Will the new CAP contribute to a better balance of the food chain? Two proposals

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Abstract

This contribution is another step in a more global thinking process on the link between agricultural and competition policies (Garcia Azcarate, 2012; Andries and Garcia Azcarate, 2015). Our purpose today is to present and discuss some of the changes introduced recently in the CAP by the reform of the CAP.

Section 1 is presenting an historical background; section 2 explains the changes introduced in the CAP and section 3 concludes with 2 proposals for change, in the collective bargaining foreseen in article 169 to 171 of regulation 1308/2013 and in the private management of crisis in case of serious disturbance of the markets foreseen in article 222 of the same regulation.

1. INTRODUCTION

This contribution is another step in a more global thinking process on the link between agricultural and competition policies[1] (Garcia Azcarate, 2012; Andries and Garcia Azcarate, 2015). Our purpose today is to present and discuss some of the changes introduced recently in the CAP by the reform of the CAP.

Section 1 is presenting an historical background; section 2 explains the changes introduced in the CAP and section 3 concludes with 2 proposals for the future.

2. THE "YEARS OF ICE" (2000-2010)

The second half of the last decade was marked by the worst farm incomes crisis in the history of the CAP and by a severe crisis in the milk market. This period corresponds to the "health check" of the CAP, a significant step towards a market-oriented agriculture (and farmers) even if maintaining a safety net of limited public intervention in the event of serious crises.

The Union, rightly in my opinion, promoted a market oriented agriculture but did not accompany the its reduced intervention in agricultural markets with increase support for the establishment of new structures in which farmers and their professional organisations which are called upon to play a more active role" in order "to not replace the order by lawlessness", as the European Commission requested in 1990 (European Commission, 1990).

1

Why did it happen? There is no a simple answer and it is worth recalling the historical context of this time.

Under the chairmanship of Jacques Delors, the European Commission played a major role. It has been for this institution a ‘golden age’, with major successes such as the single market and the economic and monetary union which takes us later to the euro. However, its increasing role was not accompanied by a qualitative and quantitative staff growth and control mechanisms improvement.

A so strong and active (and sometimes also a little bit arrogant) Commission was likely to bother, particularly some gig Member States. In addition, the European Parliament wanted to assert its power and strengthen its institutional role, which could be done more easily at the expense of the European Commission instead of the Council of Ministers.

The offensive against the Commission had several consequences:

- The Commission President, Jacques Santer, had to resign, which represented a major institutional victory for the European Parliament;
- Within the Parliament, the COCOBU (Committee on Budgetary Control) reinforced its power to the detriment of the sectorial committees, such as the COMAGRI (Agricultural Committee), and even of BUDG (Committee on Budgets);
- Much stricter (and rigid) control procedures have been introduced inside the Commission. On one hand, the decision process is more secure; on the other, it is also less reactive. The control unit has been reinforced at the expense of the operational ones.
- Mobility has become compulsory for civil servants. Organized in a bureaucratic way, it has resulted for the Commission services in a loss of historical memory and technical capacity, limiting its capacity to be a driving and dynamic force of initiatives;

All that without forgetting the human touch. In the case of the Directorate-General for Agriculture and Rural Development (DG AGRI) Jean-Luc Demarty was “the right man in the right place”, first, as Director for Budget, then Deputy Director-General and later as Director General. The result is a strong culture of integrity and respect of procedures, which today is one of the strengths of this Directorate-General.

However, this also implied that DG AGRI became more "risk allergic" and less innovative. For instance, during the 2009 milk crisis, the 300 M. € which could be released to help the sector were distributed, e.g. between farmers as a supplement of a few cents per litre of quota. It was simple and ‘effective’ from the budgetary management point of view,... although not very helpful in resolving the dairy market crisis.

Producer organisations in the fruit and vegetables sector and their operational programmes did not fall easily within this rigid mould. This is why, for instance, in the reform of the fruit and vegetable sector adopted in 2006, one of the discussed internally options was to transfer the scheme to rural development, which was rejected at the end by the Commissioner Fischer Boel .

Even more, the operational programmes of the producers' organisations included measures which are also eligible under the rural development regulation. This represents an additional risk, a possible doble financing of the same action by both pillar of the CAP. Notwithstanding the provisions of Council Regulations allowing for this flexibility, the Commission pushed, wherever possible, for an approach of exclusion (if an action is eligible under a pillar, it cannot be eligible under the other), rather than for consistency, coherence and synergy.

Not only the example of fruit and vegetables was ‘not to be followed”, but that in the rural development regulation, the support measure for “producer groups” (traditional measure since the discussions that followed the Mansholt plan) was deleted in the old Member States.

Every cloud has a silver lining. The dairy crisis contributed to put things in position. One of the “new” initiatives envisaged was... to enlarge the producer groups support measure also to the old Member States. Commissioner Fischer Boel, at the end of its mandate, was fully aware of the deep end where we were and stated that “we must look for new mechanisms to manage crises, among which should be easier for farmers can help themselves”.

3. THE CHANGES INTRODUCED IN THE CAP

3.1. Proposals

This is why the European Commission proposed to extend to all agricultural sectors provisions which until then had been planned for some sectors (in particular for fruit and vegetables and wine).

Firstly, Member States were required to recognise producer organisations, associations of producer organisations and Interbranches. The initiative was therefore more in the hands of the producers as no Member State could oppose the recognition of producer organisations if they meet the legal requirements laid down in the European regulation.

Secondly, producer organisations could develop a large set of activities, from “concentration of supply” to “planning of production and adjustment between supply and demand in quantity and quality", through technical assistance, improving the environment and waste management.

Thirdly, the Interbranches activities could be as large as “increasing market transparency”, “research”, “promotion”, “market research” or “improving quality and the environment".

Fourthly, the rules decided by the organisations could be extended to all producers, even for funding, in similar conditions to those existing for fruit and vegetables. In France, they call it the "voluntary compulsory levies".

Fifthly, they deleted the requirement, introduced by the 2006 fruit and vegetables reform, that the producer organisations should not have a "dominant position" on the market, replacing it by the more logical (in accordance with the general European competition policy) "no abuse of a dominant position".

Sixthly, and strengthening the consistency between the two pillars of the CAP, it was agreed that joint initiatives and cooperation between farmers and the various actors in the food chain, should be the subject of a specific support within the rural development pillar.

3.2. Decisions

The final regulations made certain changes to the proposals, among which the following should be highlighted for our purpose of today:

- Member States may (not shall, as proposed) recognise producer organisations, associations of producer organisations and Interbranches, except where such recognition is mandatory under EU legislation (e.g. milk, olive oil, fruit and vegetables, hops, wine).
- In addition to what is already foreseen for the milk sector, farmers producing olive oil, beef, cereals and certain other arable crops will have the possibility to collectively negotiate contracts under certain conditions and respecting some safeguards.
- Except in the case of fruit and vegetables, the actions that would be taken to ‘adjust supply to demand" shall not involve withdrawals of products from the market”. However, in case of ‘serious market crisis’, the Commission may also authorise producer organisations or Interbranches (again respecting specific safeguards), to adopt certain temporary measures such as market withdrawal or private storage.

4. Two proposals

It is too early to conclude if the changes introduced in the CAP will effectively contribute to a more balanced food chain. The image below is a concrete example of a food chain destroying instead of creating value.

Fotografía de la noticia, UPA pide más implicación a las CCAA con la AICA para sancionar los abusos de la distribución

Source:
http://www.agroinformacion.com/noticias/79/autonomias/80572/upa%20pide%20mas%20implicacion%20a%20%20las%20ccaa%20con%20aica%20para%20sancionar%20los%20abusos%20de%20la%20distribucion.aspx

However, an ex-ante analysis shows at least 2 grey areas which deserve to be clarified or amended: on collective bargaining and crisis management.

4.1. Collective bargaining

Articles 169 to 171 of Reg. 1308/2013 establishing the common organisation of agricultural markets are a perfect example of complicated is getting a drafting of legislation, probably in the early morning after many hours of meeting and long negotiations.

Indeed, these articles placed on the table unclear concepts such as those organisations must carry out “significant activities” in terms of volumes and ‘production costs’. There is tons of academic and economic publications on "production costs". Even worst, if your increase your productivity and decrease your production costs (which means you are more competitive), you could be no more "significant".

The nightmare continues. they cannot exceed a certain percentage (20 % for olive oil) of the “relevant market”, a notion that is not defined precisely. Logically, national competition authorities have a natural tendency to consider as the most important national market, even if only one Member State (Spain) is by far the world’s largest producer, placed on the market in other Member States and exports to third countries more than twice what sold on its domestic market.

The issues are so tricky that the European Commission has to propose guidelines to make possible what is necessary. The reading of the proposed guidelines, which will certainly be amended following the public consultation, contributions and comments received, is particularly illustrative.

Without changing the political balance reached in the negotiations, it would seem sensible to take the earliest possible opportunity to translate the current rules into plain and operational language.

4.2. Crisis management

The new provisions of Article 222 of Reg. 1308/2013 establishing the common organisation of agricultural markets allow what can be called “private management of crises in case of ‘serious disturbance of the market’.

In this case, the text is clear since it specifies:

- Who may intervene: Producer organisations; Associations of producer organisations and Interbranches.
- What may be done: I) market withdrawal or free distribution of their products; Transformation and processing; ii) III) storage by private operators; Iv) joint promotion measures; V) agreements on quality requirements; Vi) joint purchasing of inputs necessary to combat the spread of pests and diseases in animals and plants in the Union or of inputs necessary to address the effects of natural disasters in the Union; Vii) temporary planning of production taking into account the specific nature of the production cycle.

But the text introduces a series of requirements and formalities which make unviable a rapid and efficient use of this mechanism. In a context of tight budgetary constraints, the beauty of any private management would not only be that it does generate public expenditure but also that it could be flexible enough to prevent the crisis.

The first requirement set out in the regulation is that the Commission “shall specify in implementing acts the substantive and geographic scope of this derogation and the period for which the derogation applies”. Therefore, before it can be activated, an implementing act has to be adopted by the European Commission.

The second requirement is that private management will apply only if the Commission has already adopted one of the crisis management measures, if products have been bought in under public intervention or if aid was granted for private storage”. In other words, the private management of crisis will only intervene once the public management has been activated.

From an agricultural policy point of view, this is difficult to understand. As already mentioned, private crisis management makes sense as a preventive measure as a "measure to calm markets", as rightly proposes Paolo de Castro (2010). The obstacle to any "preventive" market intervention are huge: European Commission internal procedures; budgetary constraints if we speak about the "normal) agricultural budget; reservations from Member States with the largest volume of direct aids if we spoke about the crisis reserve.

This is, obviously, a reason for such a prudent and restrictive approach. It follows the logic to private intervention which represents an important exception to normal commercial conditions, solely to cases in which it would be genuinely necessary. The problem it seeks to address is real, but the solution that has been found (certainly in the early hours of the morning after long nights of negotiations and short dream) is inadequate and bureaucratic.

It would be in my opinion highly advisable, at the earliest opportunity, to replace the provision with another one, much clearer, simpler and operational, since the time of regulatory simplification seems to have arrived. For instance, it could be considered that that private intervention could be activated automatically if market prices fell significantly (e.g. up to 120 % of the level of the safety net) and will no longer be active if market prices recover and increase above a certain threshold (say, just 150 % of the reference level).

This would, at the same time, contribute to 2 of the core CAP objectives: Ensure a fair standard of living for producers and reasonable prices for consumers. This would also remove some speculation from the markets and smooth prices evolution.

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