1-2).

Scenario 2: The Council-EP Axis

Co-decision generally has increased the level of interaction and interdependence between the European Parliament and the Council (see Shackleton & Raunio 2003). In this picture the Council of Agriculture Ministers will use its expertise (more specifically that of national executives), to work in close partnership with the EP to shape the legislation proposed by the Commission. This will produce swifter outcomes but also, crucially, put the Commission in a relatively weaker position. But the plausibility of Council-EP axis developing appears to rest on the ability of member states to collaborate on policy objectives and also to work closely with their national MEPs. One advantage here is that the two largest parliamentary groupings (the European People's Party, and the Party of European Socialists) are comparatively well resourced, are organised at the supranational level and, crucially, have strong links to national political parties. From a UK perspective, interviews with MEPs indicate close co-ordination between Ministers in the Department for Environment, Food and Rural Affairs (Defra) and UK COMAGRI members, with regular briefings since 2010 with the Conservative spokesman on agriculture in the EP.

Nevertheless, evidence suggests that MEPs, individually and collectively, operate with significant autonomy in relation to national governments, with allegiances and alliances that

reflect a range of European, national, regional and indeed sectional interests. Neither is it clear that national governments are able to co-operate effectively with MEPs to develop policy positions. Informal discussions with member state officials indicate that the ability of the Special Committee for Agriculture (SCA) to co-ordinate policy making within the Council has weakened as a consequence of enlargement. Moreover concerns about leaks from SCA meetings, with discussions often detailed in agricultural trade journals, may inhibit its ability to operate effectively as a negotiator. A further consideration is the relationship between the Commission and EP, who might be said to enjoy a natural affinity as supranational actors promoting the European interest, and the EP's formal powers to approve the appointment of Commissioners confers an additional incentive for the Commission to work closely with it. Overall, this scenario appears to rest heavily on a degree of political co-ordination between national governments and MEPs that has not hitherto existed.

Scenario 3: The Commission-Centric scenario

Another possibility is that the Commission increases its influence by using its expertise and resources to facilitate an agreement between the EP and the Council that delivers an outcome shaped more closely to its preferences. Its right of legislative initiative confers power through agenda-setting and management, and although the EP can now also introduce initiatives through the amendment process, the Commission's formal responsibilities in agriculture appear to have been bolstered by the Lisbon Treaty. In particular it can develop implementing legislation through delegated acts. The 2011 CAP reform package for example appears to preserve scope for the Commission to use 'delegated acts' to set the parameters of key elements such as the 'greening' of direct payments. DG Agri appears to have undertaken substantial formal and informal training to develop its reflexes in terms of the co-decision process, and tactically it seems to have appreciated the need to make public overtures to the

EP. The Commission also is bound to act in a facilitative role to seek agreement between the Council and EP, especially when negotiations enter ‘conciliation’ - the final stage of decision making under the ordinary legislative procedure.

Informally, there appears to be ample scope for the Commission to work closely with the EP to shape legislation. In the interviews conducted, reference was made to the Commissioner seeking to engage with all MEPs on COMAGRI and to the dialogue between Commission officials and MEPs on the drafting of the EP’s ‘own-initiative report’ and its ‘opinion’ on the Commission’s initial communication on CAP reform. On the other hand, the EP’s ability to wield influence would appear to depend on it taking a different line to the Commission on a number of policy areas. The broad sweep of complex, if not radical, regulations for CAP reform proposed by the Commission present significant challenges to the EP in terms of its resources and ability to undertake meaningful scrutiny.

Scenario 4? ‘Co-indecision’ or Effective Action?

From these scenarios it is not clear what the implications might be for policy outcomes. Co-decision might make agricultural decision-making more difficult. As Pollack, Wallace and Young comment, it ‘should strengthen the accountability mechanisms’ in the CAP but also ‘might raise the obstacles to reform’ (2010, p. 497). For one Irish observer its extension to agriculture could further complicate the task of securing agreement on CAP reform, lead to ‘co-indecision’ and actually strengthen the hand of the Commission (O’Keeffe 2010). Some also think this has implications for the traditionally influential Franco-German axis on CAP reform, highlighted for example in a joint paper on the future of the CAP published in 2010

(Bundesministerium, 2010). While welcoming some of the ideas put forward in the paper, the UK Secretary of State for the Environment Food and Rural Affairs, Caroline Spelman, insisted that France and Germany could not dictate the outcome in the way they had done with previous reforms. For her, the negotiating framework is 'very different now with the Lisbon Treaty and co-decision making with the European Parliament. It's much harder, even if you're two big states out of the 27, you can't dictate terms' (Euractiv.com, 22 September 2010).

Alternatively, the decision-making process might become relatively efficient, even if agricultural dossiers will take longer to agree, but - given the institutionalised position of COMAGRI and its agricultural bias - the extension of co-decision could reinforce the status quo in relation to policy outcomes. This suggests the possibility that 'de-compartmentalisation' does not necessarily result in policy layering or involve the balancing of conflicting values, but actually may buttress the existing policy framework. In the dispute over voluntary modulation, for example, the stance of the EP supported the 'traditional' CAP and was highly reflective of the 'state-assisted' paradigm, referring to 'renationalization through the back door' and the threat posed to the survival of family farms. As Kardasheva comments, the EP 'delayed its vote in order to guard the Community agricultural objectives and to prevent the serious effects the legislation would have on European farmers' (2009, p. 211).

A cross-cutting factor in all of the scenarios is that changes in institutional arrangements will impact on the activities of other stakeholders, particularly national governments and farming interests. These might need to rethink their approach to influencing the content and direction

of legislation, especially to focus more on exploiting the accessibility of the EP to develop closer links with MEPs and to work more closely with the Commission in developing the detail of legislative instruments. Richard Ashworth, a British Conservative MEP on COMAGRI has referred to the changes as presenting ‘an opportunity to bring farmers closer to the decision making process and that has to be good’ (*Farmers’ Guardian*, 4 November 2009). In the first instance, the Commission has heightened importance as a deal maker and a source of information, which indicates that interest groups have to continue to engage with it at the earliest stage. Second, in relation to the EP much will depend on the ability of interest groups to fill the resource gaps that exist and to construct coalitions of MEPs around key amendments to legislative proposals. As within member states, the capacity of farming groups to provide strong, technical arguments, focus on some key rallying calls and co-ordinate with each other (across national boundaries) will be crucial. Reaching out to other interests to broaden the scale of alliances may also be important.

While the easy access to the EP is well-recognised by farming organisations who, to varying degrees, invest time and energy in developing relationships with MEPs, it cannot be assumed this openness will always be to their advantage. Interviews indicate that other interest groups (notably environmental NGOs) concentrate their lobbying efforts on the future of the CAP around the Commission, which reinforces the Commission-centric scenario outlined above. This may be logical in the formative stages of policymaking and also reflect the good access that environmental NGOs enjoy to parts of the European Commission (the collegiate nature of decision making within the college of Commissioners also means that DG Agri increasingly needs to buy support from DG Environment for the adoption of legislation). Nevertheless, tactics may shift as the EP develops experience in agricultural policy making.

The COMAGRI at present has an agricultural bias in its composition and may be seen as buttressing conventional policy preferences. Indeed Swinnen and Knops note that none of the EP's reports on the CAP after 2013 were allocated to a rapporteur from the Liberal or Green political groupings who are likely to be more sympathetic to reform (2012, p. 3). As noted by one MEP, this 'conservatism' would be reinforced by a first reading agreement on CAP reform because 'the plenary vote can only confirm the outcome of the deal between agriculture ministers and COMAGRI. A 2nd reading agreement is more likely to get 'non-agricultural' MEPs involved, and a wider range of ideas reflected in the EP's input to reform the CAP' (2012, p. 3). But this may neither always be the case nor does it mean that the EP will not, at some point, become more involved in balancing the interests of competing values. If the EP is perceived to have more influence over agricultural policy, then the status of COMAGRI might be generally enhanced and perhaps contribute to a less agriculturally-flavoured membership.

The 'Milk Package'

Some initial reflections on these scenarios can be made in the light of the inter-institutional relationships on the 2010-11 'milk package', which provided the first real test of co-decision in agriculture. In the wake of the 2008 Health Check of the CAP, which agreed to phase out milk quotas by 2015, a period of depressed prices led the European Commission to set up a 'High Level Experts' Group' (HLG) on Milk (October 2009) to consider the medium and long term regulatory framework. Following its report in June 2010, the Commission drew up the 'milk package', designed to restore stability to the sector (see European Commission, 2010; House of Commons, 2011). In the EP the package was considered by COMAGRI, with UK MEP James Nicholson as rapporteur, and it made several important amendments to the

proposal, relating for example to the permitted size of producer organisations. Political agreement on the new rules was reached in December 2011 (and entered into force in 2012), following a protracted series of ‘trialogue’ meetings between representatives of the Council (Polish Presidency), Commission and EP. While the EP made amendments that the Council opposed, the institutions managed to reach informal agreement at the First Reading after accelerated conciliation. This indicates that decision making actually can be both smooth and relatively quick (with agreement coming almost a year to the day from publication of the Commission’s proposals). However, it may be unwise to generalise because the relatively discrete nature of the milk package, affecting a specific area of one regulation, facilitated simplified negotiations around a small number of key areas. It is likely also that the institutions realised that failure to agree at First Reading would have seen the package subsumed into wider negotiations on CAP reform, thereby delaying for several years reforms regarded as essential to the economic health of the dairy sector. Commenting on the process, COMAGRI chair Paolo de Castro welcomed the agreement ‘as a result of good cooperation among the Parliament, the Polish Presidency of the Council and the Commission. This is the first important triologue after the Lisbon Treaty and it sets a good example of how three institutions can work together in the future’ (European Parliament 2011). In terms of outcomes, the EP made concessions on COMAGRI’s initial position to both the Council and Commission, for example dropping contentious amendments on compulsory contracts and quantitative limits for Producer Organisations. Thus the final agreement did not include, for example, provisions to require member states to obligate written contracts between farmers and dairies but the EP was able to insert the possibility of special supply management provisions to regulate markets for cheeses covered by PDO (protected designation of origin) or PGI (protected geographical indicator) status.

5. Concluding remarks

Which, if any, of these scenarios is most likely? Or will there be variation according to the relative importance of the issues? At this stage, scenario 3 seems the most plausible in terms of shaping policy. The Commission possesses valuable technical resources, is accessible to MEPs and interest groups, and also has begun to engage with the EP, with which it shares a ‘supranational spirit’. Yet if technical expertise is a key factor in determining informal power in negotiations, the Council (more specifically, member states) will continue to play a crucial role, for example through its understanding and experience of implementing major reform decisions. Discussions in technical working groups on the detailed content of the CAP reform package tabled in 2011 may lead to sizeable changes in the technical content of proposals, if not in their general orientation. The broad sweep of complex, if not radical, regulations for CAP reform proposed by the Commission present significant challenges to the EP in terms of its resources and ability to undertake meaningful scrutiny. Nevertheless, lack of technical expertise does not stop the EP from pursuing policy ideas in negotiations with the other institutions.

Despite the changes ushered in by the Lisbon Treaty, it is not yet evident that they will presage a radical alteration in the direction of agricultural policy and outcomes. While the EP has a greater formal role in the decision-making process, this does not mean that the policy arena has been substantially opened-up or that it will be increasingly contentious. It is entirely possible that giving the EP a greater role in the CAP might reinforce the status quo around the state-assisted paradigm and agricultural *exceptionalism*. Essentially the revised decision rules and institutional structures around the CAP, including inter-institutional relationships and the balance of forces between member states, is likely to mean that change

will still be incremental. ‘De-compartmentalisation’ in terms of actors certainly brings more complex inter-institutional policy making but will not necessarily bring in a broader range of values that might conflict.

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