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## GOOD GOVERNANCE IN THE AGRI-FOOD SECTOR OF INDUSTRIALISED COUNTRIES

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### Abstract

The quality of governance is increasingly seen as a factor which can influence economic performance as well as promote participation, legitimacy and, important for the agri-food sector, trust in decision-making. This paper proposes that governance structures in the agri-food sector can be evaluated along four dimensions of paradigm, structure, hierarchy and process. Improving governance structures need not wait for a crisis, as in models of contested governance, but can be the outcome of a deliberative process. Comparative benchmarking of governance institutions in the agri-food sectors of different countries would be a useful input to such a process.

### 1 Introduction

What standards should be required for agricultural produce to earn the right to be called organic, and who decides these? What should be the limits on nitrogen input on farmland in order to avoid pollution of waterways and groundwater, and who decides these? How do we balance the interests of beef producers concerned about the impact of more competitive Brazilian beef production on their income and the interests of consumers in having access to a wider variety of beef at lower prices? How do we monitor and control the imports of Brazilian or US beef to avoid the risks of unwittingly assisting the spread of animal disease or putting our consumers at possible risk from eating hormone-treated beef? How do we decide what those risks are in the first place? How do we decide the temperature for treating animal protein in feedstuff processing? How do we address the complaints of farmers that their prices and margins are being unrealistically squeezed because all processing plants within reasonable transport distance are now owned by the same conglomerate? How do we decide if the merger of two supermarket groups should be permitted or not? Who decides if drink companies should be allowed to sponsor sports events, or if confectionery companies should be able to advertise on children's television?

### 2 The meaning of governance

These are all issues which raise questions about the governance of the agri-food system. At the outset, let us make the distinction between policy and governance (ANSELL and VOGEL, 2006). Policy concerns the decision to act to achieve a particular objective and the setting of a policy instrument to achieve a desired outcome<sup>1</sup>. Governance concerns the foundational assumptions and institutional frameworks through which a policy domain is governed.

Policy is most usually associated with government interventions or actions by political authorities; when businesses or firms take actions (such as entering a new market, or taking over a competitor) we more frequently talk of strategy. But governance most definitely is not

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<sup>1</sup> There have been a number of attempts to explain agricultural policy reform in both the EU and US (KAY, 1998; MOYER and JOSLING, 2002; ORDEN et al., 1999). Such studies draw on different theories of decision-making - rational actor, public choice, organisational process and government politics models - to try to explain the pace and content of agricultural policy reform.

confined to the state. In its broadest sense, governance refers to the process of governing, recognising that those processes are not confined to government or to state institutions. It is about the exercise of power, but at the basic level of setting the 'rules of the game'. Governance is thus about the framework of decision-making, rather than an analysis of the specific decisions which flow from that framework.

Good governance is a concept that has recently come into regular use in political science and public administration where it is closely associated with public sector reform. The political science discourse addresses issues such as the relationship between governments and markets; the relationship between governments and citizens; the relationship between elected officials (politicians) and appointed (civil servants); the relationship between the legislature and the executive; and the relationship between national states and international institutions. It has also attempted to distil the essential principles of good governance. These include concepts such as participation, the rule of law, transparency, responsiveness, predictability, effectiveness and efficiency, accountability, coherence, flexibility, holism, subsidiarity, sustainability and strategic vision. More narrowly, good governance is also central to the 'new public administration' which emphasises the role of public managers in providing high quality services that citizens value; advocates increased managerial autonomy; demands, measures and rewards both organisational and individual performance; is receptive to competition and open-minded about the relative roles of the public and private sectors in delivering public services (AGERE, 2000).

The economic literature on governance is also concerned with the design of institutions. One approach taken by public choice theorists uses rational choice models to account for the political strategies adopted by individuals and groups. For public choice, the central issue of governance is to design institutions that discourage people from using the state to distort private exchanges for their benefit. Another approach comes from the New Institutional Economics. This body of work stresses the substantial transaction costs involved in most forms of human interaction, especially the costs of enforcing agreements. According to the New Institutional Economics, achieving better governance is largely a matter of setting up and sticking with procedures that reduce transaction costs and increase the gains to trade.

From a normative perspective, there is a growing awareness that governance itself is an important input into economic performance. The new institutional economics has convincingly demonstrated the importance of a country's system of governance – its formal and informal institutions and their interaction with the behaviour of economic and political agents and organisations – for a country's economic success (NORTH, 1990 and 2005). Governance in developing countries is seen as vitally important both for foreign investors and providers of official development assistance. Evidence from cross-country regressions which attempt to explain differences in growth performance across countries show a significant impact of a 'governance' variable. These governance variables tend to focus on the behaviour of governments, including indicators such as the extent of corruption and red tape, policy and judicial predictability, political instability and violence, regulatory burden, contract enforcement, nationalisation risk, extent of tax evasion, civil service independence and quality of government service delivery<sup>2</sup>. Attempts have also been made to construct indicators of a 'governance deficit', in the sense that many countries' current income level and/or their projected growth path is not attainable with their current quality of governance (KAUFMANN,

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<sup>2</sup> The World Bank website Public Sector & Governance discusses a range of governance indicators that have been used in recent empirical studies. See <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/0,,contentMDK:20773712~menuPK:433525~pagePK:210058~piPK:210062~theSitePK:286305,00.html> and [www.worldbank.org/wbi/governance/govdata](http://www.worldbank.org/wbi/governance/govdata). See also the set of indicators on Governance and Institutions collected by the Project on Human Development at Boston University <http://humandevlopment.bu.edu/>.

2003). Governance indicators are increasingly used to identify and reward developing countries that improve the quality of their governance<sup>3</sup>.

There is also a growing awareness of the connection between governance and economic performance in developed countries. For example, within the EU, more effective regulation has been identified as one of the main instruments to help achieve the Lisbon Agenda to make the EU the most competitive and dynamic knowledge-driven economy by 2010. The Mandelkern Report presented to the European Council at the end of 2001 estimated the burden of regulation to fall in the range 2-5 % of GDP in Europe (MANDELKERN GROUP ON BETTER REGULATION, 2001). It recommended that regulations should be made in accordance with a set of principles (necessity, proportionality, subsidiarity, transparency, accountability, accessibility and simplicity) making full use of impact assessments and consultation as tools of good governance. This was followed by a Commission communication on simplifying and improving the regulatory environment (COMMISSION 2001a), a detailed action plan from the Commission in 2002 (COMMISSION, 2002) and a communication on achieving better regulation in 2005 (COMMISSION, 2005). This latter proposed three action points to improve Europe's regulatory environment: promoting the application of better regulation tools (especially impact assessment and simplification), working more closely with Member States and more constructive dialogue with stakeholders. Separately, the Commission has also made proposals in its White Paper on Governance on how to enhance democracy in Europe and increase the legitimacy of European institutions (COMMISSION, 2001b).

How should we assess the adequacy, viability and effectiveness of governance arrangements? The various aspects of governance can be distilled into two fundamental dimensions, efficiency and legitimacy. Efficiency measures the extent to which governance succeeds in aligning the incentives of individual actors to act in the broader interests of society, relative to the costs of achieving this. Legitimacy measures the extent to which governance arrangements are inclusive, enjoy a high degree of acceptance and trust and achieve compliance. Efficiency is mainly about outcomes; legitimacy about process. These two dimensions are linked. Governance which is ineffective will quickly lose legitimacy, while governance which is not seen as legitimate will be less efficient because it raises the cost of compliance (movements from A to B and vice versa in Figure 1). There is perhaps an often implicit assumption that efficiency and legitimacy are complementary – that more legitimate governance structures will inevitably lead to more efficient outcomes. However, efficiency and legitimacy may be substitutes. There may be trade-offs between the two dimensions, as when structures to improve legitimacy (such as allowing greater scope for public participation in planning decisions) leads to greater unpredictability and lengthy delays in decision-making, or where moves to open up the policy process to consumer activists leads to an excessively precautionary approach to innovation (movement from A to C in Figure 1). Nonetheless, when thinking about good governance, it is clearly about both outcomes and the processes whereby they are achieved (MACMILLAN, 2005).

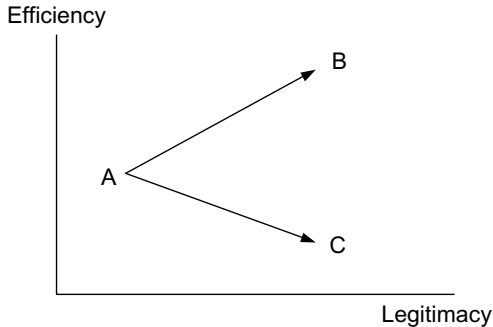
Governance can be examined at many different levels: the global level, the national level, the sectoral level, the commodity or value chain level<sup>4</sup>, or with respect to individual firms or organisations (corporate governance). The agri-food sector consists of the set of actors and institutions linked by markets which combine factor and other inputs to supply food and raw materials for ultimate consumption by consumers. For this sector, it seems appropriate to talk in terms of market governance and how governance systems relate to this specific set of markets. For the purpose of this paper, governance refers to those institutions, both govern-

<sup>3</sup> For a critical review of the use and abuse of such indicators see ARNDT and OMAN (2006).

<sup>4</sup> Value chain governance can be thought of as the definition and enforcement of instructions relating to what products are to be produced (product design), how they are to be produced (process controls) and when (timing) (HUMPHREY and MEMEODOVIC, 2006).

mental and non-governmental, that both encourage and constrain the behaviour of agri-food markets and market actors. Importantly, these institutions can be either formal or informal in nature<sup>5</sup>. With this definition in mind, the remainder of this paper looks at mapping governance in the agri-food sector, identifying the challenges to this governance and proposing some ways of improving it.

**Figure 1: Trade-offs and complementarities in improving the quality of governance**



Source: Own illustration.

### 3 Mapping governance

To understand better what is meant by governance of the agri-food sector, it is helpful to think in terms of the scope and the practice, as well as the level and domain, of governance. In terms of scope, governance systems play at least three roles with respect to markets in general, and agri-food markets in particular:

- **Facilitation.** Governance institutions can facilitate the operation of markets by establishing property rights, enforcing contracts, establishing rules of fair competition, providing information, and much more. The experience of agricultural development shows the importance of public and private institutions created to promote growth and innovation. Public research and extension organisations, the protection of geographical indications as a way of valorising regional foodstuffs and an active competition policy are examples of how public institutions can facilitate the development of the agri-food sector. Support for young farmers' clubs, professional norms and codes and the development of private standards and certification schemes are similar examples in the private sector.
- **Regulation.** Governance institutions are necessary to regulate the negative and positive externalities of private market transactions. Without constraints (or incentives), markets would exploit and endanger workers, pollute the environment and over-harvest natural resources, and put the health of consumers at risk through unsafe food. Private sector institutions with a similar function include voluntary codes of conduct, corporate social responsibility and consumer movements.
- **Compensation.** Governance institutions play a crucial role in limiting and mitigating the unequal impacts of markets. Farm income programmes and food and nutrition programmes aimed at low-income families are examples in the public realm, while collective bargaining institutions and producer cooperatives are examples in the private realm.

<sup>5</sup> For a discussion of informal governance of the CAP, see ROEDERER-RYNNING (2004).

**Table 1: The scope of governance of the agri-food sector**

Functions of governance	Realms of governance	
	Public	Private
Facilitative	Public research institutions Intellectual property rights Land and inheritance laws Competition policy	Young farmers' clubs Professional norms and codes Standards and certification
Regulatory	Food safety regulations Agri-environment schemes Health and safety legislation	Voluntary codes of conduct Corporate social responsibility Consumer movements
Compensatory	Farm income programmes Food poverty and nutrition policies	Collective bargaining Producer cooperatives

Source: Author, adapting a matrix proposed in GEREFFI and MAYER, 2004

The practice of governance can be distilled into a matrix with four elements. These elements correspond to the questions what, how, where and who?

- **What** is the basis for governance of the agri-food sector? What are the objectives, the values and the principles underlying this governance? What is the relative weight given to competing values such as stability, innovation, consumer protection, equity, competitiveness and sustainability? How are these weights changing over time? What principles govern trade-offs between, for example, risk and innovation? The answers to these questions will be determined in part by the predominant paradigm held by those operating in the sector.
- **How** are governance structures organised to meet these objectives? What are the relative roles of public and private sector institutions? What is the balance between governance by market forces, by government regulation or incentives, or by private sector self-governance? Between formal and informal institutions?
- **Where** and at what level of the decision-making hierarchy does governance occur? What is the relative importance of decision-making at local, national or international levels in determining policies and regulations?
- **Who** is involved in governance of the agri-food sector? What is the range of stakeholders represented? How are they organised and how do they exert influence?

Mapping governance along these four dimensions of paradigm, structure, hierarchy and process is the first step to asking how governance of the agri-food sector could be improved. Improving governance, in turn, involves changes to one of the four elements underlying the practice of government.

- What changes should be made in the basis for governance of the agri-food sector? Are the objectives, the values and the principles underlying this governance still relevant in the light of changing technological, social and economic conditions?
- How could governance structures be better organised to meet these objectives? Should the relative roles of public and private sector institutions be altered? Are institutions well designed to achieve social objectives efficiently, equitably and sustainably?
- Does governance occur at the right level? Should policies and regulations be decided at the local, national or international levels? In the European Union, what should be the relationship between Union- and national level decision-making?

- Who is involved in governance of the agri-food sector? Are all the relevant stakeholders represented? Are there good information flows, and is there a sufficient level of accountability? Is the process of governance such as to maximise the likelihood of good governance outcomes?

#### 4 The state of agri-food governance

According to GEREFFI and MAYER (2004), we are witnessing today a crisis of governance – that is, of the inadequacy of institutions not only to facilitate market growth and stability, but also to regulate markets and market actors, and to compensate for the undesirable effects of market transactions.

“The rise of an increasingly global economy no longer firmly rooted in nation states, and one that encompasses a large part of the developing world, is challenging the regulatory and compensatory capacity of developed countries. Northern governments find it increasingly difficult to maintain their capacities in the face of competition from less regulated, lower cost economies. At the international level, little regulatory and compensatory capacity has evolved to take up the slack.”

These developments have led to a ‘governance deficit’ of considerable magnitude, which in turn have provoked a social response seeking new institutional innovations to meet the demand for global governance mechanisms.

With respect to the agri-food sector specifically, some see a crisis of governance in the failure to produce successful outcomes across a wide range of indicators.

“The current food system appears to lurch from crisis to crisis: from new health scares such as BSE to environmental disasters such as over-fishing and the collapse of fish stocks, At the same time, global food supply faces new challenges; a continuing surge in population growth in some parts of the world and an increasingly aged population in others; the introduction of radical new technologies such as genetic modification; a new global scale and scope of corporate control and influence; a breakdown in consumer trust in food governance and institutions; and persistent health problems associated with inadequate diet such as heart disease, obesity and diabetes which, alongside hunger and famine, affect hundreds of millions of people” (LANG and HEASMAN, 2004).

In their discussion of food safety regulation in Europe, ANSELL and VOGEL and their fellow contributors refer to *contested governance*. By this, they do not mean simply that policy actors pursue different interests and take different positions on policy outcomes. This kind of conflict can be perfectly compatible with fairly well agreed upon and legitimate institutional frameworks through which policy is typically decided and implemented. They use the phrase *contested governance* to describe a more pervasive and fundamental form of conflict, in which contestation moves beyond policy outcomes to questions about who should make decisions and where, how and on what basis. In their view, contested governance is associated with a pervasive sense of distrust that challenges the legitimacy of existing institutional arrangements.

ANSELL and VOGEL’s model focuses on three dimensions of contested governance: cause, dynamics and outcomes.

“We argue that the syndrome of contested governance occurs when a highly salient triggering event interacts with longterm trends and institutional tensions to produce a pervasive loss of institutional trust and legitimacy (causes). Strategies for restoring trust and legitimacy are themselves contested because they collide with institutional tensions over who, where, how, and on what basis policy should be made and implemented. Consequently, the scope of contestation is likely to expand, become unruly, and spillover into related issue areas

(dynamics). The imperative of restoring trust and legitimacy then interacts with the expanded scope of contestation to produce wholesale institutional reforms (outcomes).”

## **5 The challenges to agri-food governance**

A number of well-known socio-economic, demographic, technological and structural changes have important implications for governance of the agri-food sector.

### **5.1 Ensuring food security**

Ensuring food security is a basic function of the food system, one which unfortunately has yet to be met in many developing countries where FAO estimates that 815 million or 17 per cent of the population remained undernourished in 2000-2002 (FAO, 2005). The greater movement of foodstuffs and persons globally also makes easier the spread of virulent animal and plant pests and diseases which can threaten the food supply. But while food security used to be defined as having access to enough food at all times for a health, active life, a second dimension of food security, also sometimes referred to as food defence, has emerged more recently. This means protecting the production, processing and distribution chain from possible bioterrorist attacks which would seek to contaminate the food supply with an agent that would make people ill.

### **5.2 Technological changes and food safety**

The governance of food safety was sharply called into question by a succession of food scandals in Europe and elsewhere, most notably over the Bovine Spongiform Encephalopathy (BSE) crisis in the mid-1990s. Contrary to much public perception, diseases resulting from technological applications in agriculture (for example, agricultural residues, pesticides and veterinary drugs) account for a very tiny share of food-borne diseases. More dangerous is contamination by bacteria, parasites, viruses and fungi that are introduced during food handling due to poor sanitation at farm, packing, or distribution centres or in homes. The food supply chain is getting longer and longer and food businesses are now increasingly operating on a multi-country or even global scale. The growing length of food supply chains increases the risks of disease transmission. From the public's perspective, however, it is the role of novel foods and, in particular, genetically-modified (GM) foods which gives rise to most unease, at least in Europe. Many in Europe have questioned the ability of consumers to make safe food choices relative to GM foods derived from modern biotechnology, and have called for mandatory regulation, traceability and segregation of novel foods from their conventional counterparts to protect consumer choice (CARRUTH, 2006a).

### **5.3 Globalisation and regulation**

Globalisation refers to the increasing interdependence among countries and peoples due to the increased flow of goods, persons, investment and ideas around the world. Globalisation has wrought profound changes in the food and agricultural system as in other sectors, not least in the challenges it poses to national level governance. National interventions now have important international spillover effects which could lead to damaging retaliation from other trading partners (the case of farm income support policies). The effectiveness of national policy-making may be undermined by regulatory competition and by the increased mobility of international food businesses (the race to the bottom and pollution haven hypotheses). In addition, different regulatory regimes have the potential to be effective non-tariff barriers to trade, adding to the costs of international business across national frontiers (food safety standards). Work in the fields of sociology, geography as well as economics has begun to explore the implications of this shift in regulatory dynamics for governance outcomes (HIGGINS and LAWRENCE, 2005).

## **5.4 Lifestyle changes**

Another challenge to traditional notions of governance is the growing awareness of the link between poor diets and health. Food consumption patterns have changed dramatically in line with social changes including more women working outside the home, greater reliance on convenience and more processed foods, changes in eating habits with less emphasis on a major meal during the day and possibly a general decline in nutrition awareness. Consumption patterns reveal a shift towards a diet high in fat, sugar and refined food, and low in fibre. Together with a general decline in exercise, obesity has emerged as a major cause of health problems.

## **5.5 Changes in the farm problem**

Very expensive farm programmes have been put in place since the 1930s in all OECD countries for a variety of goals, but principally to address the perception that average farm incomes lagged behind the growth in nonfarm incomes. Recent research (OECD, 1993) suggests that farm families on average now earn on average at least as much as nonfarm households and often own larger asset values. Yet agricultural policies in OECD countries continue to cost consumers and taxpayers more than US\$ 380 billion a year, including the cost of general services. On average, more than a third of OECD farm receipts come from government programmes, although the share varies widely from almost zero to nearly three-quarters of farm receipts across countries. Although many developed countries have embarked on reforms of their agricultural policies, protectionism in the agri-food sector, the most trade-distorting and inefficient mechanism of providing income support, remains extraordinarily high. The average EU tariff on imports of agricultural commodities (converting specific tariffs into their ad valorem equivalent and weighting by trade) is still about 16% (it would be around 20% in the absence of various reciprocal and non-reciprocal preferential access arrangements). Very considerable work still needs to be done to re-orient these expenditures towards more justified and deserving objectives.

## **5.6 Corporate concentration**

Recent changes in the structure of agri-food supply chains has been dramatic. The various stages of production and marketing have become more tightly integrated, and there has been a steady concentration in input supply, processing, manufacturing and distribution, often across national boundaries. This has been accompanied by a shift in market power away from primary producers towards processors, and away from processors towards the large super-market multiples. Many consumers worry about the power of supermarkets and fast-food chains to shape what people eat and how it is produced. Food retailers present themselves as reflecting consumer interests down the supply chain, but how far are they actually shaping these interests? The emergence of the private sector as a major regulatory force has led to growing questioning of whom it is accountable to.

## **6 Improving governance of the agri-food sector**

Despite the prevalence of these concerns and their salience amongst activist civil society groups, various surveys continue to show that consumers remain broadly satisfied with the food system. In Eurobarometer surveys of people's views about the Common Agricultural Policy, the belief that the CAP ensures that the food we buy is safe to eat has consistently been ranked as its most significant objective (COMMISSION, 2006). Nonetheless, the review of food system outcomes in the previous section does not suggest that the system is performing satisfactorily in all dimensions (see also FOOD ETHICS COUNCIL, 2005). It is evident that food policy in industrialised countries faces a number of challenges and requires to be reformulated to address a number of issues. The question is whether debates in these areas are simply about

the merits of alternative policy approaches, or whether changes in governance, the way in which decisions are arrived at and implemented, would be desirable or necessary for their resolution.

In the model of contested governance, an obvious failure of the food safety regulatory regime led to a collapse in public trust and confidence and to a demand for institutional innovation to restore the capacity to govern. It may be true that governance issues become more visible at a time of crisis, as argued by the proponents of the contested governance model, and that changes in governance arrangements are more likely in response to such a crisis. However, that does not rule out the possibility that changes in governance can also be the result of a deliberative and incremental process. Indeed, the greater the awareness and understanding of governance and its importance in determining economic performance and social well-being, the more likely we are to see ‘engineered governance’, or the attempt to rationally construct improved models of governance.

Where would we start in improving governance in the agri-food sector? It is rather hard to be prescriptive and to go beyond generalities at the overall sector level, but let me put a couple of ideas on the table.

### **Better domestic governance**

The emphasis in the EU and elsewhere on better regulation has already been discussed. Regulation is the use of legal instruments to achieve socio-economic policy objectives.

Better regulation is an attempt to improve the quality of governance along the efficiency dimension. The title of the 2005 Commission Communication “Better Regulation for Growth and Jobs in the European Union” highlights that the primary focus is on improving European and national legislation in order to promote European competitiveness and thereby stimulate growth and employment. Simpler and high quality regulatory environments are now a common objective of governments in many industrialised countries. Economists have spent a lot of time thinking about the causes and consequences of regulation, and economic theories of regulation have been influential in thinking about how to improve it.

Public interest theory sees the origin of regulation in political pressure brought by the public which demands that a market failure be corrected. According to public interest theory, government regulation is the instrument for overcoming the disadvantages of imperfect competition, unbalanced market operation, missing markets and undesirable market outcomes. Faced with many examples where regulation appeared not to be in the public interest, and with growing evidence that public interventions were themselves plagued by government failures, new private interest theories to explain the origins of regulation emerged. These include capture theory, the economic theory of regulation developed by economists at the University of Chicago, and theories of rent-seeking which emphasised the inefficiencies of regulation. All these theories emphasised the costs of regulation and, in the late 1970s and 1980s, helped to bring about a wave of deregulation which began in the US and later spread to other countries.

Deregulation mainly tackled economic regulations affecting market structure, including the grant of monopoly rights to particular providers as well as restrictions on entry and exit, whose justification was increasingly called into question. In other areas, such as the environment, consumer protection, food safety, labour conditions (occupational health and safety) and labour (equal opportunities), where regulation is widely seen as justified, economists have called for efficient regulation, in which regulations would be adopted and maintained only where it was shown that the benefits exceeded the costs. Simplification and regulatory impact assessment (RIA) are among the favoured administrative tools for this purpose.

DG AGRI in the European Commission has embarked on a major project to simplify the Common Agricultural Policy as part of the overall European Commission emphasis on better

regulation, recognising that over the years this has led to a dense set of rules and measures affecting farmers and national administrations. It distinguishes between technical simplification, focusing on the revision of the legal framework, administrative procedures and management mechanisms to achieve greater transparency and cost-effectiveness, and policy simplification, which aims to reduce the complexity of agricultural and rural development support instruments. The Commission's approach was set out in its 2005 Communication (COMMISSION, 2005). Technical simplification can make a contribution but the extent of this contribution is limited where the underlying policies remain complex and/or allow for many national exemptions or derogations. Policy simplification is thus the more important goal to pursue to improve efficiency. The 2003 CAP reform was an important step forward particularly with respect to the provision of direct payments support. The new Council Regulation on rural development support from 2007 to 2013 also simplifies the content, scope and implementation of rural development policy, and the Commission proposed in December 2006 a single Common Market Organisation (CMO) for all agricultural products to replace the existing 21 sector-specific CMOs. Ultimately, the vast majority of the CAP will be governed by only four Council regulations, on market organisation, direct payments, rural development and CAP financing.

Reform of the CAP will continue. Proposals to reform the wine, fruits and vegetables, and banana regimes are under discussion. Many of the recent reforms, such as the Single Payment Scheme, cross-compliance and certain agricultural markets, contain review clauses and a CAP 'health check' is foreseen in 2008 to check on the implementation of these reforms. The Commissioner for Agriculture and Rural Development, Mrs Fischer Boel, has argued that it will be important to send signals to farmers on the likely shape of more fundamental reforms after 2013 after the end of the current financial perspectives period. This will be linked to the review of the EU budget foreseen for 2008/09. In addition, a successful conclusion to the Doha Round could require further changes in the level of market price support provided to EU farmers under the various CMOs.

The trajectory of CAP reform has been clear for some years now, and has involved a substitution of direct payments justified either as compensation to farmers for the multifunctional outputs of agriculture in the EU or as compensation for higher standards in the area of the environment and animal welfare than are required of third country competitors. The validity of this justification can be questioned as there is no direct link between the level of payment and the level of public goods provided. More important, the multifunctional benefits of agriculture are often local (the maintenance of farming in particular less favoured regions, for example). This calls into question why these payments are made through a centralised authority such as the EU rather than through national or regional administrations. We may hear louder calls for the renationalisation of such payments (perhaps in the guise of greater flexibility for member states, as in the provision for 'voluntary modulation' of Pillar 1 payments) under the subsidiarity principle now enshrined in the EU treaties. Invoking the principle of subsidiarity would lead to improved governance outcomes where it led to a more direct link between the providers and payers of these public goods. If direct payments are genuinely decoupled, then fears that returning the financing of these payments to member states would lead to competitive distortions in the single market for agricultural products would not seem to be well-founded.

Regulatory simplification is also an important issue for food businesses at other stages of the food chain. Food businesses face an increasing regulatory burden, driven by specific consumer concerns over health and safety, but also reflecting wider concerns common to all industries around issues such as the environment, waste, emissions, and employment practices. EU regulations on food safety standards are increasingly complex and stringent, emphasising quality control, process verification, labelling, and traceability. Moreover, placing the responsibility for food safety risks on food businesses has contributed greatly to the emer-

gence of private-based standards—an increasingly important feature of the new EU food regulatory landscape. One implication of the growing concentration of market power in the food chain particularly in the hands of large retailers is the emergence of the private sector as a regulatory force (MACMILLAN, 2005).

Private sector food firms have always attempted to influence public sector regulation – from supermarkets lobbying with respect to local planning guidelines to the sugar industry attacks on dietary guidelines promoted by the WHO or national authorities. And the larger the firms involved, the more concern there is about the lack of transparency of these lobbying efforts. What is new is the way some companies now additionally take on some of the regulatory work that was previously undertaken by governments. The new technologies of supply chain management enable supermarkets to enforce food safety and traceability standards in excess of statutory requirements, helping them to add value and to reduce liability. Supermarkets have taken on the role of consumer champions, arguably in Europe driving much of the rejection of GM foods when they refused to include GM ingredients in own label products. Indeed, their regulatory influence extends beyond safety and quality issues to the organisation and structure of the food chain. Through the creation of global supply chains with preferred suppliers, supermarkets regulate who benefits from, and the terms of access to, the global market place.

While some aspects of these supply chain relationships can be governed by competition law, sometimes the preferred, and often the only, approach to governance is through industry self-regulation. Self-regulation has become a mantra for many industry groups faced with growing regulatory pressures. In some cases, private actors have banded together to create private certifying bodies. In other cases they have established voluntary standards. New combinations of public and private regulation are developing. The food industry has been a leader in introducing the system of Hazard Analysis and Critical Control Points (HACCP) private self-regulation. It has also called for greater self regulation of advertising, particularly to children. For example, the Confederation of the Food and Drink Industries of the European Union (CIAA) has adopted new codes of practice on advertising and marketing practices.

To what extent can private self-regulation serve as an alternative to costly public regulation? The key issue is how to ensure that it is effective, independent and transparent. The importance of independent and transparent auditing is vital if the public is to be convinced that self-regulation can work. The experience with self-regulation in the UK retail sector (recounted in VORLEY, 2004) appears not to have worked. Here, an initial enquiry by the Competition Commission in 2000 into complaints that profits and food prices were unreasonably high in the UK dismissed claims of overcharging consumers and making excessive profits, but found evidence of various practices which amounted to an abuse of market power on the buying side. It recommended a legally binding Code of Practice on the major supermarkets' dealings with their suppliers. The Code was negotiated with the supermarkets and introduced in 2002, but a review by the Office of Fair Trading found that the Code had failed to bring about any change in the supermarkets' behaviour. A further examination of supermarket behaviour in the UK is currently underway (COMPETITION COMMISSION, 2007).

One of the traditional explanations for poor agricultural policy, based on interest group theories of public policy, is the relative weakness of consumer interests relative to producer interests when it comes to influencing policy. Producers, even if relatively small in number, have an incentive to organise and lobby because the likely gains are tangible and free rider problems can be overcome. Consumers, on the other hand, have little incentive to organise and the cost and difficulty of acquiring information means that most consumers are rationally ignorant of how they are affected by agricultural policy. Agricultural policy-making has thus been dominated by a relatively closed sector of agricultural bureaucrats and farm organisa-

tions, with the main constraint on rent-seeking being the budget constraint of finance ministries.

This analysis of the problem suggests that improved governance could be achieved by involving a more diverse set of stakeholders in the formulation of agricultural and food policy, by ensuring an easier flow of information and by assisting in the representation of interests which traditionally find it difficult to organise. In fact, the widening of the agricultural and food policy agenda has been occurring for some time. Environmental groups, health groups and development groups are among those who are increasingly scrutinising agricultural and food policy decisions, and food market actors now find themselves addressing a much wider range of concerns – fair trade, animal welfare, environmental impacts, urban planning. There has been an explosion of consumer activism around food.

These groups can be assisted to participate in the policy process by ensuring greater access to information<sup>6</sup>. In the UK, an attempt was made by an alliance of civil society groups to improve the transparency and accountability of the supermarket sector with respect to a range of sustainable development indicators. Working with the supermarket sector, a range of indicators to be supplied by supermarkets themselves was agreed, as well as the ways in which this information would be processed and publicised. However, the decision by the largest supermarket group not to take part killed the project, despite the willingness of others to participate on a ‘one in, all in’ basis<sup>7</sup>.

In some cases, it may be sensible to support the creation of agencies to represent the interests of groups who might otherwise not be heard. In Ireland, for example, the government set up a National Consumer Council. This body played an important role in lobbying for the repeal of resale price maintenance legislation in the grocery sector which favoured the larger supermarkets at the expense of consumers. Greater support for the articulation of consumer concerns at EU level as a counterweight to producer interests would be desirable.

## **7 Improving global agri-food governance**

An increasingly dense network of international organisations and agreements is now involved in the global governance of the agri-food sector. Public sector organisations include those which address food safety (such as Codex Alimentarius and the World Health Organisation), trade (the World Trade Organisation), the control of animal and plant diseases (Organisation internationale des épizooties and the International Plant Protection Commission), biological diversity (the Convention on Biological Diversity, the Cartagena Protocol on Biosafety) and food security and hunger (Food and Agriculture Organisation, World Food Programme and the International Fund for Agricultural Development). Private sector organisations include umbrella associations for farmer, processor, input supplier, labour and consumer groups and a growing number of civil society groups representing environmental, development and consumer interests. This is not the place to provide a full assessment of the adequacy and consistency of these governance institutions (see CARRUTH, 2006; COLEMAN et al., 2004; HIGGINS and LAWRENCE, 2005). Any assessment must address the four components of governance identified earlier, namely paradigm, structures, hierarchy and process. Looking at the debates about the governance of trade gives a flavour of the controversies which can arise.

The establishment of the WTO in 1995 marked a significant improvement in the global governance of the agri-food sector. Based on the Uruguay Round Agreement on Agriculture (URAA), binding disciplines were agreed for the first time on agricultural trade barriers and extended behind the border to encompass also domestic support measures. While the extent to which the URAA led to an actual reduction in trade barriers and domestic support was

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<sup>6</sup> Information is also important at the level of the individual consumer. For example, EU food labelling practices, which are currently out to consultation, could be made more coherent and consistent.

<sup>7</sup> There is an account of this project at [www.racetothetop.org](http://www.racetothetop.org).

limited, the Agreement has had a more lasting impact in influencing the direction of agricultural policy reform undertaken in various countries. The Agreements on Sanitary and Phytosanitary Standards (SPS) and on Technical Barriers to Trade (TBT) were also important in introducing principles to ensure that regulatory policies did not substitute for the reduction in traditional trade barriers. More controversially, the TRIPS Agreement requires member countries to introduce some form of protection for new privately-owned plant varieties and has implications for the welfare of farmers, input and processing firms, as well as for biodiversity. The General Agreement on Trade in Services (GATS) is potentially important in opening up markets for distribution services, including wholesale and supermarket retail. The WTO was also equipped with a more powerful Dispute Settlement System than the old GATT, and has dealt with a disproportionate number of agricultural trade disputes. Panel findings and Appellate Body reports have been important in interpreting provisions of the WTO Agreements, as well as requiring changes in members' agricultural and food policies to bring them into compliance.

Trade issues no longer end at the border, where tariffs and quotas were traditionally imposed, but now affect issues of domestic concern and regulation. Many civil society groups believe that the paradigm underlying WTO rules means that non-trade goals such as sustainable development, food safety and security, are being sacrificed and made inferior to trade goals. In fact, the balance between a nation's sovereignty to introduce legislation to protect its citizens and the environment is not as unbalanced as some critics suggest. WTO rules, in several places, specifically ensure that each country retains the right to determine its own laws, regulations and standards and advance domestic policies in areas that may conflict with WTO rules. The preamble in the agreement establishing the WTO commits the organisation to sustainable development and the protection and preservation of the environment. Article XX(b) of the GATT/WTO provides a general exception from GATT obligations for measures to protect human, animal, or plant life or health, provided that such measures do not arbitrarily or unjustifiably discriminate and are not used as disguised restrictions on trade. Article XX(g) provides a similar exception for measures to conserve exhaustible natural resources. The SPS and TBT Agreements reaffirm the right of member countries to enact measures necessary to protect health, safety, and the environment, among other things, even if those measures are higher than internationally-recognised standards, as long as they are 'legitimate' measures and not adopted primarily to restrict trade.

Nor has the dispute settlement mechanism operated to allow trade interests to override social interests in the manner that critics allege. In the relatively few cases where environmental measures have been at issue, the WTO dispute panels have ruled on narrow aspects of these laws or regulations which were implemented in a discriminatory manner with regard to other WTO members. Environmental protection itself has not been compromised. The oft-cited shrimp-turtle is a case in point. The Appellate Body ruled that the environmental aspect of the statute was valid under Article XX(g) (which provides an exception from WTO rules for measures to conserve exhaustible resources), but that the United States had applied the ban in a discriminatory way among countries. The United States complied with the Appellate Body's recommendations, and issued revised import guidelines to conform to WTO obligations. This has allowed US import restrictions on shrimp harvested in a manner harmful to sea turtles to remain fully in effect.

Critics also allege that WTO panels are pre-empting judgments by the public in regard to their desired level of food safety. Defenders of the WTO rules counter that food safety laws are not being overturned, but that countries have agreed in the WTO to administer such laws in a nondiscriminatory way. At issue is usually the SPS Agreement, which established criteria defendants must meet in order to show that the law is not a disguised trade restriction. Broadly, the criteria are that sanitary and phytosanitary standards (SPS) measures should be based on sound science, a risk assessment, or relevant international standards.

The beef hormone case, as well as consumer fears about genetically modified organisms (GMOs), raise questions about the safety of products where scientific evidence about the long-term effects is unavailable. Some argue that a country should have the right to ban a product whose long-term health effects are unknown, based on a precautionary principle. Article 5.7 of the SPS Agreement includes a variant of the precautionary principle. It provides that in cases where relevant scientific evidence is insufficient, a WTO member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information, but must seek additional information and review the sanitary or phytosanitary measure within a reasonable period of time. The Panel Report in the EU Biotech case noted that "evolving science, scientific complexity and uncertainty, and limited available scientific information or data are not, in and of themselves, grounds for delaying substantive approval decisions, and the SPS Agreement does not envisage that Members in such cases defer making substantive SPS decisions" (WTO, 2006). The EU has sought to extend the scope of the precautionary principle in the Doha Round negotiations, but found almost no support among other Members. Differences in scientific risk assessment and precautionary standards mean that global governance of biotechnology risks is far from settled.

Issues to do with process are also controversial. Negotiations on rules and further trade liberalisation in the agricultural and food sector are taking place as part of the Doha Development. The various crises and failures to meet deadlines in the course of these negotiations can be mainly attributed to the cut and thrust of negotiations and the constraints placed on the negotiators by domestic constituencies. But the manner in which decisions are taken in the WTO has been a contributory factor. The infamous "Green Room" style of decision-making, which tended to exclude developing countries in particular, resulted in considerable alienation, for example, at the 2003 WTO Ministerial Council meeting in Cancun. Lessons were learned from that occasion, and more inclusive and representative negotiating procedures have been developed. More broadly, the WTO's consensus-based decision-making system has been widely criticised as being both unwieldy for an organization of 140 members and as tending to reinforce the power of the major trading countries. To remedy this, some form of executive or steering committee arrangement has been proposed to allow a more focused and representative venue for key negotiations on future trade accords and other issues before they are taken up by the WTO General Council. The Sutherland Group set up to advise how the WTO could be better equipped to meet the challenges it faces was cautious in questioning the consensus principle, although it did recommend the re-examination of plurilateral approaches to WTO negotiations (WTO, 2004).

The Sutherland Group also addressed the growing demand that non-governmental organisations (NGOs) should be allowed to participate in the WTO. As WTO decisions affect civil society, they argue that civil society should have a role in such decisions. How such participation should be organised has been controversial. There are distinctions between giving NGOs a vote in WTO decisions, accepting or soliciting input from NGO experts on non-trade issues, and allowing NGOs to act as observers at WTO proceedings. While the former is hardly a runner while the WTO remains an inter-governmental organisation, NGOs can be encouraged to provide information and analysis in their areas of expertise to the WTO. In the shrimp-turtle case, the Appellate Body reversed the panel's finding that a panel could not accept unsolicited information from NGOs, which suggests that in the future such information will be accepted by WTO panels. The Sutherland Group favoured as much transparency as possible (noting that the WTO had already moved very far in derestricting documents), while arguing that primary responsibility for engaging with civil society in trade policy matters rested with the Members themselves.

## 8 Conclusions

The quality of governance is increasingly seen as a factor which can influence economic performance as well as promote participation, legitimacy and, important for the agri-food sector, trust in decision-making. This paper proposes that governance structures in the agri-food sector can be evaluated along four dimensions of paradigm, structure, hierarchy and process. The importance of paradigms is that they help to shape and define the basis for agri-food governance – the priority given to issues to be addressed, the way in which trade-offs between competing values and objectives are made, and the principles on which these decisions are based<sup>8</sup>. Whether farming is seen as an economic activity as any other or is endowed with special multifunctional attributes has implications for the design of agricultural policy. Whether we see consumers as responsible for their own food choices or we see these as outcomes of social and environmental factors has fundamental implications for the way we govern the food system. Whether continued international specialisation in the global food supply should be tempered through promoting or defending some degree of local food sovereignty will be decided, in part, through changing trade-offs between efficiency and risk.

Governance arrangements often differ from one policy area to another, and may also be changing over time. While this paper does not subscribe to the view that agri-food governance in general is in crisis, governance arrangements across a number of sub-sectors could be improved. Improving governance structures need not wait for a crisis, as in models of contested governance, but can be the outcome of a deliberative process. Comparative benchmarking of governance institutions in the agri-food sectors of different countries would be a useful input to such a process. It could be helpful to initiate a project which attempted to map and measure the various dimensions of governance in the agri-food sector. Such measures could be benchmarked against good practice in other countries as well as being used to track changes in governance over time. Perhaps the results of such a project would make a good organised session at some future GIWISOLA annual meeting!

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<sup>8</sup> For a discussion of paradigms underlying agricultural policy (see COLEMAN et al., 2004).

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